

**D-1**

**DEPARTMENT OF PUBLIC SAFETY (R-17-1201)**

Title 13, Chapter 1, Article 5, Department Records

**Amend:** R13-1-502; R13-1-504



**GOVERNOR'S REGULATORY REVIEW COUNCIL  
M E M O R A N D U M**

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**MEETING DATE:** December 5, 2017

**AGENDA ITEM:** D-1

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** November 21, 2017

**SUBJECT: DEPARTMENT OF PUBLIC SAFETY (R-17-1201)**  
Title 13, Chapter 1, Article 5, Department Records

Amend: R13-1-502; R13-1-504

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**SUMMARY OF THE RULEMAKING**

The rulemaking, from the Arizona Department of Public Safety (Department), seeks to amend two rules in A.A.C. Title 13, Chapter 1, Article 5. The rules are related to payment requirements for copies of public records in traditional paper and modern electronic formats.

The Department indicates that it is engaging in this rulemaking to include modern electronic formats to traditional paper and to provide less burdensome fee payment requirements by cash and other methods, including electronic payment.

Exemptions from the rulemaking moratorium were provided for this rulemaking on September 1, 2016 and March 27, 2017.

**Proposed Action**

The Department intends to amend sections 502 and 504 to allow for electronic delivery methods, establish fees for electronic delivery methods, and reduce some existing fees.

**1. Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

Yes. The Department cites to A.R.S. § 41-1713(A)(4) as the authorizing statute, which authorizes the director of the Department to "[m]ake rules necessary for the operation of the department." Additionally, the Department cites to A.R.S. § 41-1750(K) as the implementing statute which states that "[t]he director shall establish a fee in an amount necessary to cover the

cost of processing copies of department reports, eight by ten inch black and white photographs or eight by ten inch color photographs of traffic accident scenes.”

**2. Do the rules establish a new fee or contain a fee increase?**

No. Although the rules establish a fee schedule, it is to cover the costs of processing copies of documents according to A.R.S. § 41-1750(K).

**3. Summary of the agency’s economic impact analysis:**

In this rulemaking, the Department is adopting rules that will permit electronic delivery of records, establish fees for electronic delivery, permit electronic payments, and reduce some fees. Currently, electronic delivery of documents is not permitted. In FY 2016, the Department responded to 42,594 requests for documents.

**4. Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

The Department notes that it is statutorily required to fund record requests through fees. Further reducing fees for record requests would generate a backlog of requests. A backlog would mean that the Department would not be in compliance with public record laws. Due to statutory requirements, neither of these alternatives are feasible. The Department concludes that this rulemaking will modestly reduce Department revenues. This rulemaking will significantly benefit stakeholders and the Department by permitting the use of electronic delivery methods. The benefits outweigh the costs.

**5. What are the economic impacts on stakeholders?**

Key stakeholders are the Department, insurance companies, third party resellers, attorneys, media outlets, and the general public. The Department will experience a decline in revenue because some of the Department’s fees will be reduced as a result of this rulemaking. The Department estimates that the new fee schedule would have reduced FY 2016’s revenues by \$47,963. The Department anticipates that it will benefit from this rulemaking because electronic communication is more cost-effective than non-electronic communication methods.

Insurance companies, third party resellers, attorneys, and media outlets are all businesses that will be impacted by this rulemaking. These businesses will benefit from reduced fee schedules for record requests. These businesses will also benefit from the Department utilizing efficient electronic communication methods. The general public will benefit from this rulemaking in the same manner as businesses listed above.

**6. Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

The Department indicates that it did not receive any public or stakeholder comments either orally or in writing in response to the proposed rulemaking.

**7. Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

The final rules are not a substantial change from the proposed rules as the Department made only technical changes based on Council staff recommendations between the proposed rulemaking and the final rulemaking.

**8. Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

The Department indicates that there is no corresponding federal law related to the rules.

**9. Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

The rules do not require a general permit or license.

**10. Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

The Department indicates that it did not rely on any external study in its evaluation of or justification for the rules.

**11. Conclusion**

The Department requests the usual 60-day delayed effective date for the rules. Council staff recommends approval of the rules.



# ARIZONA DEPARTMENT OF PUBLIC SAFETY

2102 WEST ENCANTO BLVD. P.O. BOX 6638 PHOENIX, ARIZONA 85005-6638 (602) 223-2000

*"Courteous Vigilance"*

DOUGLAS A. DUCEY    FRANK L. MILSTEAD  
Governor                      Director

September 21, 2017

Ms. Nicole Ong Colyer, Chair  
The Governor's Regulatory Review Council  
100 N 15<sup>th</sup> Ave, Ste 402  
Phoenix, AZ 85007

Dear Ms. Ong Colyer:

The Department of Public Safety submits Arizona Administrative Code Title 13, *Public Safety*, Chapter 1, *Department of Public Safety Criminal Identification Section*, Article 5, Rules 502 and 504 for review and approval by the Council. The following information is provided pursuant to R1-6-201:

1. Close of Record Date: The rulemaking record was closed on September 20, 2017, pursuant to the Notice of Proposed Rulemaking following a period for public comment and an oral proceeding. The oral proceeding was held on September 19, 2017; there were no attendees from the public and no written comments received.
2. Relation to Five-Year Review Report: This rulemaking is related to a 2013 *Five-Year Review Report* on file with the Council. The report identified the need to amend the rules to establish fees for electronic document formats and methods of payment.
3. Establishment of new fees: This rulemaking establishes new fees for electronic document formats pursuant to A.R.S. § 41-1750(K).
4. Establishment of fee increase: The rulemaking does not establish a fee increase for existing fees.
5. Request for immediate effective date under A.R.S. § 41-1032: An immediate effective date is not requested.
6. Evaluations of studies related to the rulemaking: No external studies related to the rulemaking were evaluated.

7. Necessity of Full-time Employees: The rulemaking does not require an increase in full-time employees to implement the rules.
8. List of Documents:
  - a. Signed cover letter.
  - b. Notice of Final Rulemaking including the Preamble and rule text.
  - c. Economic, Small Business, and Consumer Impact Statement.
  - d. Public Records Fee and Operations Analysis.
  - e. Governor's Office rulemaking waiver approvals.
  - f. Authorizing statutes.

Sincerely,



Colonel Frank L. Milstead  
Director

PKS/pks

Enclosures

**NOTICE OF FINAL RULEMAKING**  
**TITLE 13. PUBLIC SAFETY**  
**CHAPTER 1. DEPARTMENT OF PUBLIC SAFETY CRIMINAL IDENTIFICATION SECTION**  
**ARTICLE 5. DEPARTMENT RECORDS**

**PREAMBLE**

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

R13-1-502 Amend

R13-1-504 Amend

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

Authorizing statute: A.R.S. § 41-1713(A)(4)

Implementing statute: A.R.S. § 41-1750(K)

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

**a. If the agency selected a date earlier than the 60 days 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 Department is not requesting an earlier implementation date.

**b. If the agency selected a date later than the 60 days 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 earlier effective date as provided in A.R.S. § 41-1032(A)(B):**

The Department is not requesting a later implementation date.

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

Notice of Rulemaking Docket Opening: 22 A.A.R. 2910, October 7, 2016

Notice of Proposed Rulemaking: 23 A.A.R. 2166, August 11, 2017

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

Name: Captain Daryll Willis

Address: Arizona Department of Public Safety

POB 6638, Mail Drop 1205

Phoenix, AZ 85005-6638

Telephone: (602) 223-2500

E-mail: dwillis@azdps.gov

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

The Department is amending the rules to include modern electronic formats in addition to traditional paper and to provide less burdensome fee payment requirements by cash and methods; including electronic payment. Additionally, the Department has developed the least burdensome fee schedule possible to accurately reflect the current costs the Department incurs to provide public records in traditional paper and modern electronic formats. The option for payment by personal check was eliminated. This rulemaking establishes those fees and standards.

The Department was granted an exception to the rulemaking moratorium contained in Executive Orders 2016-03 and 2017-2 in an e-mail from Mr. Tim Roemer, Governor's Office, dated September 1, 2016 and March 27, 2017.

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

The Department did not rely on any external study in its evaluation of or justification for the rule.

**8. A showing of good cause why the rulemaking 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 Department intends to amend R13-1-502 and R13-1-504 to allow for electronic delivery methods, establish fees for electronic delivery methods, and reduce some existing fees. Persons affected by the rule changes include, private citizens, insurance companies, third party resellers, attorneys, and media outlets. The Department will bring in less revenue as a result of lower fees, but the fees collected are still expected to support their units. The number of full-time employees in these units are not expected to change. Political subdivisions are not affected as governmental agencies are not charged for departmental reports. Currently, the department is aware of seven small businesses buying Department accident reports and reselling them. These businesses would receive a benefit as they will have additional delivery methods available to them and a reduction of fees for reports larger than 9 pages.

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

The Department made no changes between the proposed rulemaking and the final rulemaking.

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

**the agency response to the comments:**

The Department held an oral public comment proceeding on September 19, 2017 as identified in the Notice of Proposed Rulemaking and there were no public attendees. The Department did not receive any public or stakeholder comments either orally or in writing in response to the proposed rulemaking.

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

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

The rules do not require a general permit.

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

There is no corresponding applicable federal law to the rules.

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

The Department has not received an analysis that compares the rule's impact of competitiveness of business in this state to the impact on business in other states.

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

Not applicable.

**14. Whether the rule previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the *Register* as specified in R1-4-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

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

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

**TITLE 13. PUBLIC SAFETY**

**CHAPTER 1. DEPARTMENT OF PUBLIC SAFETY CRIMINAL IDENTIFICATION**

**SECTION**

**ARTICLE 5. DEPARTMENT RECORDS**

Section

R13-1-502. Charges for Copies of Traffic Accident Reports and Photographs

R13-1-504. Charges for Copies of Offense, Arrest, or Incident ~~Reports~~ and Other Types of Departmental Reports

## ARTICLE 5. DEPARTMENT RECORDS

### R13-1-502. Charges for Copies of Traffic Accident Reports and Photographs

- A. The charges for copies of traffic accident reports and photographs are:
- ~~For traffic accident reports, \$9.00 for nine pages or less and one dollar for each additional page over nine; Charges for a copy of a traffic accident report by method of delivery:~~
    - Paper—\$9.00 for nine pages or less and \$0.10 for each additional page exceeding nine.
    - Fax—\$9.00 up to 20 pages.
    - Electronic mail—\$9.00 up to five megabytes.
    - Compact disk—\$10.00 up to 700 megabytes. Additional reports may be delivered on a single compact disk for \$9.00 each.
  - ~~\$4.00 per photograph; and Charges for a copy of a traffic accident photograph by method of delivery:~~
    - Printed photograph—\$4.00 each.
    - Photographic contact sheet—\$10.00 each.
    - For all photographs associated by a single report delivered by compact disk or digital versatile disk—\$15.00 up to 4.7 gigabytes.
  - ~~\$10.00 per photo contact sheet.~~
- B. A person shall mail ~~fees payment to the Department~~ Department's Records Unit, Mail Drop 3111, P.O. Box 6638, Phoenix, AZ 85005-6638 in the form of a cashier's check, money order, or a business check payable to the Arizona Department of Public Safety. If paying in person at the Department's Public Records Unit, 2222 West Encanto Boulevard, Phoenix, AZ 85009, the person shall pay with a cashier's check, money order, business check, ~~exact change in cash, or personal check if accompanied by valid picture identification~~ or in cash. If paying through an electronic payment system, as instructed on the Department's website www.azdps.gov, the person shall pay with electronic funds.

### R13-1-504. Charges for Copies of Offense, Arrest, ~~or Incident Reports~~ and Other Types of Departmental Reports

- A. ~~Charges for copies of Offense, Arrest, or Incident reports are \$9.00 for nine pages or less and \$1.00 for each additional page over nine. The charges for a copy of an offense, arrest, incident, and other types of departmental reports by method of delivery are:~~
- Paper—\$9.00 for nine pages or less and \$0.10 for each additional page exceeding nine.
  - Fax—\$9.00 up to 20 pages.
  - Electronic mail—\$9.00 up to five megabytes.
  - Compact disk—\$10.00 up to 700 megabytes. Additional reports may be delivered on a single compact disk for \$9.00 each.
  - Digital versatile disk—\$15.00 up to 4.7 gigabytes.
  - Flash drive—\$20.00 up to eight gigabytes.
  - External drive—\$100.00 up to one terabyte.
- B. A person shall mail ~~charges payment to the Department~~ Department's Public Records Unit, Mail Drop 3240, P.O. Box 6638, Phoenix, AZ 85005-6638 in the form of a cashier's check, money order, or a business check payable to the Arizona Department of Public Safety. If paying in person at the Department's Public Records Unit, 2222 West Encanto Boulevard, Phoenix, AZ 85009, the person shall pay with a cashier's check, money order, business check, or ~~exact change~~ in cash. If paying through an electronic payment system as instructed on the Department's

website [www.azdps.gov](http://www.azdps.gov), the person shall pay with electronic funds.

**Economic, Small Business and Consumer Impact Statement**  
**ARS §41-1055**

**DPS Records Rulemaking**  
**September 2017**

**Preamble:**

**1. An identification of the proposed rulemaking, including all of the following:**

The Department intends to amend R13-1-502 and R13-1-504 to allow for modern electronic delivery methods, establish fees for modern electronic delivery methods, allow electronic payment, remove payment by personal check, and reduce the fee for larger paper reports.

**(a) The conduct and its frequency of occurrence that the rule is designed to change.**

The Department of Public Safety received 33,574 requests for accident reports as specified in Rule 502 and 9,020 requests for documents specified in Rule 504 in calendar year 2016. The only delivery method allowed in the current rules is paper delivery. Approximately 90% of reports provided by the department are nine pages or less, which are charged a base fee of \$9.00. Currently, additional pages above nine incur a charge of \$1 per page, a price that does not reflect the current economic conditions and places a burden on the public.

**(b) The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed.**

Current paper delivery is \$9.00 for the first nine pages and \$1.00 for additional pages. Photographs are available for \$4.00 and \$10.00 for a contact sheet. Current rules do not cover additional delivery methods, but the department does make available reports by CD for \$25 and photographs by CD for \$35. The \$1.00 per page additional charge for paper delivery exceeds the Department's costs to provide the service. The lowering of this fee to \$0.10 per additional page will relieve an economic burden on the public by the Department charging the least burdensome amount to produce the product. The amended rules will allow the public to obtain records at a reasonable cost in modern electronic formats conducive to today's electronic age.

**(c) The estimated change in frequency of the targeted conduct expected from the rule change.**

Using FY 2016 as an example, reducing the fee for additional pages from \$1.00 to \$0.10 for reports described in Rule 502 would result in a cost savings of \$27,606 to the public. Using FY 2016 as an example, reducing

the fee for additional pages from \$1.00 to \$0.10, and establishing a \$10 per CD fee for reports as described in rule 504 would result in an estimated \$20,357 savings to the public. Actual savings may vary as the frequency of each electronic delivery method and the number of traditional paper deliveries will be chosen by the requestor.

**2. A brief summary of the information included in the economic, small business and consumer impact statement.**

The Department intends to amend R13-1-502 and R13-1-504 to allow for electronic delivery methods, establish fees for electronic delivery methods, and reduce some existing fees. Persons affected by the rule changes include, private citizens, insurance companies, third party resellers, attorneys, and media outlets. The Department will bring in less revenue as a result of lower fees, but the fees collected are still expected to support the units which provide the reports to the public. The number of full-time employees in these units are not expected to change. Political subdivisions are not affected as governmental agencies are not charged for departmental reports. Currently, the Department is aware of seven small business's buying Department accident reports and reselling them. These businesses would receive a benefit as they will have additional delivery methods available to them and a reduction of fees for reports larger than 9 pages.

**3. If the economic, small business and consumer impact summary accompanies a proposed rule or a proposed expedited rule, the name and address of agency employees who may be contacted to submit or request additional data on the information included in the economic, small business and consumer impact statement.**

Name: Daryll Willis, Captain  
Address: Arizona Department of Public Safety  
Strategic Resources Section, Mail Drop 1200  
P.O. Box 6638  
Phoenix, AZ 85005-6638  
Telephone: (602) 223-2500  
E-mail: dwillis@azdps.gov

**The economic, small business and consumer impact statement:**

**1. An identification of the proposed rulemaking.**

The Department intends to amend R13-1-502 and R13-1-504 to allow for electronic delivery methods, establish fees for electronic delivery methods, reduce some existing fees, remove payment by personal check and establish electronic payment.

**2. An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the proposed rulemaking.**

Persons affected by the rule changes include, private citizens, insurance companies, third party resellers, attorneys, and media outlets.

**3. Cost benefit analysis of the following:**

**a. The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rulemaking. The probable costs to the implementing agency shall include the number of new full-time employees necessary to implement and enforce the proposed rule. The preparer of the economic, small business and consumer impact statement shall notify the joint legislative budget committee of the number of new full-time employees necessary to implement and enforce the rule before the rule is approved by the council.**

The Department will bring in less revenue as a result of lower fees. Using FY 2016 as an example, the reduction of revenue is an estimated \$47,963. The lowered revenue will be somewhat offset by the additional delivery methods, such as e-mail, which are expected to be provided in a more efficient manner when it comes to the time it takes to deliver the product and the related supplies involved. The Department will benefit from these efficiencies in a reduction of overtime and supply costs. No new full-time employees will be necessary as a result of the proposed rule. The number of full-time employees is not expected to change.

**b. The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rulemaking.**

Political subdivisions are not affected as governmental agencies are not charged for departmental reports.

- c. **The probable costs and benefits to businesses directly affected by the proposed rulemaking, including any anticipated effect on the revenues or payroll expenditure of employers who are subject to the proposed rulemaking.**

Currently, the Department is aware of seven small business's buying Department accident reports and reselling them. It is estimated approximately 10% of the fees collected from these businesses are from the \$1.00 for additional pages above 9. Depending on which delivery method they choose, these businesses would benefit from a cost savings from these fees as they may choose to pay for paper delivery at \$0.10 per additional page, or no additional charge per page if the report is delivered by email.

4. **A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the proposed rulemaking.**

The Department does not anticipate that private or public employment will be directly affected by these rules.

5. **A statement of the probable impact of the proposed rulemaking on small businesses. The statement shall include:**

- a. **An identification of the small business subject to the proposed rulemaking.**

The Department is aware of seven small businesses who purchase Department accident reports and resell these reports to others businesses, such as insurance companies, law firms and large data gathering corporations.

- b. **The administrative and other costs required for compliance with the proposed rulemaking.**

The Department does not anticipate that small businesses will incur administrative or other costs by these rules. All proposed changes will result in a reduced charge to businesses.

- c. **A description of the methods prescribed in section 41-1035 that the agency may use to reduce the impact on small businesses with reasons for the agency's decision to use or not to use each method.**

The Department does not anticipate that small businesses will be negatively affected by these rules. Therefore, there are no methods or alternatives by which to reduce the impact on small business.

- d. **The probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking.**

Private persons will directly benefit from the adjusted fee schedule set forth in the rules. All the fees will remain the same or be lowered as a result of the proposed rule changes. Additionally, delivery methods will benefit the customers as more delivery methods will be used, such as email and fax. The addition of electronic payment will give the consumer a modern and convenient method to pay for requested reports.

6. **A statement of the probable effect on state revenues.**

The Department Records Unit is expected to see an approximate 9% decrease in revenue for a total of \$27,606. This revenue supports four department positions, employee overtime, training and supplies. The decrease in revenue will be partially offset by the expected reduction in supply costs, such as paper, as reports will be delivered in more efficient methods, such as email. The expected revenue is still expected to support the unit.

The Public Records Unit is estimated to see an approximate 39% decrease in revenue for a total of \$20,357. This revenue does not support any department positions but does support employee overtime, training and supplies. The decrease in revenue may be partially offset by the expected reduction in supply costs, such as paper and postage, as more reports will be delivered in more efficient methods, such as email. The expected revenue is still expected to support the needs of the unit.

7. **A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking, including the monetizing of the costs and benefits for each option and providing the rationale for not using nonselected alternatives.**

ARS § 41-1750K states the Department shall establish a fee in an amount necessary to cover the processing of copies of Department reports and

photographs. The proposed fees would cover these costs to the Department. The Department reviewed two alternative policies: reducing the fees and reducing staffing.

Reducing the fees will require a reduction in services to the public in order to remain in compliance with ARS § 41-1750. The Department does not receive sufficient funding from the legislature to properly supply these services to the public without charging fees, and the Department is statutorily required to fund these services through fees.

Reducing staff is another option that was considered; however, a reduction in staff would significantly increase processing time creating a backlog. This backlog would place the unit out of compliance with public records laws which require a certain time frame to provide the documents. The alternative of amending the administrative rules in this rulemaking has been identified as the least intrusive and most cost-efficient method available to administer the program and ensure these Departmental units are self-sufficient.

- 8. A description of any data on which a rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data. An agency advocating that any data is acceptable data has the burden of proving that the data is acceptable. For the purposes of this paragraph, "acceptable data" means empirical, replicable and testable data as evidenced in supporting documentation, statistics, reports, studies or research.**

A fee study was completed and is attached. From August 27, 2016, through September 23, 2016, the Public Records Unit employees recorded time associated with each public record request they worked on in the following seven task areas:

1. Receive, filter and assign a public record request number.
2. Scan, convert to pdf, index, upload and make notes in ViewCenter.
3. Contact involved units; gather documents.
4. Copy, print, scan documents received.
5. Redact documents.
6. Copy or print documents and audio CD's for delivery.
7. Create invoice, process payment, mail records, clone request in ViewCenter and update notes.

The results were calculated to determine the average time it takes to process a copy of a Department report and are explained in the attached study.

**A.R.S. § 41-1055 (C) If for any reason adequate data are not reasonably available to comply with the requirements of subsection B of this section, the agency shall explain the limitations of the data and the methods that were employed in the attempt to obtain the data and shall characterize the probable impacts in qualitative terms. The absence of adequate data, if explained in accordance with this subsection, shall not be grounds for a legal challenge to the sufficiency of the economic, small business and consumer impact statement.**

**TITLE 13. PUBLIC SAFETY****CHAPTER 1. DEPARTMENT OF PUBLIC SAFETY  
CRIMINAL IDENTIFICATION SECTION**

(Authority: A.R.S. § 41-1750 et seq.)

*Editor's Note: This Chapter was recodified under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4).*

**ARTICLE 1. CRIMINAL HISTORY RECORDS**

Section	
R13-1-101.	Definitions
R13-1-102.	Submission and Retention of Criminal Justice Information
R13-1-103.	Procedures for Law Enforcement Agencies and Prosecutors' Offices to Forward Dispositions of Criminal Proceedings to the Central State Repository
R13-1-104.	Procedures for Juveniles Remanded as Adults and Procedures for the Department of Corrections to Forward Information Regarding Inmates to the Central State Repository
R13-1-105.	Procedures for a Criminal Court to Forward Dispositions of Criminal Charges to the Central State Repository
R13-1-106.	Arrest Fingerprint Record Submission
R13-1-107.	Procedures for Review of Accuracy and Completeness of Criminal History Records
R13-1-108.	Procedures for Challenging the Accuracy and Completeness of Criminal History Records
R13-1-109.	Hearing Procedures
R13-1-110.	Review or Rehearing of the Director's Decision
R13-1-111.	Information Deemed Useful for the Study and Prevention of Crime or the Administration of Criminal Justice

**ARTICLE 2. ACJIS NETWORK**

*Article 2, consisting of R13-1-201 through R13-1-204, made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).*

Section	
R13-1-201.	ACJIS Security Measures
R13-1-202.	Arizona Criminal Justice Information System Training and Proficiency Guidelines
R13-1-203.	Terminal Operator Certification Training or Criminal Justice Practitioner's Program
R13-1-204.	Procedures for and Restrictions on Dissemination of Information

**ARTICLE 3. ARIZONA CRIME STATISTICS**

*Article 3, consisting of R13-1-301 through R13-1-302, made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).*

Section	
R13-1-301.	Submittal of Hate Crimes Information
R13-1-302.	Submittal of Uniform Crime Information

**ARTICLE 4. APPLICANT FINGERPRINT PROCESSING**

*Article 4, consisting of R13-1-401 through R13-1-402, made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).*

Section	
R13-1-401.	Non-criminal Justice Fingerprint Processing Charges
R13-1-402.	Refusal of Service

**ARTICLE 5. DEPARTMENT RECORDS**

*Article 5, consisting of R13-1-501 through R13-1-504, made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).*

Section	
R13-1-501.	Procedure for Obtaining a Traffic Accident Report or Photograph
R13-1-502.	Charges for Copies of Traffic Accident Reports and Photographs
R13-1-503.	Procedure for Obtaining Copies of Offense, Arrest, or Incident Reports
R13-1-504.	Charges for Copies of Offense, Arrest, or Incident Reports
Exhibit A.	Disposition Report Form Block Completion Instructions for Law Enforcement and Prosecutors
Exhibit B.	Disposition Report Form Block Completion Instructions for Criminal Courts

**ARTICLE 1. CRIMINAL HISTORY RECORDS****R13-1-101. Definitions**

In addition to the definitions in A.R.S. §§ 41-1750 and 41-2201, the following definitions apply to this Chapter:

1. "Access authorization list" means a list that contains the names of agency personnel who are authorized to receive information directly or indirectly from the ACJIS network.
2. "ACJIS" means the Arizona Criminal Justice Information System, a statewide network housing various databases on persons and property in this state. The ACJIS network is maintained by the Department and is available to authorized local, state, and federal criminal justice agencies.
3. "ADRS" means the Arizona Disposition Reporting System, which is maintained by the Department and supports electronic submission of disposition information to the central state repository.
4. "ALETS" means the Arizona Law Enforcement Telecommunications System.
5. "Arizona Computerized Criminal History" means a criminal history record kept by the Department in a database of offenders arrested in this state.
6. "Arresting agency case number" means a unique combination of 15 numbers and letters used to identify a criminal justice agency's case number such as the Department case number, Department report number, or case report number. The first three characters are the AZAFIS-assigned alpha characters that identify the arresting agency.
7. "AZAFIS" means the Arizona Automated Fingerprint Identification System maintained by the Department that stores state-level arrest fingerprints and related information.
8. "AZAFIS Image Scanner" means the scanning system that scans and transmits ink and roll arrest fingerprint records.

9. "AZAFIS Livescan" means the electronic system that captures and transmits arrest information and fingerprints.
10. "CHRI" means Criminal History Record Information.
11. "Classifiable Fingerprints" means fingerprint impressions that meet the criteria of the FBI as contained in Form FD-258 (5-11-99), U.S. Government Printing Office: 2004-304-373/80029, incorporated by reference, available from the Department and the FBI (Attn: Logistical Support Unit (LSU), CJIS Division, 1000 Custer Hollow Road, Clarksburg, WV 26306). This incorporation contains no future editions or amendments.
12. "Date of arrest" means the date a person is taken into custody using the MMDDCCYY format as indicated in Exhibit A.
13. "Date of birth" means the subject's date of birth using MMDDCCYY format as indicated in Exhibit A.
14. "Department" means the Arizona Department of Public Safety.
15. "Disposition date" is the date of final disposition of a charge.
16. "Hot files" means records entered into ACJIS. These records include those regarding wanted persons and stolen vehicles.
17. "Juvenile fingerprinted" means identification signifying that an individual is a juvenile on an arrest fingerprint card if the juvenile is being remanded as an adult.
18. "Law Enforcement Agency" means a municipal, county, or state agency with powers of arrest.
19. "LSI" means local subject identifier, a unique combination of 15 numbers and letters used by local law enforcement agencies to identify an individual. It is the local equivalent of a State Identification (SID) number. The first three characters are the AZAFIS-assigned alpha characters that identify the agency.
20. "NCIC" means the National Crime Information Center maintained by the FBI, a national repository of files on persons and property relating to a crime.
21. "NIBRS" means the National Incident-Based Reporting System, a system designed to collect data on each crime occurrence and each incident and arrest within that occurrence for 22 crime categories.
22. "NLETS" means the National Law Enforcement Telecommunications System, a message switching system for the interstate exchange of criminal justice information.
23. "Offender-based Tracking System" means a computer system database that indexes information from selected Arizona Criminal Justice Information System data files.
24. "Offense" means an offense listed in the Arizona Revised Statutes or a city ordinance that is used to arrest an offender.
25. "Offense type" means a designation that indicates whether an offense is a felony or a misdemeanor.
26. "ORI" means a unique identifier assigned by the FBI to an agency.
27. "PCN" means Process Control Number.
28. "Personal identifiers" means a subject's sex, race, height, weight, hair color, and eye color.
29. "Place of birth" means the state or country in which a subject of record was born.
30. "State Identification Number (SID)" means an identification number that is assigned by the Department to an individual whose set of arrest fingerprints has been submitted to AZAFIS.
31. "Terminal Operator Certification Level A" means a terminal operator who is authorized to access the ACJIS network for entering, updating, clearing, or canceling records; conducting inquiries; and interpreting responses.
32. "Terminal Operator Certification Level B" means a terminal operator who is authorized to inquire into the ACJIS network and interpret responses.
33. "Terminal Operator Certification Level C" means a terminal operator who is authorized to inquire into the ACJIS/NCIC hot files.
34. "Terminal Operator Certification Level D" means technical personnel who are authorized to view information obtained from the ACJIS network.
35. "Terminal Operator Certification Level F" means a terminal operator who is authorized to inquire into, enter information into, or modify information in the ADRS.
36. "TOC" means Terminal Operator Certification.

#### Historical Note

Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 5477, effective October 31, 2003 (Supp. 03-4). Formerly Section R13-1-01; renumbered under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4). New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2). Amended by final rulemaking at 15 A.A.R. 273, effective March 7, 2009 (Supp. 09-1).

#### R13-1-102. Submission and Retention of Criminal Justice Information

- A. The chief officer of a criminal justice agency in this state shall ensure that CHRI is submitted to the Department's Central State Repository as follows.
  1. A law enforcement agency shall submit arrest fingerprints to the Department through the AZAFIS or through the mail.
  2. A law enforcement agency shall submit any corrections to previously submitted arrest fingerprints to the Department by fax or mail on the "Correction of Arrest Information" form available from the Department. The Department's Central State Repository shall correct the record as requested. Corrections to or deletion of arrest records may only be requested by the arresting or booking agency. The Correction of Information form includes:
    - a. Name of the person authorizing the correction or deletion;
    - b. Agency name, ORI, and telephone and fax numbers;
    - c. PCN;
    - d. SID;
    - e. Subject of record's name and date of birth;
    - f. Arresting agency case number;
    - g. Date of arrest; and
    - h. Correction or deletion needed.
  3. Law enforcement agencies, prosecutors' offices, and courts shall submit dispositions related to an arrest fingerprint to the Department's Central State Repository within 40 days from the disposition date.
  4. A court shall submit court orders that affect criminal history records to the Department's Central State Repository. The Department shall update the criminal history record based on the information received in the court order.
  5. A county medical examiner shall provide to the Department's Central State Repository a full set of 10 inked and rolled fingerprints of a deceased person whose death is required to be investigated by the county medical examiner's office. The Department shall search the fingerprints to determine whether any criminal record is maintained and, if so, update the record to indicate notification of the

death. The county medical examiner shall ensure that the complete fingerprint record submitted to the Department includes:

- a. Deceased person's full name,
- b. Date of birth, and
- c. Personal identifiers.

- B. The Department's Central State Repository shall retain a criminal history record until the subject of record reaches age 99 or one year after the Department receives notice of the subject of record's death.

#### Historical Note

Former rule 1. Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 5477, effective October 31, 2003 (Supp. 03-4). Formerly Section R13-1-02; renumbered under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4). New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2). Amended by final rulemaking at 15 A.A.R. 273, effective March 7, 2009 (Supp. 09-1).

#### R13-1-103. Procedures For Law Enforcement Agencies and Prosecutors' Offices to Forward Dispositions of Criminal Proceedings to the Central State Repository

- A. A law enforcement agency and prosecutor office shall submit a completed Disposition Report form for crimes specified in A.R.S. § 41-1750(C) to the Department's Central State Repository as outlined in A.R.S. § 41-1750.
- B. The law enforcement agency that prepares the Disposition Report form shall complete the information in blocks #1 through 16 on the Disposition Report form as shown in Exhibit A for the arrest charges filed by the agency.
  1. The law enforcement agency that prepares the Disposition Report form shall forward the form to the appropriate prosecutor's office. If the arresting agency makes a decision not to pursue criminal charges, the arresting agency shall complete blocks #1 through #16 and blocks #18, 25, and 26, and submit the completed form to the Department's Central State Repository.
  2. The Department's Central State Repository shall update the criminal history record with the disposition report information.
- C. The prosecutor's office shall verify the arrest charges listed on the Disposition Report form by the law enforcement agency, and add or amend the arrest charges listed by completing blocks #10 and 17, if applicable. The prosecutor's office shall reflect a decision to terminate one or all of the arrest charges on the Disposition Report form by completing all of the applicable blocks on the form.
  1. For criminal charges filed with a court by the prosecutor, the prosecutor shall verify or complete information in blocks #10 through 16 and block #17, if applicable, on the Disposition Report form and forward the form to the appropriate court as required by Arizona Rule of Criminal Procedure 37.2.
  2. If the prosecutor decides not to file with the court one or more of the arrest charges listed on the Disposition Report form, the prosecutor shall complete blocks #18, 25, and 26. The prosecutor shall forward the completed Disposition Report form to the Central State Repository, and the prosecutor shall forward a photocopy of the form to the appropriate court, if one or more charges are being filed with the court. The Central State Repository shall update the criminal history record to indicate the disposition for arrest charges not filed by the prosecutor.

- D. Agencies may submit disposition information electronically to the Department instead of in paper form if the agency enforces quality control measures and follows the electronic disposition format provided by the Department.

#### Historical Note

Former rule 2. Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 5477, effective October 31, 2003 (Supp. 03-4). Formerly Section R13-1-03; renumbered under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4). New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

#### R13-1-104. Procedures for Juveniles Remanded as Adults and Procedures for the Department of Corrections to Forward Information Regarding Inmates to the Central State Repository

- A. The Department maintains criminal history records in the Central State Repository for juveniles as the subject of record only if the juvenile is remanded to an adult court. If a criminal justice agency is processing a juvenile who is remanded to an adult court, the agency shall use the procedures in this Article to submit criminal history records to the Department's Central State Repository.
- B. The Arizona Department of Corrections shall forward each week to the Department a computer tape that includes for each inmate within the prison system the inmate's full name, date of birth, sex, race, inmate number assigned by the agency, arrest information for which the inmate is serving time in prison, and custody status. The Department shall update computerized files of the Offender-based Tracking System and the Arizona Computerized Criminal History, when applicable.

#### Historical Note

Former rule 3. Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 5477, effective October 31, 2003 (Supp. 03-4). Formerly Section R13-1-04; renumbered under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4). New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

#### R13-1-105. Procedures for a Criminal Court to Forward Dispositions of Criminal Charges to the Central State Repository

- A. A criminal court shall submit the disposition of all charges to the Central State Repository under Rule 37 of the Arizona Rules of Criminal Procedure.
- B. The court shall verify the arrest charges listed on the Disposition Report form and complete the applicable blocks for each charge addressed by the court.
- C. If there is more than one arrest charge listed on the Disposition Report form and any of the charges are being adjudicated by another court, the court shall photocopy the Disposition Report form and forward it to the other court.
- D. The court shall complete and forward the disposition form to the Department's Central State Repository. The Department shall update the criminal history record with the disposition report information.
- E. A criminal court shall use a Disposition Report supplemental form provided by the Department to report additional arrest charges and dispositions of the charges. The Disposition Report form is used to record the first three charges of an arrest event and the disposition of these charges. The Disposition Report supplemental form is used to record additional charges and the dispositions of those additional charges.
- F. Agencies may submit disposition information electronically to the Department's Central State Repository instead of a paper form if the agency enforces quality control measures and fol-

lows the electronic disposition formats provided by the Department.

**Historical Note**

Former rule 4. Formerly Section R13-1-05; renumbered under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

**R13-1-106. Arrest Fingerprint Record Submission**

- A.** The chief officer of a criminal justice agency shall ensure that a completed arrest fingerprint record prescribed by subsection (D) in a format prescribed by the Department is sent to the Department's Central State Repository within 10 days from the date of fingerprinting using one of the following methods:
1. AZAFIS Livescan,
  2. AZAFIS Image Scanner, or
  3. Ink-and-roll arrest fingerprint card.
- B.** The chief officer of a criminal justice agency shall ensure that only one arrest fingerprint record is sent to the Department's Central State Repository for each arrest.
- C.** A criminal justice agency using the ink-and-roll method of fingerprinting shall obtain blank arrest fingerprint cards from the FBI using the CJIS Supply Requisition Form (1-178).
- D.** A completed arrest fingerprint record contains the following information:
1. About the individual arrested:
    - a. Name;
    - b. Date of birth;
    - c. Personal identifiers;
    - d. Juvenile fingerprinted, if applicable; and
    - e. Place of birth;
  2. Date of arrest;
  3. ORI, and arresting agency's name and address;
  4. Date of offense;
  5. Local identification/reference:
    - a. LSI and arresting agency case number are required,
    - b. Local file number and agency tracking number are optional;
  6. Citation information/charge description. Citation to the state, county, or city code allegedly violated and description of charge, i.e., A.R.S. § 13-1802, theft.
  7. Offense type:
    - a. Designate a felony with an "F;"
    - b. Designate a misdemeanor with an "M;"
  8. Court ORI;
  9. PCN;
  10. Name or identification number of official taking fingerprints; and
  11. Arrest fingerprints.

**Historical Note**

Former rule 5. Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 5477, effective October 31, 2003 (Supp. 03-4). Formerly Section R13-1-06; renumbered under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4). New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2). Amended by final rulemaking at 15 A.A.R. 273, effective March 7, 2009 (Supp. 09-1).

**R13-1-107. Procedures for Review of Accuracy and Completeness of Criminal History Records**

- A.** The subject of record or the subject's attorney may request criminal history record information maintained by the Depart-

ment for the sole purpose of reviewing the accuracy and completeness of the subject of record's criminal history record.

- B.** To obtain a copy of a criminal history record, the subject of record shall submit a completed Record Review Instruction Packet provided by the Department.
- C.** A completed Record Review Instruction Packet includes the following for the subject of record:
1. Full set of classifiable fingerprints taken by an official at a law enforcement agency,
  2. Name,
  3. Date of birth,
  4. Personal identifiers,
  5. Place of birth,
  6. Social Security number,
  7. Address of residence,
  8. Date fingerprinted, and
  9. Signature.
- D.** The completed Record Review Instruction Packet shall be returned to the Department in the envelope provided.
- E.** The subject of record's attorney may obtain the subject of record's criminal history record by providing a notarized letter of authorization from the subject of record with the completed Record Review Instruction Packet.
- F.** Within 15 days of receipt of the completed Record Review Instruction Packet, the Department shall provide a response to the subject of record or the subject's attorney. The Department shall include in the response arrest and disposition information maintained by the Department on the subject of record and a Review and Challenge of Arizona Criminal History Record Information form that requests:
1. Subject of record's full name;
  2. Signature of subject of record or attorney representing the subject of record;
  3. Date of submission of the challenge;
  4. Summary of the exceptions and reasons for the exceptions, specifying each arrest, and including:
    - a. Name of arresting agency,
    - b. Date of arrest,
    - c. Arrest number, and
    - d. Charge;
  5. Subject of record's mailing address; and
  6. Signature of the subject of record, verifying the summary of exceptions and reasons.

**Historical Note**

Former rule 6. Section expired under A.R.S. § 41-1056(E) at 9 A.A.R. 5477, effective October 31, 2003 (Supp. 03-4). Formerly Section R13-1-07; renumbered under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4). New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

**R13-1-108. Procedures for Challenging the Accuracy and Completeness of Criminal History Records**

- A.** To challenge a criminal history record, the subject of record or the subject of record's attorney shall complete and return the Review and Challenge of Arizona Criminal History Record Information form referenced in R13-1-107(F) within 35 days of the date of the response referenced in R13-1-107(F).
- B.** The Department shall complete an audit of the challenged entries within 15 days of receipt of the form by:
1. Contacting the contributing agencies,
  2. Verifying the information, and
  3. Researching dispositions on any challenged entry.
- C.** If the Department determines that a correction to or deletion from the criminal history record is necessary, the Department

shall modify the record and notify the Federal Bureau of Investigation.

- D. Upon conclusion of the audit referenced in subsection (B), the Department shall send written notification of the audit result and a copy of any record modification to the subject of record or the subject of record's attorney.
- E. The Department shall include in the notice of audit result referenced in subsection (D) a statement that the subject of record may request a hearing to determine the accuracy of the criminal history record. To request a hearing, the subject of record or the subject of record's attorney shall submit to the Department a written request within 35 days of the date of the notice of audit result referenced in subsection (D).

#### Historical Note

Former rule 7. Formerly Section R13-1-08; renumbered under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2). Amended by final rulemaking at 15 A.A.R. 273, effective March 7, 2009 (Supp. 09-1).

#### R13-1-109. Hearing Procedures

- A. Under A.R.S. § 41-2204(6), a hearing shall be conducted after receipt of a request for a hearing to determine the accuracy of information in a criminal history record maintained by the Central State Repository.
- B. The Office of Administrative Hearing shall conduct a hearing to determine the accuracy of information in a criminal history record maintained by the Central State Repository in accordance with the procedures in A.R.S. Title 41, Chapter 6, Article 10 and the rules issued by the Office of Administrative Hearings.
- C. Under A.R.S. § 41-1092.08, within 30 days after the Office of Administrative Hearings sends the administrative law judge's recommended decision to the Director, the Director shall review the recommended decision and may accept, modify, or reject it.

#### Historical Note

Former rule 8. Formerly Section R13-1-09; renumbered under A.R.S. § 41-1011(C) to comply with the numbering system prescribed by the Office of the Secretary of State (Supp. 03-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2). Former R13-1-109 renumbered to R13-1-111, new Section made by final rulemaking at 15 A.A.R. 273, effective March 7, 2009 (Supp. 09-1).

#### R13-1-110. Review or Rehearing of the Director's Decision

- A. In accordance with A.R.S. § 41-1092.09, a party may file with the Department a motion for rehearing or review of a decision issued by the Director under R13-1-109.
- B. A party may amend a motion for rehearing or review at any time before the Department rules on the motion.
- C. The Department may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
  1. Irregularity in the proceedings or any order or abuse of discretion that deprived the moving party of a fair hearing;
  2. Misconduct of the Director, Department staff, or an administrative law judge;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;

5. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings; and
6. The findings of fact are not justified by the evidence or the decision is contrary to law.

- D. The Department may affirm or modify a decision or grant a rehearing or review on all or some of the issues for any of the reasons listed in subsection (C). The Department shall specify with particularity the grounds for an order modifying a decision or granting a rehearing or review. If a rehearing or review is granted, the rehearing or review shall cover only the matters specified in the order.
- E. Not later than 30 days after the date of a decision and after giving the parties notice and an opportunity to be heard, the Department may, on its own initiative, order a rehearing or review of the decision for any reason listed in subsection (C). The Department may grant a motion for rehearing or review, timely served, for a reason not stated in a motion.
- F. When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service of the motion, serve response affidavits. The Department may extend this period for a maximum of 20 days for good cause or by written stipulation of the parties. The Department may permit reply affidavits.
- G. If, in a particular decision, the Director makes a specific finding that the immediate effectiveness of the decision is necessary for preservation of the public health, safety, or welfare and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision shall be issued as a final decision without an opportunity for a rehearing or review.

#### Historical Note

New Section made by final rulemaking at 15 A.A.R. 273, effective March 7, 2009 (Supp. 09-1).

#### R13-1-111. Information Deemed Useful for the Study and Prevention of Crime or the Administration of Criminal Justice

- A. An individual or agency that wishes to obtain criminal history records from the Central State Repository for the purpose of research, evaluative or statistical activities, the prevention of crime, or to provide services for the administration of criminal justice shall:
  1. Provide a written or electronic request to the Department that specifies the purpose of the study, or how the records will be used to prevent crime or administer criminal justice; and
  2. If the request is approved, sign a non-disclosure agreement that meets the requirements of A.R.S. § 41-1750(G)(9) and is prepared and provided by the Department.
- B. The Department shall review the signed non-disclosure agreement and authorize the exchange of information in accordance with the agreement.

#### Historical Note

New Section R13-1-111 renumbered from R13-1-109 and amended by final rulemaking at 15 A.A.R. 273, effective March 7, 2009 (Supp. 09-1).

### ARTICLE 2. ACJIS NETWORK

#### R13-1-201. ACJIS Security Measures

- A. All criminal justice agencies that collect, store, disseminate, or access criminal justice information or criminal history information from the ACJIS shall sign and return to the Department's Access Integrity Unit an ACJIS User Agreement. The ACJIS User Agreement states that the agency will follow state and federal requirements as specified in R13-1-204(A) relating

to the collection, storage, dissemination, and access of criminal justice information and criminal history record information obtained directly or indirectly from the ACJIS.

- B.** A criminal justice agency accessing the ACJIS network shall meet the following security guidelines:
1. Access and dissemination of information from the ACJIS network is limited to criminal justice agencies for the administration of criminal justice or for criminal justice employment.
  2. An agency that enters records into the ACJIS network is responsible for the accuracy, timeliness, and completeness of the record entries.
  3. An agency shall have an ACJIS misuse policy that outlines the sanctions imposed on agency personnel who misuse ACJIS.
  4. An agency shall ensure that agency equipment connected to the ACJIS network is fully compatible with existing ACJIS computer equipment and upgraded as necessary to remain compatible with ACJIS configurations and architecture.
  5. An agency shall ensure that agency personnel maintain appropriate operator certification levels as specified in R13-1-203.
- C.** A criminal justice agency that interfaces its record management system with the ACJIS network shall meet the following interface standards and security requirements as set by the Department:
1. Provide to the Department a complete and accurate schematic of agency network and hardware configuration;
  2. Ensure that there are security controls to prevent unauthorized access to ACJIS information;
  3. Follow user identification and password configurations specified by the Department;
  4. Establish a process to review system logs and store the logs for one year; and
  5. Sign the Department's ACJIS interface addendum agreeing to follow the standards in this subsection.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

**R13-1-202. Arizona Criminal Justice Information System Training and Proficiency Guidelines**

A criminal justice agency that accesses the ACJIS Network shall follow the ACJIS terminal operator certification (TOC) testing guidelines developed and maintained by the Department. The guidelines are:

1. Each agency with terminal access to the ACJIS Network shall appoint an ACJIS System Security Officer (SSO) to act as liaison to the Department's CJIS Systems Officer.
2. The agency SSO shall:
  - a. Oversee the development and maintenance of the agency's ACJIS Network and TOC training outlines;
  - b. Oversee the Terminal Operator Certification Training Program;
  - c. Oversee the Criminal Justice Practitioner's Training Program; and
  - d. Ensure that all agency terminal operators pass a test by obtaining at least a score of 70 percent for the appropriate Terminal Operator Certification Level before accessing the ACJIS.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

**R13-1-203. Terminal Operator Certification Training or Criminal Justice Practitioner's Program**

- A.** The SSO shall ensure that the Terminal Operator Certification Training Programs for terminal operator levels A, B, C, and D contain the following areas of training as applicable to the certification level:
1. Privacy and security of the ACJIS/NCIC system;
  2. Record inquiry and entry procedures on all databases;
  3. Validation procedures;
  4. Hit confirmation procedures;
  5. Dissemination procedures;
  6. Terminal operator certification procedures;
  7. Use of ALETS and the NLETS; and
  8. Viewing the ACJIS operations overview video.
- B.** The agency SSO shall ensure that the Criminal Justice Practitioner's Program includes, at a minimum, viewing the ACJIS operations overview video.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

**R13-1-204. Procedures for and Restrictions on Dissemination of Information**

- A.** A criminal justice agency shall follow the terms and conditions for dissemination of criminal justice or criminal history record information obtained from the ACJIS network outlined in:
1. A.R.S. § 41-1750;
  2. 28 CFR Part 20 dated July 2004, incorporated by reference, available from the Department and the FBI at 1000 Custer Hollow Road, Clarksburg, WV 26306. This incorporation by reference contains no future editions or amendments; and
  3. The ACJIS User Agreement as stated in R13-1-201.
- B.** A criminal justice agency shall provide an access authorization list to the Department. The Department shall disseminate criminal justice or criminal history record information only to individuals on the agency's access authorization list. The authorization list shall include:
1. Name of agency;
  2. Name of authorized individual;
  3. Date of birth of authorized individual;
  4. Date of hire of authorized individual, if applicable;
  5. Terminal operator certification number of authorized individual, if applicable; and
  6. Phone numbers of authorized individual.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

**ARTICLE 3. ARIZONA CRIME STATISTICS**

**R13-1-301. Submittal of Hate Crimes Information**

- A.** A law enforcement agency shall submit hate crime information to the Department as outlined in the following publications that are incorporated by reference, available from the Department's Access Integrity Unit and the FBI at 1000 Custer Hollow Road, Clarksburg, WV 26306, and include no future editions or amendments:
1. Federal Bureau of Investigation Training Guide for Hate Crime Data Collection, Appendix C; and Federal Bureau of Investigation Hate Crime Data Collection Guidelines, dated October 1999;
  2. Federal Bureau of Investigation National Incident Based Reporting System Handbooks:
    - a. Uniform Crime Reporting Handbook, NIBRS Edition, dated 1992;

## Department of Public Safety – Criminal Identification Section

- b. Volume 1 – Data Collection Guidelines, dated August 2000;
  - c. Volume 2 – Data Submission Specifications, dated May 1992;
  - d. NIBRS Addendum for Submitting LEOKA data, dated October 2002; and
  - e. Volume 4 – Error Message Manual, dated December 1999.
- B.** The Department shall provide law enforcement agencies with information contained in the FBI's Uniform Crime Reporting State Program Bulletins that the Department determines is necessary to comply with this Section.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

**R13-1-302. Submittal of Uniform Crime Information**

- A.** A law enforcement agency shall submit uniform crime information to the Department as outlined in the following publications that are incorporated by reference, available from the Department's Access Integrity Unit and the FBI at 1000 Custer Hollow Road, Clarksburg, West Virginia, and contains no future editions or amendments:
1. Federal Bureau of Investigation Uniform Crime Reporting Handbook, dated 2004;
  2. Federal Bureau of Investigation National Incident Based Reporting System Handbooks incorporated in R13-1-301(A)(2).
- B.** The Department shall provide law enforcement agencies with information contained in the FBI's Uniform Crime Reporting State Program Bulletins that the Department determines is necessary to comply with this Section.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

**ARTICLE 4. APPLICANT FINGERPRINT PROCESSING****R13-1-401. Non-criminal Justice Fingerprint Processing Charges**

- A.** For an applicant for non-criminal justice employment, fingerprint processing charges are:
1. For a state criminal records check, \$5; and
  2. If a federal criminal record check by the FBI is requested by the applicant, the Department shall collect an additional charge to cover the cost billed to the Department by the FBI for the federal criminal records check.
- B.** For a state criminal records check, an individual shall submit payment by:
1. State companion action transfer;
  2. State direct deposit form;
  3. Cashier's check;
  4. Money order;
  5. Check drawn on a government agency account; or
  6. For Department sections submitting applicant fingerprint cards, via a Department funds transmittal form.
- C.** All charges are non-refundable.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

**R13-1-402. Refusal of Service**

- A.** If any form of payment is not accepted by the Department's banking facility, the Department shall send the state agency, company, or individual that submitted the payment a notice of nonpayment.

- B.** The notice of nonpayment informs the state agency, company, or individual that the Department will not accept non-criminal justice fingerprint submissions from the agency, company, or individual until past due payment is made.
- C.** At the Department's discretion, the Department may require the delinquent party to submit all future payments in the form of a cashier's check or money order.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

**ARTICLE 5. DEPARTMENT RECORDS****R13-1-501. Procedure for Obtaining a Traffic Accident Report or Photograph**

- A.** Any individual or entity, public or private, may obtain traffic accident reports and photographs from the Department.
- B.** A governmental agency requesting a traffic accident report may obtain the report free of charge. The Department shall charge the general public or a private entity a processing fee as listed in R13-1-502.
- C.** To obtain a copy of a Department traffic accident report or photograph, the requester shall:
1. Complete and submit the Department Request for Copy of Report form, available from the Department Records Unit. The Request for Copy of Report form includes:
    - a. The requester's name;
    - b. The requester's address;
    - c. The requester's phone number;
    - d. All information known regarding the traffic accident; and
    - e. The requirement to specify whether the request is for:
      - i. The traffic accident report only;
      - ii. Photographs only; or
      - iii. The traffic accident report and photographs; and
  2. Pay the charge under R13-1-502, if applicable.
- D.** Once the investigating officer submits the traffic accident report, the Department shall make accident reports and photographs available upon request. The Department shall release available traffic accident reports and photographs promptly after receiving the Request for Copy of Report form and payment of charges.
- E.** The Department redacts Social Security information from traffic accident reports released to the general public.
- F.** As specified in A.R.S. § 28-667, the Department shall not provide traffic accident reports for commercial solicitation.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

**R13-1-502. Charges for Copies of Traffic Accident Reports and Photographs**

- A.** The charges for copies of traffic accident reports and photographs are:
1. For traffic accident reports, \$9.00 for nine pages or less and one dollar for each additional page over nine;
  2. \$4.00 per photograph; and
  3. \$10.00 per photo contact sheet.
- B.** A person shall mail fees to the Department in the form of a cashier's check, money order, or a business check payable to the Arizona Department of Public Safety. If paying in person, the person shall pay with a cashier's check, money order, business check, exact change in cash, or personal check if accompanied by valid picture identification.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

**R13-1-503. Procedure for Obtaining Copies of Offense, Arrest, or Incident Reports**

- A. Any individual or entity, private or public, in accordance with A.R.S. § 39-121 may request an Offense, Arrest, or Incident report by contacting the Department's custodian of public records.
- B. A government agency requesting an Offense, Arrest, or Incident report may obtain the report free of charge. The Department shall charge the general public or a private entity a processing charge as listed in R13-1-504.
- C. To obtain a copy of a Department Offense, Arrest, or Incident report, the requester shall:
  1. Complete and submit the Department's Public Records Unit Request form provided on the Department web site at [www.dps.state.az.us](http://www.dps.state.az.us), or provide a written request that includes:
    - a. The requester's name;
    - b. The requester's address;
    - c. The requester's phone number, fax number, or both; and
    - d. All information known regarding the offense, arrest, or incident, including the Department report number; and

2. Pay the charge under R13-1-504, if applicable.

- D. Once the Offense, Arrest, or Incident report is submitted by the investigating officer, the Department shall make the report available upon request. The Department shall release available Offense, Arrest, or Incident reports promptly in accordance with A.R.S. § 39-121.
- E. The Department may redact certain information in a Department report based on legal considerations.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

**R13-1-504. Charges for Copies of Offense, Arrest, or Incident Reports**

- A. Charges for copies of Offense, Arrest, or Incident reports are \$9.00 for nine pages or less and \$1.00 for each additional page over nine.
- B. A person shall mail charges to the Department in the form of a cashier's check, money order, or a business check payable to the Arizona Department of Public Safety. If paying in person, the person shall pay with a cashier's check, money order, business check, or exact change in cash.

**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

**Exhibit A. Disposition Report Form Block Completion Instructions for Law Enforcement and Prosecutors**

Block #1: SID NUMBER/AZ: If subject was previously arrested, the State Identification number may be obtained from the Arizona Computerized Criminal History (ACCH) files via terminal inquiry.

Block #2: NAME: Subject's complete name as shown on the arrest fingerprint record that was completed for this arrest.

Block #3: DATE OF BIRTH (DOB): As shown on the arrest fingerprint record (MMDDCCYY) MM = month, DD = day, CCYY = full year. Example: 03/20/1954.

Block #4: DATE OF ARREST: As shown on the arrest fingerprint record (MMDDCCYY) MM = month, DD = day, CCYY = full year. Example: 04/20/2001.

Block #5: PCN: PCN assigned for specific arrest incident via AZAFIS.

Block #6: ARRESTING AGENCY ORI: The NCIC-assigned originating agency identifier (ORI).

Block #7: ARRESTING AGENCY CASE NUMBER: The arresting agency's case number.

Block #8: BOOKING AGENCY ORI: The NCIC-assigned originating agency identifier (ORI).

Block #9: BOOKING NUMBER: The number assigned by the detention facility.

Block #10: CHARGES: Each offense charged at the time of arrest MUST be listed on line "a". Line "b" is used only for amendments to the initial arrest charge(s).

Block #11: ARIZONA REVISED STATUTE (A.R.S.) or Ordinance: Enter the correct A.R.S. number or the County/City Ordinance number for each charge (as indicated on the arrest fingerprint record.)

Block #12: DATE OF OFFENSE/VIOLATION: Enter the date the offense/violation was committed (MMDDCCYY).

Block #13: OFFENSE TYPE: Circle "M" for misdemeanor. Circle "F" for felony.

Block #14: PREPARATORY OFFENSE CODE: Enter the appropriate code from the list on the front of this form. Indicate "A" for Attempted, "C" for Conspiracy to Commit, "F" for facilitate, or "S" for solicit.

Block #15: DOMESTIC VIOLENCE & VICTIM INFORMATION CODE: Enter the appropriate code from the list on the front of the form. Indicate "D" for a crime involving domestic violence, "M" when the victim is a minor, "A" when the victim is a vulnerable adult, "L" when the victim is a law enforcement officer, "C" for a dangerous crime against a child/children.

Block #16: DESIGNATED COURT NAME/IDENTIFIER: Enter the designated court name or NCIC-assigned originating identifier (ORI) for each charge. Block #17: AMENDED TO: Enter the letter "X" in block 17, line "a"; then write amended charge(s) and sentence information on the corresponding "b" line, beginning in block 10, completing all applicable blocks through block 27.

Block #18: DISPOSITION CODE: Enter the appropriate disposition code from the following: "NF" for no complaint filed, "NR" for not referred to prosecution, or "DP" for deferred prosecution.

Block #25: DISPOSITION DATE: Enter the official disposition date (MMDDCCYY).

Block #26: AGENCY ORI MAKING DISPOSITION DECISION: The NCIC-assigned originating agency identifier (ORI) of the agency making the disposition decision.

Block #27: FURTHER EXPLANATIONS OR MODIFICATIONS: Further explanation regarding a particular charge/disposition (list the charge number) may be entered in this section.

Block #28: RIGHT INDEX FINGERPRINT: (lower right corner of the form) At the time of arrest/fingerprinting, the subject's

right index fingerprint may be placed in this box. (This fingerprint is optional and not required to process the Disposition Report form.)

**Historical Note**

Exhibit A made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

**Exhibit B. Disposition Report Form Block Completion Instructions for Criminal Courts**

Block #1: SID NUMBER/AZ: If subject was previously arrested, the State Identification number may be obtained from the Arizona Computerized Criminal History (ACCH) files via terminal inquiry.

Block #2: NAME: Subject's complete name as shown on the arrest fingerprint record that was completed for this arrest.

Block #3: DATE OF BIRTH (DOB): As shown on the arrest fingerprint record (MMDDCCYY) MM = month, DD = day, CCYY = full year. Example: 03/20/1954.

Block #4: DATE OF ARREST: As shown on the arrest fingerprint record (MMDDCCYY) MM = month, DD = day, CCYY = full year. Example: 04/20/2001.

Block #5: PCN: PCN assigned for specific arrest incident via AZAFIS.

Block #6: ARRESTING AGENCY ORI: The NCIC-assigned originating agency identifier (ORI).

Block #7: ARRESTING AGENCY CASE NUMBER: The arresting agency's case number.

Block #8: BOOKING AGENCY ORI: The NCIC-assigned originating agency identifier (ORI).

Block #9: BOOKING NUMBER: The number assigned by the detention facility.

Block #10: CHARGES: Each offense charged at the time of arrest MUST be listed on line "a". Line "b" is used only for amendments to the initial arrest charge(s).

Block #11: ARIZONA REVISED STATUTE (A.R.S.) or Ordinance: Enter the correct A.R.S. number or the County/City Ordinance number for each charge (as indicated on the arrest fingerprint record).

Block #12: DATE OF OFFENSE/VIOLATION: Enter the date the offense/violation was committed (MMDDCCYY).

Block #13: OFFENSE TYPE: Circle "M" for misdemeanor. Circle "F" for felony.

Block #14: PREPARATORY OFFENSE CODE: Enter the appropriate code from the list on the front of this form. Indicate "A" for attempted, "C" for Conspiracy to Commit, "F" for facilitate, or "S" for solicit.

Block #15: DOMESTIC VIOLENCE & VICTIM INFORMATION CODE: Enter the appropriate code from the list on the front of the form. Indicate "D" for a crime involving domestic violence, "M" when the victim is a minor, "A" when the victim is a vulnerable adult, "L" when the victim is a law enforcement officer, "C" for a dangerous crime against a child/children.

Block #16: DESIGNATED COURT NAME/IDENTIFIER: Enter the designated court name or NCIC-assigned originating identifier (ORI) for each charge.

Block #17: AMENDED TO: Enter the letter "X" in block 17, line "a"; then write amended charge(s) and sentence information on the corresponding "b" line, beginning in block 10, completing all applicable blocks through block 27.

Block #18: DISPOSITION CODE: Enter the appropriate disposition or appellate code from the list on the front of the form.

AC — Acquitted/ Not guilty

CD — Court Dismissed

DP — Deferred Prosecution

DS — Deferred Sentencing

GG — Guilty

GI — Guilty but Insane

NF — No complaint filed

NP — Nolo contendere plea

NR — Not referred for prosecution

PD — Pardoned

PM — Pending due to mental incompetency

PO — Plea to other charges

RI — Not responsible by reason of insanity

**APPELLATE CODES:**

AF — Affirmed

AR — Affirmed, Remanded for Re-sentencing

RR — Reversed and Remanded

RV — Reversed and Conviction Overturned

SM — Sentence Modified

Block #19: PRISON/JAIL: If the defendant was sentenced to confinement, circle "P" for prison or "J" for Jail.

Block #20: LENGTH OF CONFINEMENT: Indicate the length of confinement (in days, months, years, etc.) to which the defendant is sentenced. Example: 1 yr. 2 mo.

Block #21: SENTENCE CODE: Enter the appropriate sentence code from the list on the front of the form.

CC — Concurrent

CS — Consecutive

PS — Public or Community Service

SS — Court Suspended Sentence

Block #22: PROBATION LENGTH: Indicate the length of probation in days, months, years, etc. to which the subject is sentenced. Example: 3 yrs.

Block #23: FINE: Circle “Y” for Yes, to indicate that a fine was imposed. Circle “N” for No, to indicate that a fine was not imposed.

Block #24: COURT CASE COMPLAINT NUMBER: The case number assigned by the Justice/Municipal/Superior Court.

Block #25: DISPOSITION DATE: Enter the official disposition date (MMDDCCYY).

Block #26: AGENCY ORI MAKING DISPOSITION DECISION: The NCIC-assigned originating agency identifier (ORI) of the agency making the disposition decision.

Block #27: FURTHER EXPLANATIONS OR MODIFICATIONS: Further explanation regarding a particular charge/disposition (list the charge number) may be entered in this block.

Block #28: RIGHT INDEX FINGERPRINT: (lower right corner of the form) At the time of arrest/fingerprinting, the subject’s right index fingerprint may be placed in this box. (This fingerprint is optional and not required to process the Disposition Report form.)

**Historical Note**

Exhibit B made by final rulemaking at 11 A.A.R. 1550, effective June 4, 2005 (Supp. 05-2).

41-1713. Powers and duties of director; authentication of records

A. The director of the department shall:

1. Be the administrative head of the department.
2. Subject to the merit system rules, appoint, suspend, demote, promote or dismiss all other classified employees of the department on the recommendation of their respective division superintendent. The director shall determine and furnish the law enforcement merit system council established by section 41-1830.11 with a table of organization. The superintendent of each division shall serve at the concurrent pleasure of the director and the governor.
3. Except as provided in sections 12-119, 41-1304 and 41-1304.05, employ officers and other personnel as the director deems necessary for the protection and security of the state buildings and grounds in the governmental mall described in section 41-1362, state office buildings in Tucson and persons who are on any of those properties. Department officers may make arrests and issue citations for crimes or traffic offenses and for any violation of a rule adopted under section 41-796. For the purposes of this paragraph, security does not mean security services related to building operation and maintenance functions provided by the department of administration.
4. Make rules necessary for the operation of the department.
5. Annually submit a report of the work of the department to the governor and the legislature, or more often if requested by the governor or the legislature.
6. Appoint a deputy director with the approval of the governor.
7. Adopt an official seal that contains the words "department of public safety" encircling the seal of this state as part of its design.
8. Investigate, on receipt, credible evidence that a licensee or registrant has been arrested for, charged with or convicted of an offense that would preclude the person from holding a license or registration certificate issued pursuant to title 32, chapter 26.
9. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in

a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

10. Adopt and administer the breath, blood or other bodily substances test rules pursuant to title 28, chapter 4.

11. Develop procedures to exchange information with the department of transportation for any purpose related to sections 28-1324, 28-1325, 28-1326, 28-1462 and 28-3318.

12. Collaborate with the state forester in presentations to legislative committees on issues associated with wildfire prevention, suppression and emergency management as provided by section 37-1302, subsection B.

B. The director may:

1. Issue commissions to officers of the department.

2. Request the cooperation of the utilities, communication media and public and private agencies and any sheriff or other peace officer in any county or municipality, within the limits of their respective jurisdictions when necessary, to aid and assist in the performance of any duty imposed by this chapter.

3. Cooperate with any public or private agency or person to receive or give necessary assistance and may contract for such assistance subject to legislative appropriation controls.

4. Utilize the advice of the board and cooperate with sheriffs, local police and peace officers within the state for the prevention and discovery of crimes, the apprehension of criminals and the promotion of public safety.

5. Acquire in the name of the state, either in fee or lesser estate or interest, all real or any personal property that the director considers necessary for the department's use, by purchase, donation, dedication, exchange or other lawful means. All acquisitions of personal property pursuant to this paragraph shall be made as prescribed in chapter 23 of this title unless otherwise provided by law.

6. Dispose of any property, real or personal, or any right, title or interest in the property, when the director determines that the property is no longer needed or necessary for the department's use. Disposition of personal property shall be as prescribed in chapter 23 of this title. The real property shall be sold by public auction or competitive bidding after notice published in a daily newspaper of general

circulation, not less than three times, two weeks before the sale and subject to the approval of the director of the department of administration. When real property is sold, it shall not be sold for less than the appraised value as established by a competent real estate appraiser. Any monies derived from the disposal of real or personal property shall be deposited, pursuant to sections 35-146 and 35-147, in the Arizona highway patrol fund as authorized by section 41-1752, subsection B, paragraph 6.

7. Sell, lend or lease personal property directly to any state, county or local law enforcement agency. Personal property may be sold or leased at a predetermined price without competitive bidding. Any state, county or local law enforcement agency receiving personal property may not resell or lease the property to any person or organization except for educational purposes.

8. Dispose of surplus property by transferring the property to the department of administration for disposition to another state budget unit or political subdivision if the state budget unit or political subdivision is not a law enforcement agency.

9. Lease or rent personal property directly to any state law enforcement officer for the purpose of traffic safety, traffic control or other law enforcement related activity.

10. Sell for one dollar, without public bidding, the department issued handgun or shotgun to a department officer on duty related retirement pursuant to title 38, chapter 5, article 4. Any monies derived from the sale of the handgun or shotgun to the retiring department officer shall be deposited, pursuant to sections 35-146 and 35-147, in the Arizona highway patrol fund as authorized by section 41-1752, subsection B, paragraph 6.

11. Conduct state criminal history records checks for the purpose of updating and verifying the status of current licensees or registrants who have a license or certificate issued pursuant to title 32, chapter 26. The director shall investigate, on receipt, credible evidence that a licensee or registrant has been arrested for, charged with or convicted of an offense that would preclude the person from holding a registration certificate issued pursuant to title 32, chapter 26.

12. Grant a maximum of two thousand eighty hours of industrial injury leave to any sworn department employee who is injured in the course of the employee's duty, any civilian department employee who is injured in the course of performing or assisting in law enforcement or hazardous duties or any civilian department employee who was injured as a sworn department employee rehired after August 9, 2001 and would have been eligible pursuant to this paragraph and whose work-related injury prevents the employee from performing the normal duties of that employee's classification. This

industrial injury leave is in addition to any vacation or sick leave earned or granted to the employee and does not affect the employee's eligibility for any other benefits, including workers' compensation. The employee is not eligible for payment pursuant to section 38-615 of industrial injury leave that is granted pursuant to this paragraph. Subject to approval by the law enforcement merit system council, the director shall adopt rules and procedures regarding industrial injury leave hours granted pursuant to this paragraph.

13. Sell at current replacement cost, without public bidding, the department issued badge of authority to an officer of the department on the officer's promotion or separation from the department. Any monies derived from the sale of the badge to an officer shall be deposited, pursuant to sections 35-146 and 35-147, in the department of public safety administration fund to offset replacement costs.

C. The director and any employees of the department that the director designates in writing may use the seal adopted pursuant to subsection A, paragraph 7 of this section to fully authenticate any department records and copies of these records. These authenticated records or authenticated copies of records shall be judicially noticed and shall be received in evidence by the courts of this state without any further proof of their authenticity.

[41-1750. Central state repository; department of public safety; duties; funds; accounts; definitions](#)

A. The department is responsible for the effective operation of the central state repository in order to collect, store and disseminate complete and accurate Arizona criminal history records and related criminal justice information. The department shall:

1. Procure from all criminal justice agencies in this state accurate and complete personal identification data, fingerprints, charges, process control numbers and dispositions and such other information as may be pertinent to all persons who have been charged with, arrested for, convicted of or summoned to court as a criminal defendant for a felony offense or an offense involving domestic violence as defined in section 13-3601 or a violation of title 13, chapter 14 or title 28, chapter 4.
2. Collect information concerning the number and nature of offenses known to have been committed in this state and of the legal steps taken in connection with these offenses, such other information that is useful in the study of crime and in the administration of criminal justice and all other information deemed necessary to

operate the statewide uniform crime reporting program and to cooperate with the federal government uniform crime reporting program.

3. Collect information concerning criminal offenses that manifest evidence of prejudice based on race, color, religion, national origin, sexual orientation, gender or disability.
4. Cooperate with the central state repositories in other states and with the appropriate agency of the federal government in the exchange of information pertinent to violators of the law.
5. Ensure the rapid exchange of information concerning the commission of crime and the detection of violators of the law among the criminal justice agencies of other states and of the federal government.
6. Furnish assistance to peace officers throughout this state in crime scene investigation for the detection of latent fingerprints and in the comparison of latent fingerprints.
7. Conduct periodic operational audits of the central state repository and of a representative sample of other agencies that contribute records to or receive criminal justice information from the central state repository or through the Arizona criminal justice information system.
8. Establish and enforce the necessary physical and system safeguards to ensure that the criminal justice information maintained and disseminated by the central state repository or through the Arizona criminal justice information system is appropriately protected from unauthorized inquiry, modification, destruction or dissemination as required by this section.
9. Aid and encourage coordination and cooperation among criminal justice agencies through the statewide and interstate exchange of criminal justice information.
10. Provide training and proficiency testing on the use of criminal justice information to agencies receiving information from the central state repository or through the Arizona criminal justice information system.
11. Operate and maintain the Arizona automated fingerprint identification system established by section 41-2411.
12. Provide criminal history record information to the fingerprinting division for the purpose of screening applicants for fingerprint clearance cards.

B. The director may establish guidelines for the submission and retention of criminal justice information as deemed useful for the study or prevention of crime and for the administration of criminal justice.

C. The chief officers of criminal justice agencies of this state or its political subdivisions shall provide to the central state repository fingerprints and information concerning personal identification data, descriptions, crimes for which persons are arrested, process control numbers and dispositions and such other information as may be pertinent to all persons who have been charged with, arrested for, convicted of or summoned to court as criminal defendants for felony offenses or offenses involving domestic violence as defined in section 13-3601 or violations of title 13, chapter 14 or title 28, chapter 4 that have occurred in this state.

D. The chief officers of law enforcement agencies of this state or its political subdivisions shall provide to the department such information as necessary to operate the statewide uniform crime reporting program and to cooperate with the federal government uniform crime reporting program.

E. The chief officers of criminal justice agencies of this state or its political subdivisions shall comply with the training and proficiency testing guidelines as required by the department to comply with the federal national crime information center mandates.

F. The chief officers of criminal justice agencies of this state or its political subdivisions also shall provide to the department information concerning crimes that manifest evidence of prejudice based on race, color, religion, national origin, sexual orientation, gender or disability.

G. The director shall authorize the exchange of criminal justice information between the central state repository, or through the Arizona criminal justice information system, whether directly or through any intermediary, only as follows:

1. With criminal justice agencies of the federal government, Indian tribes, this state or its political subdivisions and other states, on request by the chief officers of such agencies or their designated representatives, specifically for the purposes of the administration of criminal justice and for evaluating the fitness of current and prospective criminal justice employees.

2. With any noncriminal justice agency pursuant to a statute, ordinance or executive order that specifically authorizes the noncriminal justice agency to receive criminal history record information for the purpose of evaluating the fitness of current or prospective licensees, employees, contract employees or volunteers, on submission of

the subject's fingerprints and the prescribed fee. Each statute, ordinance, or executive order that authorizes noncriminal justice agencies to receive criminal history record information for these purposes shall identify the specific categories of licensees, employees, contract employees or volunteers, and shall require that fingerprints of the specified individuals be submitted in conjunction with such requests for criminal history record information.

3. With the board of fingerprinting for the purpose of conducting good cause exceptions pursuant to section 41-619.55 and central registry exceptions pursuant to section 41-619.57.
4. With any individual for any lawful purpose on submission of the subject of record's fingerprints and the prescribed fee.
5. With the governor, if the governor elects to become actively involved in the investigation of criminal activity or the administration of criminal justice in accordance with the governor's constitutional duty to ensure that the laws are faithfully executed or as needed to carry out the other responsibilities of the governor's office.
6. With regional computer centers that maintain authorized computer-to-computer interfaces with the department, that are criminal justice agencies or under the management control of a criminal justice agency and that are established by a statute, ordinance or executive order to provide automated data processing services to criminal justice agencies specifically for the purposes of the administration of criminal justice or evaluating the fitness of regional computer center employees who have access to the Arizona criminal justice information system and the national crime information center system.
7. With an individual who asserts a belief that criminal history record information relating to the individual is maintained by an agency or in an information system in this state that is subject to this section. On submission of fingerprints, the individual may review this information for the purpose of determining its accuracy and completeness by making application to the agency operating the system. Rules adopted under this section shall include provisions for administrative review and necessary correction of any inaccurate or incomplete information. The review and challenge process authorized by this paragraph is limited to criminal history record information.
8. With individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement if the agreement specifically authorizes access to data,

limits the use of data to purposes for which given and ensures the security and confidentiality of the data consistent with this section.

9. With individuals and agencies for the express purpose of research, evaluative or statistical activities pursuant to an agreement with a criminal justice agency if the agreement specifically authorizes access to data, limits the use of data to research, evaluative or statistical purposes and ensures the confidentiality and security of the data consistent with this section.

10. With the auditor general for audit purposes.

11. With central state repositories of other states for noncriminal justice purposes for dissemination in accordance with the laws of those states.

12. On submission of the fingerprint card, with the department of child safety and a tribal social services agency to provide criminal history record information on prospective adoptive parents for the purpose of conducting the preadoption certification investigation under title 8, chapter 1, article 1 if the department of economic security is conducting the investigation, or with an agency or a person appointed by the court, if the agency or person is conducting the investigation. Information received under this paragraph shall only be used for the purposes of the preadoption certification investigation.

13. With the department of child safety, a tribal social services agency and the superior court for the purpose of evaluating the fitness of custodians or prospective custodians of juveniles, including parents, relatives and prospective guardians. Information received under this paragraph shall only be used for the purposes of that evaluation. The information shall be provided on submission of either:

(a) The fingerprint card.

(b) The name, date of birth and social security number of the person.

14. On submission of a fingerprint card, provide criminal history record information to the superior court for the purpose of evaluating the fitness of investigators appointed under section 14-5303 or 14-5407, guardians appointed under section 14-5206 or 14-5304 or conservators appointed under section 14-5401.

15. With the supreme court to provide criminal history record information on prospective fiduciaries pursuant to section 14-5651.

16. With the department of juvenile corrections to provide criminal history record information pursuant to section 41-2814.

17. On submission of the fingerprint card, provide criminal history record information to the Arizona peace officer standards and training board or a board certified law enforcement academy to evaluate the fitness of prospective cadets.

18. With the internet sex offender website database established pursuant to section 13-3827.

19. With licensees of the United States nuclear regulatory commission for the purpose of determining whether an individual should be granted unescorted access to the protected area of a commercial nuclear generating station on submission of the subject of record's fingerprints and the prescribed fee.

20. With the department of education for the purpose of evaluating the fitness of a certificated teacher or administrator or an applicant for a teaching or an administrative certificate provided that the department of education or its employees or agents have reasonable suspicion that the certificated person engaged in conduct that would be a criminal violation of the laws of this state or was involved in immoral or unprofessional conduct or that the applicant engaged in conduct that would warrant disciplinary action if the applicant were certificated at the time of the alleged conduct. The information shall be provided on the submission of either:

(a) The fingerprint card.

(b) The name, date of birth and social security number of the person.

21. With each school district and charter school in this state. The state board of education and the state board for charter schools shall provide the department of public safety with a current list of e-mail addresses for each school district and charter school in this state and shall periodically provide the department of public safety with updated e-mail addresses. If the department of public safety is notified that a person who is required to have a fingerprint clearance card to be employed by or to engage in volunteer activities at a school district or charter school has been arrested for or convicted of an offense listed in section 41-1758.03, subsection B or has been arrested for or convicted of an offense that amounts to unprofessional conduct under section 15-550, the department of public safety shall notify each school district and charter school in this state that the person's fingerprint clearance card has been suspended or revoked.

22. With a tribal social services agency and the department of child safety as provided by law, which currently is the Adam Walsh child protection and safety act of 2006 (42 United States Code section 16961), for the purposes of investigating or responding to reports of child abuse, neglect or exploitation. Information received pursuant to this paragraph from the national crime information center, the interstate identification index and the Arizona criminal justice information system network shall only be used for the purposes of investigating or responding as prescribed in this paragraph. The information shall be provided on submission to the department of public safety of either:

(a) The fingerprints of the person being investigated.

(b) The name, date of birth and social security number of the person.

23. With a nonprofit organization that interacts with children or vulnerable adults for the lawful purpose of evaluating the fitness of all current and prospective employees, contractors and volunteers of the organization. The criminal history record information shall be provided on submission of the applicant fingerprint card and the prescribed fee.

24. With the superior court for the purpose of determining an individual's eligibility for substance abuse and treatment courts in a family or juvenile case.

25. With the governor to provide criminal history record information on prospective gubernatorial nominees, appointees and employees as provided by law.

H. The director shall adopt rules necessary to execute this section.

I. The director, in the manner prescribed by law, shall remove and destroy records that the director determines are no longer of value in the detection or prevention of crime.

J. The director shall establish a fee in an amount necessary to cover the cost of federal noncriminal justice fingerprint processing for criminal history record information checks that are authorized by law for noncriminal justice employment, licensing or other lawful purposes. An additional fee may be charged by the department for state noncriminal justice fingerprint processing. Fees submitted to the department for state noncriminal justice fingerprint processing are not refundable.

K. The director shall establish a fee in an amount necessary to cover the cost of processing copies of department reports, eight by ten inch black and white photographs or eight by ten inch color photographs of traffic accident scenes.

L. Except as provided in subsection O of this section, each agency authorized by this section may charge a fee, in addition to any other fees prescribed by law, in an amount necessary to cover the cost of state and federal noncriminal justice fingerprint processing for criminal history record information checks that are authorized by law for noncriminal justice employment, licensing or other lawful purposes.

M. A fingerprint account within the records processing fund is established for the purpose of separately accounting for the collection and payment of fees for noncriminal justice fingerprint processing by the department. Monies collected for this purpose shall be credited to the account, and payments by the department to the United States for federal noncriminal justice fingerprint processing shall be charged against the account. Monies in the account not required for payment to the United States shall be used by the department in support of the department's noncriminal justice fingerprint processing duties. At the end of each fiscal year, any balance in the account not required for payment to the United States or to support the department's noncriminal justice fingerprint processing duties reverts to the state general fund.

N. A records processing fund is established for the purpose of separately accounting for the collection and payment of fees for department reports and photographs of traffic accident scenes processed by the department. Monies collected for this purpose shall be credited to the fund and shall be used by the department in support of functions related to providing copies of department reports and photographs. At the end of each fiscal year, any balance in the fund not required for support of the functions related to providing copies of department reports and photographs reverts to the state general fund.

O. The department of child safety may pay from appropriated monies the cost of federal fingerprint processing or federal criminal history record information checks that are authorized by law for employees and volunteers of the department, guardians pursuant to section 8-453, subsection A, paragraph 6, the licensing of foster parents or the certification of adoptive parents.

P. The director shall adopt rules that provide for:

1. The collection and disposition of fees pursuant to this section.
2. The refusal of service to those agencies that are delinquent in paying these fees.

Q. The director shall ensure that the following limitations are observed regarding dissemination of criminal justice information obtained from the central state repository or through the Arizona criminal justice information system:

1. Any criminal justice agency that obtains criminal justice information from the central state repository or through the Arizona criminal justice information system assumes responsibility for the security of the information and shall not secondarily disseminate this information to any individual or agency not authorized to receive this information directly from the central state repository or originating agency.

2. Dissemination to an authorized agency or individual may be accomplished by a criminal justice agency only if the dissemination is for criminal justice purposes in connection with the prescribed duties of the agency and not in violation of this section.

3. Criminal history record information disseminated to noncriminal justice agencies or to individuals shall be used only for the purposes for which it was given. Secondary dissemination is prohibited unless otherwise authorized by law.

4. The existence or nonexistence of criminal history record information shall not be confirmed to any individual or agency not authorized to receive the information itself.

5. Criminal history record information to be released for noncriminal justice purposes to agencies of other states shall only be released to the central state repositories of those states for dissemination in accordance with the laws of those states.

6. Criminal history record information shall be released to noncriminal justice agencies of the federal government pursuant to the terms of the federal security clearance information act (P.L. 99-169).

R. This section and the rules adopted under this section apply to all agencies and individuals collecting, storing or disseminating criminal justice information processed by manual or automated operations if the collection, storage or dissemination is funded in whole or in part with monies made available by the law enforcement assistance administration after July 1, 1973, pursuant to title I of the crime control act of 1973, and to all agencies that interact with or receive criminal justice information from or through the central state repository and through the Arizona criminal justice information system.

S. This section does not apply to criminal history record information contained in:

1. Posters, arrest warrants, announcements or lists for identifying or apprehending fugitives or wanted persons.

2. Original records of entry such as police blotters maintained by criminal justice agencies, compiled chronologically and required by law or long-standing custom to be made public if these records are organized on a chronological basis.
3. Transcripts or records of judicial proceedings if released by a court or legislative or administrative proceedings.
4. Announcements of executive clemency or pardon.
5. Computer databases, other than the Arizona criminal justice information system, that are specifically designed for community notification of an offender's presence in the community pursuant to section 13-3825 or for public informational purposes authorized by section 13-3827.

T. Nothing in this section prevents a criminal justice agency from disclosing to the public criminal history record information that is reasonably contemporaneous to the event for which an individual is currently within the criminal justice system, including information noted on traffic accident reports concerning citations, blood alcohol tests or arrests made in connection with the traffic accident being investigated.

U. In order to ensure that complete and accurate criminal history record information is maintained and disseminated by the central state repository:

1. The booking agency shall take legible ten-print fingerprints of all persons who are arrested for offenses listed in subsection C of this section. The booking agency shall obtain a process control number and provide to the person fingerprinted a document that indicates proof of the fingerprinting and that informs the person that the document must be presented to the court.
2. Except as provided in paragraph 3 of this subsection, if a person is summoned to court as a result of an indictment or complaint for an offense listed in subsection C of this section, the court shall order the person to appear before the county sheriff and provide legible ten-print fingerprints. The county sheriff shall obtain a process control number and provide a document to the person fingerprinted that indicates proof of the fingerprinting and that informs the person that the document must be presented to the court. For the purposes of this paragraph, "summoned" includes a written promise to appear by the defendant on a uniform traffic ticket and complaint.
3. If a person is arrested for a misdemeanor offense listed in subsection C of this section by a city or town law enforcement agency, the person shall appear before the law enforcement agency that arrested the defendant and provide legible ten-print fingerprints. The law enforcement agency shall obtain a process control number and

provide a document to the person fingerprinted that indicates proof of the fingerprinting and that informs the person that the document must be presented to the court.

4. The mandatory fingerprint compliance form shall contain the following information:

- (a) Whether ten-print fingerprints have been obtained from the person.
- (b) Whether a process control number was obtained.
- (c) The offense or offenses for which the process control number was obtained.
- (d) Any report number of the arresting authority.
- (e) Instructions on reporting for ten-print fingerprinting, including available times and locations for reporting for ten-print fingerprinting.
- (f) Instructions that direct the person to provide the form to the court at the person's next court appearance.

5. Within ten days after a person is fingerprinted, the arresting authority or agency that took the fingerprints shall forward the fingerprints to the department in the manner or form required by the department.

6. On the issuance of a summons for a defendant who is charged with an offense listed in subsection C of this section, the summons shall direct the defendant to provide ten-print fingerprints to the appropriate law enforcement agency.

7. At the initial appearance or on the arraignment of a summoned defendant who is charged with an offense listed in subsection C of this section, if the person does not present a completed mandatory fingerprint compliance form to the court or if the court has not received the process control number, the court shall order that within twenty calendar days the defendant be ten-print fingerprinted at a designated time and place by the appropriate law enforcement agency.

8. If the defendant fails to present a completed mandatory fingerprint compliance form or if the court has not received the process control number, the court, on its own motion, may remand the defendant into custody for ten-print fingerprinting. If otherwise eligible for release, the defendant shall be released from custody after being ten-print fingerprinted.

9. In every criminal case in which the defendant is incarcerated or fingerprinted as a result of the charge, an originating law enforcement agency or prosecutor, within forty days of the disposition, shall advise the central state repository of all dispositions concerning the termination of criminal proceedings against an individual arrested for an offense specified in subsection C of this section. This information shall be submitted on a form or in a manner required by the department.

10. Dispositions resulting from formal proceedings in a court having jurisdiction in a criminal action against an individual who is arrested for an offense specified in subsection C of this section or section 8-341, subsection V, paragraph 3 shall be reported to the central state repository within forty days of the date of the disposition. This information shall be submitted on a form or in a manner specified by rules approved by the supreme court.

11. The state department of corrections or the department of juvenile corrections, within forty days, shall advise the central state repository that it has assumed supervision of a person convicted of an offense specified in subsection C of this section or section 8-341, subsection V, paragraph 3. The state department of corrections or the department of juvenile corrections shall also report dispositions that occur thereafter to the central state repository within forty days of the date of the dispositions. This information shall be submitted on a form or in a manner required by the department of public safety.

12. Each criminal justice agency shall query the central state repository before dissemination of any criminal history record information to ensure the completeness of the information. Inquiries shall be made before any dissemination except in those cases in which time is of the essence and the repository is technically incapable of responding within the necessary time period. If time is of the essence, the inquiry shall still be made and the response shall be provided as soon as possible.

V. The director shall adopt rules specifying that any agency that collects, stores or disseminates criminal justice information that is subject to this section shall establish effective security measures to protect the information from unauthorized access, disclosure, modification or dissemination. The rules shall include reasonable safeguards to protect the affected information systems from fire, flood, wind, theft, sabotage or other natural or man-made hazards or disasters.

W. The department shall make available to agencies that contribute to, or receive criminal justice information from, the central state repository or through the Arizona criminal justice information system a continuing training program in the proper methods for collecting, storing and disseminating information in compliance with this section.

X. Nothing in this section creates a cause of action or a right to bring an action including an action based on discrimination due to sexual orientation.

Y. For the purposes of this section:

1. "Administration of criminal justice" means performance of the detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision or rehabilitation of criminal offenders. Administration of criminal justice includes enforcement of criminal traffic offenses and civil traffic violations, including parking violations, when performed by a criminal justice agency. Administration of criminal justice also includes criminal identification activities and the collection, storage and dissemination of criminal history record information.

2. "Administrative records" means records that contain adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency and that are designed to furnish information to protect the rights of this state and of persons directly affected by the agency's activities.

3. "Arizona criminal justice information system" or "system" means the statewide information system managed by the director for the collection, processing, preservation, dissemination and exchange of criminal justice information and includes the electronic equipment, facilities, procedures and agreements necessary to exchange this information.

4. "Booking agency" means the county sheriff or, if a person is booked into a municipal jail, the municipal law enforcement agency.

5. "Central state repository" means the central location within the department for the collection, storage and dissemination of Arizona criminal history records and related criminal justice information.

6. "Criminal history record information" and "criminal history record" means information that is collected by criminal justice agencies on individuals and that consists of identifiable descriptions and notations of arrests, detentions, indictments and other formal criminal charges, and any disposition arising from those actions, sentencing, formal correctional supervisory action and release. Criminal history record information and criminal history record do not include identification information to the extent that the information does not indicate involvement of the individual in the criminal justice system or information relating to juveniles unless they have been adjudicated as adults.

7. "Criminal justice agency" means either:

(a) A court at any governmental level with criminal or equivalent jurisdiction, including courts of any foreign sovereignty duly recognized by the federal government.

(b) A government agency or subunit of a government agency that is specifically authorized to perform as its principal function the administration of criminal justice pursuant to a statute, ordinance or executive order and that allocates more than fifty percent of its annual budget to the administration of criminal justice. This subdivision includes agencies of any foreign sovereignty duly recognized by the federal government.

8. "Criminal justice information" means information that is collected by criminal justice agencies and that is needed for the performance of their legally authorized and required functions, such as criminal history record information, citation information, stolen property information, traffic accident reports, wanted persons information and system network log searches. Criminal justice information does not include the administrative records of a criminal justice agency.

9. "Disposition" means information disclosing that a decision has been made not to bring criminal charges or that criminal proceedings have been concluded or information relating to sentencing, correctional supervision, release from correctional supervision, the outcome of an appellate review of criminal proceedings or executive clemency.

10. "Dissemination" means the written, oral or electronic communication or transfer of criminal justice information to individuals and agencies other than the criminal justice agency that maintains the information. Dissemination includes the act of confirming the existence or nonexistence of criminal justice information.

11. "Management control":

(a) Means the authority to set and enforce:

(i) Priorities regarding development and operation of criminal justice information systems and programs.

(ii) Standards for the selection, supervision and termination of personnel involved in the development of criminal justice information systems and programs and in the collection, maintenance, analysis and dissemination of criminal justice information.

(iii) Policies governing the operation of computers, circuits and telecommunications terminals used to process criminal justice information to the extent that the equipment is used to process, store or transmit criminal justice information.

(b) Includes the supervision of equipment, systems design, programming and operating procedures necessary for the development and implementation of automated criminal justice information systems.

12. "Process control number" means the Arizona automated fingerprint identification system number that attaches to each arrest event at the time of fingerprinting and that is assigned to the arrest fingerprint card, disposition form and other pertinent documents.

13. "Secondary dissemination" means the dissemination of criminal justice information from an individual or agency that originally obtained the information from the central state repository or through the Arizona criminal justice information system to another individual or agency.

14. "Sexual orientation" means consensual homosexuality or heterosexuality.

15. "Subject of record" means the person who is the primary subject of a criminal justice record.

**DEPARTMENT OF CHILD SAFETY (R-17-1202)**

Title 21, Chapter 8, Article 1, Life Safety Inspections

**Amend:** R21-8-101; R21-8-112; R21-8-113



**GOVERNOR'S REGULATORY REVIEW COUNCIL  
M E M O R A N D U M**

**MEETING DATE:** December 5, 2017

**AGENDA ITEM: D-2**

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**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** November 21, 2017

**SUBJECT: DEPARTMENT OF CHILD SAFETY (R-17-1203)**  
Title 21, Chapter 8, Article 1, Life Safety Inspections

Amend: R21-8-101; R21-8-112; R21-8-113

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**SUMMARY OF THE RULEMAKING**

The purpose of the Arizona Department of Child Safety (Department) is "to protect children as provided in section 8-451, Arizona Revised Statutes." Laws 2014, 2<sup>nd</sup> S.S., Ch.1, § 162. On May 29, 2014, the Legislature created the Department and the responsibilities and authority in Article 74 for the child welfare agency were transferred from Department of Economic Security (DES) to the Department.

This rulemaking seeks to amend two rules in A.A.C. Title 21, Chapter 8, Article 1, related to life safety inspections. Sections 112 and 113 establish fire safety and evacuation plan requirements and pool safety requirements, respectively. Currently, the rules do not allow homes with a bedroom that leads into a pool enclosure to be licensed as foster homes or residential group care facilities. The proposed amendments will allow homes in such circumstances to be licensed, as long as other safeguards are met for applicable state law, county code, or municipal ordinances.

The rules were made by emergency rulemaking on May 5, 2017 and on October 2, 2017, a Notice of Renewal of Emergency Rulemaking was published in the Arizona Register. The Department received an exemption from the moratorium on October 7, 2016.

**Proposed Action**

- **R21-8-101 – Definitions:** Definitions for "Animal or doggie door" and "Pool enclosure" are added.

- **R21-8-112 – Fire Safety and Evacuation Plan Requirements:**
  - Clarifying changes are made.
  - Subsection (6)(c) is rewritten to prohibit only children six years of age or younger to reside in a home with a bedroom exit that leads into an area that serves as a pool enclosure. The subsection also distinguishes between an exit that is a window or a door.
- **R21-8-113 – Pool Safety:**
  - In subsection (A), licensee is replaced with provider for consistency.
  - Subsections (B)(h)(ii) and (iii) is amended to allow for a bedroom door to open into a pool enclosure if the bedroom is not occupied by a child six years of age or younger.
  - Citations are updated.
  - Subsection (B)(h)(v) is added to prohibit animal or doggie doors to open directly into pool enclosures.

**1. Are the rules legal, consistent with legislative intent, and within the agency’s statutory authority?**

Yes. The Department cites to A.R.S. § 8-453(A)(5) as general authority for the rules, under which the Director “shall [a]dopt rules to implement the purposes of the [D]epartment and the duties and powers of the director.”

As for specific authority, the Department cites to A.R.S. §§ 8-504, 8-505, and 8-509. The Department is required to conduct investigation of all foster homes pursuant to licensing rules of the Department. See A.R.S. § 8-509(E).

**2. Do the rules establish a new fee or contain a fee increase?**

No. The rules do not establish a new fee or contain a fee increase.

**3. Summary of the agency’s economic impact analysis:**

The Department is proposing to amend the rules so that they are less stringent and less burdensome on the regulated community. The Department notes that the rules will maintain the same standard of safety for children. The rules impact 27 foster home licensing agencies, 146 child welfare agencies, and 4,798 foster care providers.

**4. Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

Yes. The Department notes that the rulemaking does not reduce the safety of children in foster homes and residential group care facilities. The rules simply reduce the regulatory burden on stakeholder, and this should help mitigate the shortage of foster care providers in Arizona. The benefits outweigh the costs.

**5. What are the economic impacts on stakeholders?**

Key stakeholders that are impacted by the rules are the Department, children in out-of-home care, foster licensing agencies, child welfare agencies, and foster care providers.

The Department will benefit from this rulemaking because it will reduce the costs expended by the Department for life safety inspections. The Life Safety Inspection Unit (LSIU) within the Department conducted 4,519 life safety inspections between September 2016 and September 2017. Within these inspections, LSIU identified 306 deficiencies relating to the pool safety rules and 1,823 deficiencies relating to the fire safety and evacuation rules. Amending these rules will reduce Department costs while maintaining sufficient safety standards.

The Department contracts with 27 foster home licensing agencies to manage the licensing process for Arizona's 4,798 licensed foster care providers. These agencies conduct routine visits, and if a deficiency relating to the pool safety rules is noted, the LSIU is required to perform the re-inspection. Reducing these burdens will benefit foster home licensing agencies because there will be fewer deficiencies during the initial routine visits.

Child welfare agencies and foster care providers are licensed by the Department to provide housing and care for children. Both of these entities will benefit from the amended safety rules. These entities will avoid delays in licensing due to pool and fire safety deficiencies that do not impact the safety of children. Relaxing these safety standards will also reduce compliance costs for these entities.

Children in out-of-home care will benefit from this rulemaking because it will expedite the process of licensing child welfare agencies and foster care providers. A sufficient supply of housing options for children requiring out-of-home care helps the Department place children in the most appropriate setting. The Department concludes that the rulemaking does not pose an increased risk to the safety of children in out-of-home care.

**6. Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

Yes. The Department indicates that it received seven comments on the rules. A summary of the comments, along with the Department's responses, can be found on pages 4-7 of the Notice of Final Rulemaking. Many of the comments were in support of the proposed rules, while other comments did not relate to the rules in this rulemaking. The Department plans to incorporate some of the suggestions in future rulemakings. Council staff believes the Department adequately addressed the comments.

**7. Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

No. In addition to the minor clarifying changes at the request of Council staff, the Department made the following non-substantive changes between the supplemental and the final rules:

- R21-8-101: The Department added the rule to the notice of final rulemaking to define “animal or doggie door” and “pool enclosure.” These terms were used in the proposed and supplemental rulemakings.
- R21-8-112: Clarifying changes were made to subsections (6)(c) and (8).
- R21-8-113: In subsection (A), the term “licensee” was changed to “provider” for consistency. Subsection (B)(2)(h) was amended to replace “under the age of seven” to “six years of age or less” to remain consistent with other verbiage in the rule. Citations were updated to reflect all the changes.

**8. Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

No. The Department indicates that the rules are not more stringent than corresponding federal law, 42 U.S.C. 671, related to a state plan for foster care and adoption assistance.

**9. Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

No. The Department indicates that the rules do not require a permit or license.

**10. Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

Yes. The Department indicates that it did not review or rely on any study for this rulemaking.

**11. Conclusion**

Per A.R.S. § 41-1032(A)(1), the Department requests an immediate effective date for the rules to preserve public health and safety. Council staff recommends approval of the rules.



November 13, 2017

Ms. Nicole O. Colyer, Chair  
Governor's Regulatory Review Council  
100 North 15<sup>th</sup> Avenue, Suite 402  
Phoenix, Arizona 85007

RE: Title 21, Chapter 8 Notice of Final Rulemaking

Dear Ms. Colyer:

The attached final rulemaking package is respectfully submitted for review and approval by the Council. The following information is provided for your use in reviewing the rulemaking package:

- A. Close of Record Date:  
The rulemaking record closed on June 9, 2017. This rulemaking package is being submitted within the 120 days allowed for Final Rulemaking.
- B. Whether the rulemaking relates to a five-year-review report and, if applicable, the date the report was approved by the Council:  
This rulemaking does not in relate to a five-year-review report.
- C. Whether the rule establishes a new fee and, if it does, citation of the statute expressly authorizing the new fee:  
The rulemaking does not establish a new fee.
- D. Whether the rule contains a fee increase:  
The rulemaking does not contain a fee increase.
- E. Whether an immediate effective date is requested for the rule under A.R.S. § 41-1032:  
The Department of Child Safety is requesting an immediate effective date for this rulemaking.
- F. A certification that the preamble discloses a reference to any relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation or justification for the rule:  
The Department certifies that the preamble accurately discloses that no study relevant to the rule was reviewed nor relied on in the agency's evaluation or justification of the rule.

G. If one or more full-time employees are necessary to implement and enforce the rule, a certification that the preparer of the economic, small business, and consumer impact statement has notified the Joint Legislative Budget Committee (JLBC) of the number of new full-time employees necessary to implement and enforce the rule:

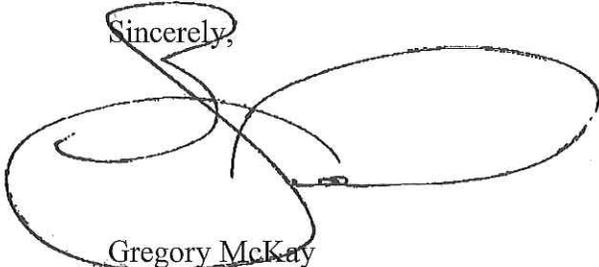
The Department of Child Safety is not required to make a certification to JLBC because the rule does not require any new full-time employees.

H. A list of all documents enclosed:

1. Cover letter
2. Copy of the authorizing and implementing statutes
3. Copy of referenced statute
4. Current rules
5. Notice of Final Rulemaking including preamble, table of contents for the rulemaking, and rule text.
6. Economic, Small Business, and Consumer Impact Statement

If you have any questions, please contact Angie Trevino, Rules Development and Policy Specialist at (602) 255-2569.

Sincerely,

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Gregory McKay  
Director

Enclosure

NOTICE OF FINAL RULEMAKING

TITLE 21. CHILD SAFETY  
CHAPTER 8. DEPARTMENT OF CHILD SAFETY FOSTER HOME AND CHILD WELFARE AGENCY  
FACILITY SAFETY

PREAMBLE

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

R21-8-101	Amend
R21-8-112	Amend
R21-8-113	Amend

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

Authorizing statute: A.R.S. § 8-453(A)(5)

Implementing statutes: A.R.S. §§ 8-504, 8-505, and 8-509

**3. The effective date of the rule:** immediately on filing with the Secretary of State

**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):**

1. To preserve the public peace, health or safety.

The Department requests that the rules become effective immediately on filing with the Secretary of State. The final rules will preserve the public peace, health, or safety.

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

Not applicable

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

Notice of Rulemaking Docket Opening: 22 A.A.R. 3198, November 11, 2016

Notice of Proposed Rulemaking: 22 A.A.R. 3181, November 11, 2016

Notice of Supplemental Rulemaking: 23 A.A.R. 1025, May 5, 2017

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

Name: Kathryn Blades, Deputy General Counsel

Address: Department of Child Safety

3003 N. Central Avenue

Phoenix, AZ 85012

Telephone: (602) 255-2527

E-mail: [Kathryn.blades@azdcs.gov](mailto:Kathryn.blades@azdcs.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 proposed amended rules pertain to fire and pool safety. The justification for this regular rulemaking is A.R.S. § 41-1026(A)(1) and (A)(5). The current rules do not enable homes with a bedroom that leads into a pool enclosure to be licensed as foster homes or residential group care facilities. The Department seeks to amend the rules to permit this circumstance, as long as safeguards are met for applicable state law, county code, or municipal ordinances. The current rules may impact the number of foster homes available, as this design is common in residential housing, and can unfairly preclude interested applicants from meeting current licensing requirements and becoming licensed to provide foster care. Further, the Department is in need of more licensed foster homes to protect the health and wellbeing of the children in Arizona.

**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:**

The proposed amendments will have a positive economic impact for foster home and Child Welfare Agency applicants. Homes with a bedroom leading to a pool enclosure will not have to undergo a significant renovation to be compliant with fire and pool safety rules. The amended rules will not require any additional safeguards that are not already required by state law, county code, and municipal ordinances in the State of Arizona.

**10. The agency's contact persons who can answer questions about the economic impact statement:**

Name: Kathryn Blades, Deputy General Counsel

Address: Department of Child Safety

3003 N. Central Avenue

Phoenix, AZ 85012

Telephone: (602) 255-2527

E-mail: [Kathryn.blades@azdcs.gov](mailto:Kathryn.blades@azdcs.gov)

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

R21-8-101 added to the final rulemaking definitions to terms “animal or doggie door” and “pool enclosure” which are terms used in the proposed and supplemental rulemaking.

R21-8-112.6.c. language and formatting in the final rulemaking was amended in order for the rule to read clearer than language in the proposed and supplemental rulemaking. It now reads as follows: “Identify two routes of evacuation from each bedroom on every floor used by individuals residing in or receiving care in the home. At least one of the exit routes for these bedrooms ~~shall lead leads~~ directly to the outside of the home, ~~but shall not lead into an area that serves as a pool enclosure;~~ If that exit leads into an area that serves as a pool enclosure, an individual six years of age or less receiving care in the home shall not reside in that bedroom. i. If the exit is a window, it shall be secured with a latching device located a minimum of 54 inches above the floor; or ii. If the exit is a door, it shall be locked at all times with a latching device or lock located a minimum of 54 inches above the floor. If there is no quick release mechanism on the lock, it must comply with the provisions of R21-8-112(11), and a key for the deadbolt shall be located a minimum of 54 inches above the floor. Bedroom doors that lead into an area that serves as a pool enclosure shall comply with this Section and also be self-closing and self-latching. Such doors that are hinged shall also swing outward from the pool area.

R21-8-112.8 added two missing words inadvertently left out in the proposed rulemaking. It is changed to read: Each bedroom used by a foster child or child in a residential group care facility receiving care or services has two exits to the outside. This change is reflected in the supplemental notice and the final notice.

R21-8-113 (A) amended the term “licensee” to “provider” in the final rulemaking in order to provide clarity and consistency of terms. It now reads as follows: “The provisions of this Section apply to each Child Welfare Agency residential group care facility and ~~licensee~~ provider.”

R21-8-113(B)(2)(h)(ii): The Supplemental rulemaking amends the proposed rulemaking to allow a bedroom which exits to a pool area to be occupied by a child who is in care and age seven and above. Supplemental rulemaking added “under the age of seven” while the final rulemaking amends it to “six years of age or less” and now reads as follows: “A door from the home does not open within the enclosure, ~~unless it is a bedroom door in a bedroom not occupied by an individual six years of age or less receiving care and~~ Such such a door cannot be opened by a foster child six years of age or less or child in a residential group care facility because it is either ~~permanently~~ locked as required in R21-8-112(6)(c)(ii) or barricaded inoperable. Any key shall not be accessible to a foster child six years of age or less or child in a residential group care facility;”

R21-8-113(B)(2)(h)(iii): The Supplemental Rulemaking adds “under the age of seven” while the Final Rulemaking changes the terms to “six years of age or less” and now reads as follows: “A window located in a room that is designated as a bedroom for a foster child six years of age or less or child in a residential group care facility shall not open into the pool enclosure; or shall be permanently locked and not used for egress; and”

R21-8-113(B)(2)(h)(iv): The Proposed and Supplemental Rulemaking incorrectly cites to R21-8-122(c)(ii). Final Rulemaking includes the correct citation to read as R21-8-112(6)(c)(ii) and adds the word “or” in the sentence. Final rulemaking also amends the Proposed and Supplemental Rulemaking which proposed to remove “permanently” and “to open no more than four inches” from the following: “Other windows that open into the pool enclosure are permanently secured to open no more than four inches; or as required in R21-8-122(e)(ii)R21-8-112(6)(c)(i).” However, after further review, the Department determined language would remain.

**12. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency**

**response to the comments:**

<b>Rule</b>	<b>Date and Source</b>	<b>Comment</b>	<b>Response</b>
Pool fence rule	Christie Kelley  Friday, November 18, 2016	<p>I currently am affected by the pool fence rule and have been forced to change my licensing age to 7 and up. Since my youngest is 8 and keeping foster children younger than my youngest works best with my family this severely restricts the age of kids we can serve. Up until the rule change I have served 0-6 aged children. Currently the bedrooms in question are utilized by only my two teenagers that are perfectly able to escape a pool fence enclosure. I was allowed previously to have a ladder available in the pool enclosure to aid escape. Which was a perfect accommodation. Since my yard is small moving the pool fence for safe escape would then violate no climbing obstacles within 3 feet rule (our air conditioners which are not easily moved). I would be so happy if this rule was changed back so my family can serve young children again.</p> <p>I think the reality of very small yards and many homes with pools should allow for persons aged 12 and up who are physically able to escape a pool enclosure with a ladder should be allowed in bedrooms opening to pool areas. Or who are mentally able to use a key or combo on pool fence lock to unlock fence from inside enclosure should be allowed. Teens are probably more physically able than an adult to climb a pool fence in any circumstance.</p> <p>Please change this rule to allow families like mine to better serve more foster children in need.</p>	The Department is considering this proposal along with other changes for a possible future rulemaking.
	Suzanne Pallas, LMSW  Foster Care Supervisor  Christian Family Care	I would support this amended rule as far as foster homes are concerned. I don't feel comfortable speaking to its impact on Residential Group homes since that does not affect us. This is rule was introduced in January of this year and it affected several families. It deterred some families from renewing their license and others from getting their license. I think the perception of all the "new	<p>Purpose of this change is to prevent other families from incurring unnecessary expenses.</p> <p>However the rules are necessary to ensure the safety of children in foster care.</p>

	<p>Wednesday, November 30, 2016</p>	<p>rules” in January from the Foster Families perspective was that OLR was making it difficult for them to be a licensed foster family. I read this as they are wanting to amend the rule they established in January and eliminate it. As long as the family has a locked gate around the pool (which is already currently required) and the fire escape plan does not take them out the window that leads to the pool, I think families would be appreciative to see this.</p> <p>That being said, families that had to made costly and big adjustments to bring their home in compliance may be frustrated..., but moving forward, it would be nice to eliminate it.</p>	
<p>R21-8112 and R21-8-113 Fire Safety, Evacuation and Pool Safety</p>	<p>Sue Lowther Training Manager  AASK - Aid to Adoption of Special Kids  Friday, December 09, 2016</p>	<p>Regarding the suggested amendment to the Fire Safety and Pool Safety rules, AASK would advocate that the rules be amended to allow a child in care, who is age seven or older, and does not have a Developmental Disability, to be allowed to sleep in a room where the second method of egress exits into the pool fence enclosure. Since a child who is seven or older could reside in a home with an unfenced pool, the logic would hold that a child that age could also sleep in a bedroom where the second exit was into a pool fence enclosure. Thank-you for your consideration.</p>	<p>The Department is considering this proposal along with other changes for a possible future rulemaking.</p>
	<p>Bahney Dedolph,  Director of Communica tions &amp; Programs Arizona Council of Human Service Providers  Monday, December 12, 2016</p>	<p>I, want first to thank the Department for actually getting closer to right this time on the whole suggestions around pool fences. We certainly support any kind of rule changes that are going to create a more home-like and yet still safe environment. Our concern is in the implementation as always and that's been our concern all along is around the implementation and the consistent implementation. So we're happy to say we finally support something around the rules. So thank you.</p>	<p>The Department has worked extensively both internally and with partners to improve the implementation of Chapter 8 rules.</p>

<p>R21-8-112, and R21-8-113</p>	<p>Jacob Schmitt, MPA Chief Compliance Officer &amp; Director of Quality Arizona's Children Association Tuesday, December 13, 2016</p>	<p>Arizona's Children Association is in agreement with the proposed Rule changes to R21-8-112, and R21-8-113 to allow a home to have an exit in a bedroom leading to a pool enclosure and to create parameters for this allowance. Continued safety in the home is of primary importance; the restrictions on who may reside in the room, and the additional physical safeguards for exit doors and windows make this rule change acceptable.</p> <p>We would like to note that there remain financial implications for families interested in becoming licensed as foster families because of these regulations. Reverting doors that exit to a pool enclosure to swing inwards and reconfiguring doors to become self-closing and self-latching may have a financial impact on families.</p>	<p>The Department acknowledges compliance will have some financial impact on families. This is also true of municipal codes.</p> <p>The Department is attempting, with the proposed rule changes, to relieve foster care providers of unnecessary financial impacts.</p>
<p>No rule</p>	<p>Del McArdle Citizen Thursday, June 8, 2017</p>	<ul style="list-style-type: none"> <li>• Against warrantless seizing of children. DCS should obtain a warrant before seizing children. It's unconstitutional.</li> <li>• Exigency exemption to the 4th Amendment, that is for seizing children from real emergency when kids are going to be suffering harm or death.</li> <li>• DCS policy department should stop the gross injustice because kids are dying.</li> <li>• Pressure should be placed on Greg McKay to respect the kids' God given rights.</li> <li>• DCS can't go to school and seize kids. Parents have the 14th Amendment's right to legal due process before a child is seized.</li> </ul>	<p>The Department did not have a response as the comment was not in reference to the rules at hand.</p>
<p>Pool fence rules</p>	<p>Bahney Dedolph, Director of Communications &amp; Programs Arizona Council of Human Service Providers</p>	<ul style="list-style-type: none"> <li>• Tucson newspaper article in which children of foster parents were interview. A young person said foster parent licensing requirements, most parents don't meet with their own kids and made like parents don't have common sense.</li> <li>• Thinks changes with the pool fence and bedrooms is a tremendous step forward in showing some common sense and is appreciated.</li> <li>• Some remaining room for improvement that she was not sure it is necessarily a rule change but perhaps a rules interpretation.</li> </ul>	<p>The rule does not reference a first aid kit as the supplies can be purchased individually or as part of a kit. The requirement is that the foster parent's residence have first aid supplies available. OLR has trained several agencies regarding the first aid supplies a foster home should have available in the home.</p> <p>The Department went over the first aid kit the commentator brought to the oral proceeding and alerted the</p>

	<p>Thursday, June 8, 2017</p>	<ul style="list-style-type: none"> <li>• Wants family foster homes to be family homes and not treat them as institutions.</li> <li>• Want foster parents to be able to be parents and not staff to the children in care.</li> <li>• The first aid kit continues to be an issue and wanted to confirm if a 10 dollar first aid kit purchased meets the first aid kit requirements.</li> <li>• There is a greater consistency in the life safety inspectors.</li> <li>• There is a better understanding from foster parents on what is expected.</li> </ul>	<p>commentator to the supplies missing in that specific kit.</p>
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**13. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

- a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**  
Not applicable
- b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**  
42 U.S.C. 671. The rules are not more stringent than federal law.
- c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:**  
Not applicable

**14. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**  
None

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

On October 2, 2017 a Notice of Renewal of Emergency Rulemaking was published in the Arizona Register.

R21-8-101 added to the final rulemaking definitions to terms “animal or doggie door” and “pool enclosure” which are terms used in the proposed and supplemental rulemaking.

R21-8-112(6)(c): The final rulemaking differs from the emergency rulemaking to allow a bedroom which exits to a pool area to be occupied by a child who is in care and age seven and above. It adds “six years of age or less” language. The final rulemaking makes edits to formatting and language for clarity and consistency purposes. The final rulemaking now

reads as follows: “c. Identify two routes of evacuation from each bedroom on every floor used by individuals residing in or receiving care in the home. At least one of the exit routes for these bedrooms ~~shall lead~~ ~~leads~~ directly to the outside of the home., ~~but shall not lead into an area that serves as a pool enclosure;~~ If that exit leads into an area that serves as a pool enclosure, an individual six years of age or less receiving care in the home shall not reside in that bedroom and i. If the exit is a window, it shall be secured with a latching device located a minimum of 54 inches above the floor; or ii. If the exit is a door, it shall be locked at all times with a latching device or lock located a minimum of 54 inches above the floor. If there is no quick release mechanism on the lock, it must comply with the provisions of R21-8-112(11), and a key for the deadbolt shall be located a minimum of 54 inches above the floor. Bedroom doors that lead into an area that serves as a pool enclosure shall comply with this Section and also be self-closing and self-latching. Such doors that are hinged shall also swing outward from the pool area.

R21-8-112.8: The final rulemaking adds missing word inadvertently left out in the emergency rulemaking. It is changed to read: Each bedroom used by a foster child or child in a residential group care facility receiving care or services has two exits to the outside.

R21-8-113(A): The final rulemaking amends the term “licensee” to “provider” in order to provide clarity and consistency of terms. It now reads as follows: “The provisions of this Section apply to each Child Welfare Agency residential group care facility and ~~licensee~~ provider.”

R21-8-113(B)(2)(h)(ii): The final rulemaking differs from the emergency rulemaking to allow a bedroom which exits to a pool area to be occupied by a child who is in care and age seven and above. It adds “six years of age or less” to now read as follows: “A door from the home does not open within the enclosure., unless it is a bedroom door in a bedroom not occupied by an individual six years of age or less receiving care and ~~Such~~ ~~such~~ a door cannot be opened by a foster child six years of age or less or child in a residential group care facility because it is either ~~permanently~~ locked as required in R21-8-112(6)(c)(ii) or barricaded inoperable. Any key shall not be accessible to a foster child six years of age or less or child in a residential group care facility;”

R21-8-113(B)(2)(h)(iii): The final rulemaking differs from the emergency rulemaking by adding “six years of age or less” for it to now read as follows: “A window located in a room that is designated as a bedroom for a foster child six years of age or less or child in a residential group care facility shall not open into the pool enclosure; or shall be permanently locked and not used for egress; and”

R21-8-113(B)(2)(h)(iv): Final rulemaking also differs from emergency rulemaking which removed “permanently” and “to open no more than four inches” from the following: “Other windows that open into the pool enclosure are permanently secured to open no more than four inches; or as required in R21-8-112(6)(c)(i).” However, after further review, the Department determined language would remain.

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

**TITLE 21. CHILD SAFETY**

**CHAPTER 8. DEPARTMENT OF CHILD SAFETY FOSTER HOME AND CHILD WELFARE**

**AGENCY FACILITY SAFETY**

**ARTICLE 1. LIFE SAFETY INSPECTIONS**

Section

R21-8-101. Definitions

R21-8-112. Fire Safety and Evacuation Plan Requirements

R21-8-113. Pool Safety

**ARTICLE 1. LIFE SAFETY INSPECTIONS**

**R21-8-101. Definitions**

The definitions in R21-6-101 apply to this Article, except the following terms are defined as:

1. “Animal or doggie door” means a small portal in a wall, window, or human door to allow pets to enter and exit a house on their own without a person to open the door.
- ~~1.2.~~ “Home” means a foster home or Child Welfare Agency residential group care facility where the provider is licensed to provide care to a foster or privately placed child in a residential group care facility.
- ~~2.3.~~ “Pool” means any natural or man-made body of water located at a home or on its premises that:
  - a. Could be used for swimming, recreational, therapeutic, or decorative purposes;
  - b. Is greater than 18 inches in depth; and
  - c. Includes swimming pools, spas, hot tubs, fountains, and fishponds.
4. “Pool enclosure” means a fence or barrier surrounding a pool and meets the requirements of R21-8-113 (B)(2).
- ~~3.~~ 5. “Premises” means:
  - a. The home; and

b. The property surrounding the home that is owned, leased, or controlled by the provider.

4.6. “Provider” means a licensed foster parent or Child Welfare Agency residential group care facility, and applicants for these licenses.

### **R21-8-112. Fire Safety and Evacuation Plan Requirements**

The provider shall ensure:

1. The premises is free of obvious fire hazards, such as defective heating equipment, or improperly stored flammable materials. Household heating equipment must be equipped with appropriate safeguards, maintained as recommended by the manufacturer.
2. Flammables and combustibles are stored more than three feet from water heaters, furnaces, portable heaters, fire-places, and wood-burning stoves.
3. If the premises has a working fireplace or wood-burning stove, it is protected by a fire screen sufficient to shield the room from open flames and flying embers.
4. A functioning fire extinguisher with a rating of “2A 10BC” or greater is available near the kitchen area. If the home has multiple levels at least one functioning fire extinguisher with a rating of “2A 10BC” or greater is available on each level.
5. At least one UL approved and working smoke detector is installed:
  - a. In the main living or program area of the setting;
  - b. In each bedroom, if overnight care is provided; and
  - c. On each level of a multiple-level setting.
6. A written emergency evacuation plan is developed and maintained in the home, to provide guidance on the safe and rapid evacuation of the home. An emergency evacuation plan shall:

- a. Be reviewed with the child within 72 hours of placement in the home and posted in a prominent place in the home;
- b. Identify multiple exits from the home;
- c. Identify two routes of evacuation from each bedroom on every floor used by individuals residing in or receiving care in the home. At least one of the exit routes for these bedrooms shall lead leads directly to the outside of the home, but shall not lead into an area that serves as a pool enclosure; If that exit leads into an area that serves as a pool enclosure, a child six years of age or less receiving care in the home shall not reside in that bedroom.
  - i. If the exit is a window, it shall be secured with a latching device located a minimum of 54 inches above the floor; or
  - ii. If the exit is a door, it shall be locked at all times with a latching device or lock located a minimum of 54 inches above the floor. If there is no quick release mechanism on the lock, it must comply with the provisions of R21-8-112(11), and a key for the deadbolt shall be located a minimum of 54 inches above the floor. Bedroom doors that lead into an area that serves as a pool enclosure shall comply with this Section and also be self-closing and self-latching. Such doors that are hinged shall also swing outward from the pool area.
- d. Identify the location of fire extinguishers and fire evacuation equipment, including rope or chain ladders, and emergency lighting, as applicable;
- e. Designate a safe central meeting place close to the home, known to the child, at a safe distance from potential danger;
- f. Be maintained in the home to review with individuals residing in or receiving care in the home; and



- v. Measures taken to ensure that a foster child or a child in a residential group home facility understand the purpose of a drill and his or her responsibilities during a drill.
10. The exit routes for the home are clear of obstruction that could prevent safe and rapid evacuation.
  11. The locks on exterior doors and windows, including the front door, screen doors, and bars on windows, are equipped with a quick release mechanism. A quick release mechanism is a lock that can be opened from inside the setting without special knowledge (such as a combination) or equipment (such as a key). The Department may grant an exception to this requirement for a double-key deadbolt on a door if:
    - a. There is breakable glass within 40 inches of the interior locking mechanism;
    - b. There is another exit with a quick release mechanism on the same level of the premises; and
    - c. The key for the deadbolt is permanently maintained in a location that is:
      - i. Within six feet of the locking mechanism;
      - ii. Accessible to all household members;
      - iii. Reviewed with persons residing in or receiving care in the home; and
      - iv. Identified on the emergency evacuation plan, specified in subsection (6).
  12. The address for the home is posted and visible from the street, or the local emergency response team, such as the local fire department, is notified of the location of the home in writing, with a copy of this notification maintained in the home.
  13. Providers must maintain a comprehensive list of emergency telephone numbers, including poison control, and post those numbers in a prominent place in the home.

**R21-8-113. Pool Safety**

- A. The provisions of this Section apply to each Child Welfare Agency residential group care facility and licensee provider.
- B. For a home that has a pool, and provides care to a child six years of age or less, or an individual with a Developmental Disability, the provider shall ensure the following:
1. That the pool complies with A.R.S. § 36-1681 and all local municipal codes to the extent not inconsistent with this Section.
  2. A fence or barrier meeting the following requirements is maintained between the pool and the home, or any building used to provide care and supervision.
    - a. The exterior side of the fence or barrier is at least five feet high;
    - b. If the barrier is a chain link fence or lattice, each opening in the mesh measures less than 1 3/4 inches horizontally. Chicken wire and other light gauge wire are prohibited as a primary fencing material for the pool;
    - c. If the barrier is a fence constructed of vertical bars or wooden slats, the openings between bars or slats measure less than four inches;
    - d. The exterior side of the barrier is free of hand holds or foot holds or other means that could be used to climb over it and if it has a horizontal component spaced at least 45 inches, measured vertically;
    - e. The gate to the enclosure is locked, except when in use and there is an adult within the enclosure to supervise the pool and spa area;
    - f. The connection between the panels of the fence cannot be separated without a key or a tool;
    - g. The fence is secured to the ground or has sufficient tension to prevent the fence from being lifted more than four inches from the ground;
    - h. If the home or building to provide care or supervision constitutes part of the enclosure:

- i. The enclosure does not interfere with safe egress from the home;
  - ii. A door from the home does not open within the pool enclosure, unless it is a bedroom door in a bedroom not occupied by an individual six years of age or less receiving care and ~~Such~~ such a door cannot be opened by a foster child six years of age or less or child in a residential group care facility because it is either ~~permanently~~ permanently locked as required in R21-8-112(6)(c)(ii) or ~~barriaded~~ inoperable. Any key shall not be accessible to a foster child six years of age or less or child in a residential group care facility;
  - iii. A window located in a room that is designated as a bedroom for a foster child six years of age or less or child in a residential group care facility shall not open into the pool enclosure; or shall be permanently locked and not used for egress; and
  - iv. Other windows that open into the pool enclosure are permanently secured to open no more than four inches; or as required in R21-8-112(6)(c)(i).
  - v. Animal or doggie doors shall not open directly into the pool enclosure.
3. A pool shall have its methods of access through the barrier equipped with a safety device, such as a bolt lock:
    - a. Gates should be self-closing and self-latching, maintained in good repair, and open out or away from the pool.
    - b. The gate latch is at least 54” above the ground and is equipped with a key or combination lock.
  4. If the swimming pool cannot be emptied after each use, the pool must have a working pump and filtering system.
  5. Hot tubs and spas must have safety covers that are locked when not in use.

6. Hot tubs and spas that are drained must be disconnected from the power and water source and have safety covers that are always locked.

**C.** No change

**D.** No change

**E.** No change

**F.** No change



*Arizona Department of Child Safety*

**Douglas A. Ducey**  
Governor

**Gregory McKay**  
Director

21 A.A.C. 8 Department of Child Safety – Foster Home and  
Child Welfare Agency Facility Safety

# ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT

October 4, 2017

TABLE OF CONTENTS

- 1. An identification of the rulemaking ..... 3
- 2. A brief summary of the information included in the economic, small business, and consumer impact statement ..... 3
- 3. The person to contact to submit or request additional data on the information included in the Economic, small business, and consumer impact statement ..... 3
- 4. Identification of the persons who will be directly affected by, bear the costs of, or directly benefit from the rules. .... 4
  - 4.1. DCS Office of Licensing and Regulation ..... 5
  - 4.2. Foster Licensing Agencies ..... 7
  - 4.3. Child Welfare Agencies and Foster Care Providers..... 8
  - 4.4. Children In Out-Of-Home Care ..... 9
- 5. Cost/Benefit Analysis..... 9
  - 5.1. Cost bearers..... 9
  - 5.2. Beneficiaries..... 10
- 6. A general description of the probable impact on private and public employment in businesses, agencies, and political subdivisions of this state directly affected by the rulemaking ..... 10
- 7. A statement of the probable impact of the rules on small business..... 10
  - 7.1. Identification of the small businesses subject to the rules..... 10
  - 7.2. The administrative and other costs required for compliance with the rules..... 10
  - 7.3. A description of the methods that the agency may use to reduce the impact on small businesses ... 11
  - 7.4. The probable costs and benefits to private persons and consumers who are directly affected by the rules ..... 11
- 8. A statement of the probable effect on state revenues..... 11
- 9. A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking..... 11
- 10. A description of any data on which the rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data ..... 11

**1. An identification of the rulemaking**

The Department adopted foster home and child welfare agency facility safety rules under its own title (Title 21. Child Safety) implementing A.R.S. §§ 8-504, 8-505, and 8-509.

The proposed amended rules pertain to fire and pool safety. The Department is seeking changes to the adopted rules to address criticisms of the rules voiced by the regulated public after the rules were initially implemented in 2016.

The current rules do not enable homes with a bedroom that leads into a pool enclosure to be licensed as foster homes or residential group care facilities. The Department's proposed amended rules shall permit this circumstance, as long as safeguards are met for applicable state law, county code, or municipal ordinances.

The current rules unnecessarily preclude interested applicants from obtaining or renewing their license to provide foster care. The Department is in need of licensed foster homes to protect the health and wellbeing of the children in Arizona. The proposed amended rules aim to reduce the regulatory burden on the regulated public, while achieving the same regulatory objective.

**2. A brief summary of the information included in the economic, small business, and consumer impact statement.**

The proposed amendments will have a positive economic impact for foster home and child welfare applicants. The final rules are less stringent than the current rules. The amended rules aim to provide relief to the regulated public from burdensome and costly modifications and repairs. Applicable state law, county code, and municipal ordinances provide the safeguards to ensure the changes will not have an impact on the public health, safety, welfare or environment.

**3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:**

Name: Kathryn Blades  
Address: Department of Child Safety  
3003 N. Central Avenue  
Phoenix, AZ 85012  
Telephone: 602-255-2527  
E-mail: Kathryn.blades@azdcs.gov  
Web site: [www.dcs.az.gov](http://www.dcs.az.gov)

**4. Identification of the persons who will be directly affected by, bear the costs of, or directly benefit from the rules.**

A.R.S. § 36-1681 requires a pool enclosure when any resident in the home is under the age of six. R21-8-113.B requires a pool enclosure for foster homes, group homes, or shelters caring for children in care under six years of age.

Currently, R21-8-112.6.c requires two routes of emergency evacuation from each bedroom in use in a foster or group home. One of the routes must lead directly to the outside of the home. However, under the current rule, the emergency evacuation route leading directly to the outside of the home shall not lead into an area that serves as a pool enclosure.

This requirement has resulted in increased deficiencies identified during life safety inspections of foster homes and residential group care facilities. Foster care providers have been forced to modify their living arrangements and in some cases remodel parts of their house and grounds in order to maintain licensure. The Department's Office of Licensing and Regulation must conduct follow up inspections to ensure foster and residential group care providers comply with these safety rules.

Without the proposed rule changes, child welfare agencies and foster care providers will continue to fail life safety inspections, delaying licensing and license renewals. They will continue to incur costs in order to pass inspection. Without the changes, some child welfare agencies and foster homes may be unable to make the adjustments necessary to comply with the existing rules.

Costs are variable, such as a foster home modifying a bedroom window or a fence to comply with existing rules.

Some costs are opportunity costs. A Life Safety Inspection worker must return to a home to verify that deficiencies discovered in a prior inspection have been remedied. This worker could have used the same time to conduct another inspection. Another example is when a foster home's initial license is delayed due to deficiencies identified in a life safety inspection. The foster home could have received children for placement if it had passed the initial life safety inspection.

Due to variable factors involved in inspections and placements, such costs are not readily quantifiable. The following sections provide a qualitative analysis of the costs and benefits for each of the cost bearers and beneficiaries.

#### 4.1 DCS Office of Licensing and Regulation

The Office of Licensing and Regulation (OLR) oversees the licensing and regulation of child welfare agencies (group homes and shelters) and of foster licensing agencies. Foster licensing agencies are private organizations generally contracted with the Department to oversee the licensing of foster care providers.

Within the OLR, the Life Safety Inspection Unit (LSIU) conducts life safety inspections for child welfare agencies and foster care providers. Life safety inspections are required for several events; including initial licensing, renewal licensing, relocations, and new construction and pool fence inspections. The LSIU also conducts consultations, typically for pool enclosures. The LSIU educates the foster care provider and assists in creating a plan for the foster care provider to fence their pool to ensure compliance with the rules.

The LSIU completed 4519 life safety inspections between 9/10/16 and 09/08/17. That number includes initials, renewals, relocations, consultations, new construction and pool fence inspections.

From 09/10/2016-09/08/2017, LSIU identified 306 deficiencies that pertain to R21-8-113 Pool Safety. Criteria in the following areas was not met:

- Exterior is at least 5' high
- Exterior free of footholds/handholds
- If chain-link/lattice/mesh, openings in the mesh are less than 1¾" horizontally
- Openings measure less than 4"
- Horizontal components are at least 45" apart vertically
- Connection between the panels cannot be separated without a tool or key
- Fence is secured to the ground or has sufficient tension to prevent being lifted more than 4" from the ground at all points
- Gates are self-closing and self-latching and the mechanism is functional and opens away from the pool (all gates must be in full compliance including side yard gates and RV gates. If a gate cannot be made to be self-closing, self-latching, and to open away from the pool, it must be secured.)
- Latch is at least 54" above the ground and is locked with a key or combination lock
- Has a working pump and filtration system if not emptied after each use

From 09/10/2016-09/08/2017, LSIU identified 1823 deficiencies that pertain to R21-8-112 Fire Safety and Evacuation Plan Requirements. OLR's data does not break down pool specific fire safety deficiencies. However, pool deficiencies pertaining to this rule may include the following:

- The enclosure does not interfere with safe egress from the home
- A door from the home does not open within the pool enclosure or is permanently locked or barricaded with no key accessible to a child in care
- No windows in a bedroom designated for use by a child in care open into the pool enclosure
- Other windows opening into the pool enclosure are permanently secured to open no more than 4".

A single life safety inspection can identify multiple deficiencies, so there is not an exact correspondence between the number of deficiencies listed above and the number of life safety inspections. Prior to Jan 1, 2017 only the section of rule as a whole was tracked. From 01/01/2017-09/08/2017 OLR started tracking rule deficiencies along with a detail of each deficiency within that rule. R21-8-112 fell deficient 52.17% times out of 2,994 entries and R21-8-113 fell deficient 10.67% out of 2994 entries. The problems the proposed rules aim to correct do not affect the majority of life safety inspections. The cost that is significant is to the regulated community (the foster families).

The cost of the current rules to the LSIU are chiefly opportunity costs. Because R21-8-112 and R21-8-113 are currently not worded clearly, it results in deficiencies that under the prior rules or proposed rules would not be counted as deficiencies. For example, the door leading to the pool enclosure, located in the foster parents' bedroom would now need to be locked using a self-closing and self-latching latch located 54 inches above the door.

When a deficiency is identified, the LSIU worker is required to schedule and complete a follow up life safety inspection to ensure that the deficiency has been remedied. The LSIU worker's time could have been used to complete a Life safety inspection for another foster care provider.

It is unknown how many follow up life safety inspection have been required due to the current rules. However, given that OLR has a static budget and cannot hire additional workers to address the volume of required life safety inspections, any follow up inspections place additional burden on the LSIU and may also delay licensure.

The proposed rules will benefit the LSIU by reducing the number of deficiencies identified during life safety inspections and thus the concomitant follow up inspections. Every follow up inspection thereby obviated represents a potential license being awarded or renewed for desperately needed foster care providers. The proposed rules will benefit OLR by maintaining current safety standards while reducing the burden on LSIU.

#### **4.2 Foster Licensing Agencies**

The Department has contracted 27 Foster Home Licensing agencies to manage the licensing process for Arizona's 4,798 licensed foster care providers. The agencies, as contractors, are expected to ensure the foster care provider complies with 21 A.A.C. 8 and 6 at all times.

During routine visits if a deficiency is noted, the agency will inform the foster care provider, affording the foster care provider an opportunity to correct the deficiency. If the foster care provider has multiple deficiencies or if the deficiency is a safety issue such as a weapons or pool violation, the agency will ask LSIU to conduct the re-inspection.

When an agency conducts a visit or a re-inspection, the agency must enter the information in the OLR case management system (Quick Connect). This allows LSIU to view the documentation, however quantitative data on the total number of inspections is not available from Quick Connect.

The same opportunity costs experienced by the LISU apply to the Foster Home Licensing agencies. However, because the Foster Home Licensing agencies are businesses, re-inspections represent real costs. The more work a Foster Home Licensing agency devotes to a foster care provider, the higher the unit cost of service delivery. Thus, re-inspections increases the expenses of the business.

The proposed rules will reduce the number of deficiencies identified for foster care providers. Although specific numbers are unavailable, reducing re-inspections will reduce the burden of the current rules on Foster Home Licensing agencies as businesses.

### 4.3 Child Welfare Agencies and Foster Care Providers

Child welfare agencies are licensed by the Department to provide residential group care, outdoor experience programs, and emergency shelter care. Child welfare agencies generally contract with the Department. Currently, 146 child welfare agencies maintain active licenses.

Foster care providers (foster homes) are licensed by the Department to provide foster care, generally in a family setting. Foster care providers receive a set payment per child. Currently, 4,798 licensed foster care providers maintain active licenses.

Both child welfare agencies and foster care providers must comply with 21 A.A.C. 8. As documented under 4.1, DCS Office of Licensing and Regulation, LSIU completed 4519 life safety inspections between 09/10/2016 and 09/08/2017. LSIU identified 306 deficiencies that pertain to R21-8-113 and there were 1823 deficiencies noted that pertain to R21-8-112. This does not include deficiencies identified by foster home licensing agencies nor Child Welfare Licensing Specialists (OLR staff within the Child Welfare Unit).

The remedies for these deficiencies vary considerably. Less costly property remedies include relocating foster children to a bedroom that does not open into a pool enclosure, installing self-closing hinges on doors or gates, modifying latches or locks to comply with the 54" above the floor requirement. More costly property remedies include installing a pool fence, and remodeling the house by moving windows or doors opening into the pool enclosure (one foster care provider had to save for six months in order to afford relocating a window in the home).

Deficiencies identified during an applicant's initial life safety inspection delay the issuance of the license. This delay deprives the applicant of placements until the deficiency can be remedied. Deficiencies identified during a licensee's renewal application can delay payments for the children already placed with the licensee until the deficiency is remedied. Deficiencies identified during a kinship placement's initial life safety inspection delay the issuance of the license, depriving the kinship placement of foster care monies designed to meet the needs of the children in their care.

The proposed rules will benefit foster care providers and child welfare agencies by reducing the time required to obtain or renew a license when delay is related to Life Safety factors. The proposed rules will also reduce the number of life safety inspection deficiencies along with potentially costly

remedies. The proposed rules will also alleviate interruption of service provision and payments for child welfare agencies and foster care providers.

Business model remedies for identified deficiencies include amending the license to provide care only for children age seven and older (some pool enclosure laws apply to children age six and younger), and closing or not renewing the license. This second option reduces enterprise and tax revenue for the State. It also adds pressure to remaining child welfare agencies and foster care providers to compensate for unavailable beds.

According to OLR, in calendar year 2016, zero child welfare agencies have closed or not renewed their license. During fiscal year 2017, 1,981 foster care providers closed or did not renew their license. Of these closures, 1,822 listed a reason for closure unrelated to providing foster care services. The other 159 cited a variety of reasons, which cannot specifically be correlated to the current Chapter 8 rules. However, conflict with agency policy was listed as one of the reasons for closing a license.

The proposed rules will benefit child welfare agencies and foster care providers by affording more flexibility in meeting life safety inspection requirements, while maintaining safety standards.

#### **4.4 Children In Out-Of-Home Care**

The proposed rules are less stringent than the current rules; however, the proposed rules will not significantly reduce the safety of children in out-of-home care as foster parents and child welfare agencies must still comply with safeguards in this Article and those applicable by state law, county code, or municipal ordinances. The proposed rules will facilitate expediting the licensing of child welfare agencies and foster care providers. This will assist the Department with placing more children in out of home care in a placement environment that is matched to the child's identified needs.

### **5. Cost/Benefit Analysis**

#### **5.1 Cost bearers**

- Child Welfare Agencies (Group Homes, Outdoor Experience Programs, Emergency Shelters)
- Foster Care Providers (Foster Homes)

- DCS Office of Licensing and Regulation
- Foster Home Licensing Agencies
- Children in Care

## **5.2 Beneficiaries**

- Child Welfare Agencies (Group Homes, Outdoor Experience Programs, Emergency Shelters)
- Foster Care Providers (Foster Homes)
- DCS Office of Licensing and Regulation
- Foster Home Licensing Agencies
- Children in Care

## **6. A general description of the probable impact on private and public employment in businesses, agencies, and political subdivisions of this state directly affected by the rulemaking**

Public employment in the State of Arizona is not expected to be affected by the changes required in the rules.

## **7. A statement of the probable impact of the rules on small business**

### **7.1 Identification of the small businesses subject to the rules**

Small businesses subject to the rules may include foster care licensing agencies, foster care providers, and child welfare agencies.

### **7.2 The administrative and other costs required for compliance with the rules**

There are no additional costs anticipated to Child Welfare Agencies, foster homes, or to the Department with the amendment of the rules. As a result of the amended rules, the opportunity costs associated with compliance with the rules may lessen as described in section 4.

### **7.3 A description of the methods that the agency may use to reduce the impact on small businesses**

This rule amendment is designed to provide relief to regulated small businesses from restrictive wording in the existing life safety inspection rules. LSIU and Foster Home Licensing Agencies will be trained to conduct life safety inspections according to the proposed rules.

**7.4 The probable costs and benefits to private persons and consumers who are directly affected by the rules**

The costs to private persons and consumers from the proposed rule changes are described in section 4.

**8. A statement of the probable effect on state revenues**

Since the rulemaking does not include any adjustments to fees, the Department does not expect the rules to affect state revenues.

**9. A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking**

The amendments to the existing rules are being proposed as a less intrusive and less costly method of achieving the same purpose as the existing rules.

**10. A description of any data on which the rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data**

Not applicable.

## TITLE 21. CHILD SAFETY

### CHAPTER 8. DEPARTMENT OF CHILD SAFETY - FOSTER HOME AND CHILD WELFARE AGENCY

#### FACILITY SAFETY

##### Article 1. LIFE SAFETY INSPECTIONS

###### R21-8-101. Definitions

The definitions in R21-6-101 apply to this Article, except the following terms are defined as:

1. "Home" means a foster home or Child Welfare Agency residential group care facility where the provider is licensed to provide care to a foster or privately placed child in a residential group care facility.
2. "Pool" means any natural or man-made body of water located at a home or on its premises that:
  - a. Could be used for swimming, recreational, therapeutic, or decorative purposes;
  - b. Is greater than 18 inches in depth; and
  - c. Includes swimming pools, spas, hot tubs, fountains, and fishponds.
3. "Premises" means:
  - a. The home; and
  - b. The property surrounding the home that is owned, leased, or controlled by the provider.
4. "Provider" means a licensed foster parent or Child Welfare Agency residential group care facility, and applicants for these licenses.

###### Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 3517, effective January 24, 2016 (Supp. 15-4).

###### R21-8-102. Application

This Article applies to:

1. All foster homes regulated under A.A.C. Title 21, Chapter 6; and
2. A Child Welfare Agency operating a residential group care facility or shelter care facility regulated under A.A.C. Title 6, Chapter 5, Article 74, but not a Child Welfare Agency operating an outdoor experience program.

###### Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 3517, effective January 24, 2016 (Supp. 15-4).

###### R21-8-103. Frequency of Inspection and Inspection Area

- A. Each provider shall have a Life Safety Inspection of the premises.
- B. OLR shall inspect the premises:
  1. At initial licensure;
  2. Every two years; and
  3. Within three months prior to the renewal date of a license.
- C. The Life Safety Inspection shall include all rooms and dwellings on the premises in which a foster or child in a Child Welfare Agency residential group care facility resides or may have access to, including sheds, mobile homes, trailers, and cottages.

### **Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3517, effective January 24, 2016 (Supp. 15-4).

### **R21-8-104. General Condition and Cleanliness of the Premises**

The provider shall ensure:

1. The interior is clean, sanitary, and disinfected to prevent, minimize, and control illness, infection, or injury.
2. The premises is maintained in good repair and does not constitute a hazard. Damage that constitutes a hazard includes:
  - a. Broken glass;
  - b. Surfaces that are rusted, have sharp or jagged edges, or have nails protruding;
  - c. Holes in walls, ceilings, or floors; or
  - d. Broken furniture, fixtures, appliances, or equipment.
3. Play areas and therapy equipment are stable, in good repair, and do not constitute a hazard.
4. Swing sets are securely anchored to the ground.
5. The premises are clean to the degree that the condition does not constitute a hazard. Conditions that constitute a hazard include:
  - a. Rotting food,
  - b. Stale or accumulated urine or feces, or
  - c. An accumulation of mold.
6. Garbage is removed from the premises at least once each week.
7. The premises and outside play areas are free of insect and rodent infestation, or the premises have an effective ongoing system to eliminate insects or rodents.
8. Water in a pool on the premises is maintained, is not stagnant, and is clear enough to see through the water to the bottom surface of the pool.
9. Excessive weeds and brush that pose a fire hazard are trimmed or removed.

### **Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3517, effective January 24, 2016 (Supp. 15-4).

### **R21-8-105. Safeguarding of Hazards**

A. The provider shall ensure:

1. Highly toxic substances and materials are safeguarded in locked storage. Highly toxic substances include gasoline, lighter fluid, pesticides, radiator fluid, drain cleaner, ammonia, bleach, spray paint, turpentine, and other substances that can cause serious bodily harm or death if improperly used.
2. Household cleaning supplies are safeguarded to prevent unsafe or improper use. Household cleaning supplies are substances that are not intended for ingestion, but generally will not cause serious bodily harm or death if improperly used. Examples of household cleaning supplies include spray cleaners, laundry detergent, furniture polish, and dishwasher detergent.
3. Access to personal grooming supplies is not restricted unless the case plan or service plan for a foster child or child in a residential group care facility specifically restricts such access. Personal grooming supplies include toothpaste, hand-soap, shampoo, menstrual products, and deodorant.
4. Ramps, bathtubs, and showers have slip-resistant surfaces.
5. Handrails and grab-bars are securely attached and stationary.

6. Skirting is intact around the base of the setting, if the setting is a mobile home.
  7. The child's access is prevented as appropriate, for his or her age and development, from all medications, poisonous materials, cleaning supplies, other hazardous materials, and alcoholic beverages.
  8. That the home maintains first aid supplies.
- B. OLR may require removal, repair, or safeguarding of physical and other hazards that are determined to be unsafe for a foster child or child in a residential group care facility, including a drained swimming pool and trampoline.

#### **Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3517, effective January 24, 2016 (Supp. 15-4).

#### **R21-8-106. Weapons and Firearms**

- A. The provider shall meet the following standards concerning weapons:
1. The provider shall store the following weapons in an inoperable condition in a locked area inaccessible to children:
    - a. Firearms;
    - b. Air guns, including BB guns;
    - c. Bows and cross-bows;
    - d. Stun guns;
    - e. Hunting slingshots;
    - f. Any other projectile weapon; and
    - g. Hunting knives.
  2. Firearms, ammunition, and other weapons, including cross-bows, stun guns, air guns, and hunting knives are safeguarded to prevent unsafe or improper use. In addition:
    - a. Firearms are unloaded, trigger locked, and kept in a tamper-proof, locked storage container made of unbreakable material; and
    - b. Ammunition is maintained in locked storage that is separate from firearms.
- B. OLR may approve a provider who is a foster parent applicant or foster parent who is also a law enforcement official, to carry a firearm when the provider:
1. Obtains documentation that the jurisdiction requires him or her to have ready and immediate access to the weapons at all times;
  2. Supplies official documentation that he or she has been trained in the law enforcement protocols for the safe use and carrying of a firearm;
  3. Adopts and follows a safety plan approved by OLR and the licensing agency; and
  4. Stores the weapon according to the provisions of this Section when the weapon is not on their person.
- C. Notwithstanding subsections (A) and (B), weapons are not permitted in a Child Welfare Agency residential group care facility or group foster home.

#### **Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3517, effective January 24, 2016 (Supp. 15-4).

#### **R21-8-107. Animals**

The home shall meet the following standards concerning animals:

1. Animals kept on the premises do not pose a hazard due to behavior, venom, or disease.

2. OLR may require an assessment by a veterinarian to determine whether a pet poses a hazard if the animal displays signs of aggressive or abnormal behavior or of disease.
3. The provider shall vaccinate any pets required to be vaccinated by state or tribal law against diseases that can transmit to humans, including rabies.
4. All dogs older than six months have current rabies vaccination. Vaccination records are maintained in the home.

#### **Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3517, effective January 24, 2016 (Supp. 15-4).

#### **R21-8-108. Storage of Medication**

A. The provider shall ensure:

1. Medication is maintained in a securely fastened and locked storage, with the exception of the following:
  - a. Medication that may be accessed by a foster child, as specified in that individual's case plan or service plan; and
  - b. Medication that must be readily and immediately accessible, such as an asthma inhaler or an autoinjector such as an epinephrine autoinjector, known as an Epi-pen.
2. Medication that may be unlocked under subsection (1)(a) or (1)(b) is safeguarded to prevent improper use.
3. Medication that must be refrigerated is safeguarded in locked storage, without preventing access to refrigerated food. This may be accomplished by storing refrigerated medication in a locked box within the refrigerator.

B. A Child Welfare Agency provider shall safeguard medications using a double-lock system. A locked box stored inside a locked cabinet is an example of a double-lock system.

#### **Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3517, effective January 24, 2016 (Supp. 15-4).

#### **R21-8-109. Safe Appliances**

The provider shall ensure:

1. Safe and functioning appliances are available for food refrigeration and cooking, if applicable.
  - a. Safe and functioning refrigerators shall maintain food at or below a temperature of 41° F.
  - b. An outdoor cooking appliance that uses charcoal or gas shall not be used indoors.
2. Electrical lighting is available in bedrooms, living areas, and rooms used to provide services.
  - a. Lighting is sufficient to perform normal activities, and
  - b. Light sockets are equipped with light bulbs or safely covered to prevent electrical shock.
3. Adequate heating, cooling, and ventilation are available in bedrooms, living areas, and rooms used to provide services. Temperatures outside the range of 65° - 85° F are indicators of inadequate heating or cooling.
4. At least one operable telephone is available on the premises unless OLR has approved an alternative system for communication. Telephone includes cellular phones, digital phones, and phones with traditional land lines.
5. If the premises have a clothes dryer, the dryer is safely vented with a non-flammable vent hose.
6. If a portable heater is on the premises, it has a protective covering to keep hands and objects away from the heating element and, it is:

- a. Electric;
  - b. UL approved;
  - c. Equipped with a tip-over shut-off switch;
  - d. Placed at least three feet from curtains, paper, furniture, and any flammable object when in use;
  - e. Not used as the primary source for heat in the setting; and
  - f. Not used in bedrooms.
7. A carbon monoxide detector-alarm is properly located according to manufacturer's instructions and functioning on each level of the premises that has an appliance or heating device using combustible fuel, including gas, oil, or wood. Such appliances or devices include fireplaces, wood stoves, gas stoves, and gas hot water heaters.

#### **Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3517, effective January 24, 2016 (Supp. 15-4).

#### **R21-8-110. Electrical Safety**

The provider shall ensure:

1. Electrical cords are in good condition; no broken or frayed cords are in use.
2. Electrical panels and outlets are in good condition; no wiring is exposed, and covers are in place.
3. Extension cords are not used on a permanent basis.
4. Electrical outlets are not overloaded.
5. Major appliances are plugged directly into grounded outlets. Major appliances include refrigerators, freezers, dishwashers, stoves, ovens, washers, and dryers.
6. Mid-sized appliances, which include computers, televisions, and stereo equipment, are plugged into:
  - a. Grounded outlets, or
  - b. Power strips or surge protectors that are plugged into grounded outlets.

#### **Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3517, effective January 24, 2016 (Supp. 15-4).

#### **R21-8-111. Water and Plumbing Requirements**

- A. The provider shall ensure that a continuous source of safe drinking water is available to a foster child or child in a residential group care facility receiving care.
- B. The home must meet the following standards concerning water:
  1. If a home uses a non-municipal water source including private well water or another source of drinking water, the provider shall have the water tested for safety under subsection (B)(2).
  2. If the home's water is from any source other than an approved public water supply, the foster parent shall obtain a written water analysis report, showing that the water is within acceptable state and federal standards for drinking water for the age of the children in care. The provider shall obtain the analysis and report from a laboratory certified by the Arizona Department of Health Services as part of the initial licensing process and before each renewal.
- C. The provider shall ensure that the sewage disposal for the setting is functioning. If the setting has a septic tank, it shall be in good working order, with no visible signs of leakage on the ground.
- D. The provider shall ensure that at least one working toilet, wash basin, and shower or tub is available for every seven persons living or receiving care in the home at the same time.

## Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 3517, effective January 24, 2016 (Supp. 15-4).

## EMERGENCY RULEMAKING

### R21-8-112. Fire Safety and Evacuation Plan Requirements

The provider shall ensure:

1. The premises is free of obvious fire hazards, such as defective heating equipment, or improperly stored flammable materials. Household heating equipment must be equipped with appropriate safeguards, maintained as recommended by the manufacturer.
2. Flammables and combustibles are stored more than three feet from water heaters, furnaces, portable heaters, fireplaces, and wood-burning stoves.
3. If the premises has a working fireplace or wood-burning stove, it is protected by a fire screen sufficient to shield the room from open flames and flying embers.
4. A functioning fire extinguisher with a rating of "2A 10BC" or greater is available near the kitchen area. If the home has multiple levels at least one functioning fire extinguisher with a rating of "2A 10BC" or greater is available on each level.
5. At least one UL approved and working smoke detector is installed:
  - a. In the main living or program area of the setting;
  - b. In each bedroom, if overnight care is provided; and
  - c. On each level of a multiple-level setting.
6. A written emergency evacuation plan is developed and maintained in the home, to provide guidance on the safe and rapid evacuation of the home. An emergency evacuation plan shall:
  - a. Be reviewed with the child within 72 hours of placement in the home and posted in a prominent place in the home;
  - b. Identify multiple exits from the home;
  - c. Identify two routes of evacuation from each bedroom on every floor used by individuals residing in or receiving care in the home. At least one of the exit routes for these bedrooms shall lead directly to the outside of the home. If that exit leads into an area that serves as a pool enclosure:
    - i. An individual receiving care in the home shall not use that bedroom and;
    - ii. If the exit is a window, it shall be secured with a latching device located not less than 54 inches above the finished floor;
    - iii. If the exit is a door, it shall be locked at all times with a latch or lock located a minimum of 54 inches above the floor. If there is no quick release on the lock, it must comply with the provisions of R21-8-112(11), and the key shall be located a minimum of 54 inches above the floor.
    - iv. Bedroom doors that lead into an area that serves as a pool enclosure shall comply with R21-8-112(6)(c)(iii) and also be self-closing and self-latching. Such doors that are hinged shall also swing outward from the pool area.
  - d. Identify the location of fire extinguishers and fire evacuation equipment, including rope or chain ladders, and emergency lighting, as applicable;
  - e. Designate a safe central meeting place close to the home, known to the child, at a safe distance from potential danger;
  - f. Be maintained in the home to review with individuals residing in or receiving care in the home; and

- g. Include the placement of equipment, such as a ladder, that can be safely used by the individuals residing in each upstairs bedroom that have been identified with fire exits.
- 7. All windows identified as fire exits, must have enough space for an adult to move through.
- 8. Each bedroom used by a foster or child in a residential group care facility receiving care or services has two exits the outside.
  - a. One exit shall be a path through the premises and leading to a door that opens to the outside. A garage door that opens either manually by lifting or with an automatic opener shall not be accepted as an exit.
  - b. Another exit shall be a window or door within the bedroom that opens directly to the outside.
- 9. Premises authorized to provide care or services to five or more children shall train staff and children in evacuation procedures and conduct emergency drills at least every three months as prescribed in this subsection.
  - a. Practice drills shall include actual evacuation of children to safe areas, outside, and beyond the home.
  - b. Drills shall be held at random times and under varying conditions to simulate the possible conditions in case of fire or other disaster.
  - c. All persons in the home shall participate in the drill.
  - d. Records shall be maintained for each emergency drill and shall include:
    - i. Date and time of drill;
    - ii. Total evacuation time;
    - iii. Exits used;
    - iv. Problems noted; and
    - v. Measures taken to ensure that a foster child or a child in a residential group home facility understand the purpose of a drill and his or her responsibilities during a drill.
- 10. The exit routes for the home are clear of obstruction that could prevent safe and rapid evacuation.
- 11. The locks on exterior doors and windows, including the front door, screen doors, and bars on windows, are equipped with a quick release mechanism. A quick release mechanism is a lock that can be opened from inside the setting without special knowledge (such as a combination) or equipment (such as a key). The Department may grant an exception to this requirement for a double-key deadbolt on a door if:
  - a. There is breakable glass within 40 inches of the interior locking mechanism;
  - b. There is another exit with a quick release mechanism on the same level of the premises; and
  - c. The key for the deadbolt is permanently maintained in a location that is:
    - i. Within six feet of the locking mechanism;
    - ii. Accessible to all household members;
    - iii. Reviewed with persons residing in or receiving care in the home; and
    - iv. Identified on the emergency evacuation plan, specified in subsection (6).
- 12. The address for the home is posted and visible from the street, or the local emergency response team, such as the local fire department, is notified of the location of the home in writing, with a copy of this notification maintained in the home.
- 13. Providers must maintain a comprehensive list of emergency telephone numbers, including poison control, and post those numbers in a prominent place in the home.

#### **Historical Note**

Amended by emergency rulemaking at 23 A.A.R. 1040, effective April 14, 2017, for 180 days (Supp. 17-2).

## **R21-8-112. Fire Safety and Evacuation Plan Requirements**

The provider shall ensure:

1. The premises is free of obvious fire hazards, such as defective heating equipment, or improperly stored flammable materials. Household heating equipment must be equipped with appropriate safeguards, maintained as recommended by the manufacturer.
2. Flammables and combustibles are stored more than three feet from water heaters, furnaces, portable heaters, fireplaces, and wood-burning stoves.
3. If the premises has a working fireplace or wood-burning stove, it is protected by a fire screen sufficient to shield the room from open flames and flying embers.
4. A functioning fire extinguisher with a rating of "2A 10BC" or greater is available near the kitchen area. If the home has multiple levels at least one functioning fire extinguisher with a rating of "2A 10BC" or greater is available on each level.
5. At least one UL approved and working smoke detector is installed:
  - a. In the main living or program area of the setting;
  - b. In each bedroom, if overnight care is provided; and
  - c. On each level of a multiple-level setting.
6. A written emergency evacuation plan is developed and maintained in the home, to provide guidance on the safe and rapid evacuation of the home. An emergency evacuation plan shall:
  - a. Be reviewed with the child within 72 hours of placement in the home and posted in a prominent place in the home;
  - b. Identify multiple exits from the home;
  - c. Identify two routes of evacuation from each bedroom on every floor used by individuals residing in or receiving care in the home. At least one of the exit routes for these bedrooms leads directly to the outside of the home, but shall not lead into an area that serves as a pool enclosure;
  - d. Identify the location of fire extinguishers and fire evacuation equipment, including rope or chain ladders, and emergency lighting, as applicable;
  - e. Designate a safe central meeting place close to the home, known to the child, at a safe distance from potential danger;
  - f. Be maintained in the home to review with individuals residing in or receiving care in the home; and
  - g. Include the placement of equipment, such as a ladder, that can be safely used by the individuals residing in each upstairs bedroom that have been identified with fire exits.
7. All windows identified as fire exits, must have enough space for an adult to move through.
8. Each bedroom used by a foster or child in a residential group care facility receiving care or services has two exits to the outside.
  - a. One exit shall be a path through the premises and leading to a door that opens to the outside. A garage door that opens either manually by lifting or with an automatic opener shall not be accepted as an exit.
  - b. Another exit shall be a window or door within the bedroom that opens directly to the outside.
9. Premises authorized to provide care or services to five or more children shall train staff and children in evacuation procedures and conduct emergency drills at least every three months as prescribed in this subsection.
  - a. Practice drills shall include actual evacuation of children to safe areas, outside, and beyond the home.
  - b. Drills shall be held at random times and under varying conditions to simulate the possible conditions in case of fire or other disaster.

- c. All persons in the home shall participate in the drill.
  - d. Records shall be maintained for each emergency drill and shall include:
    - i. Date and time of drill;
    - ii. Total evacuation time;
    - iii. Exits used;
    - iv. Problems noted; and
    - v. Measures taken to ensure that a foster child or a child in a residential group home facility understand the purpose of a drill and his or her responsibilities during a drill.
10. The exit routes for the home are clear of obstruction that could prevent safe and rapid evacuation.
11. The locks on exterior doors and windows, including the front door, screen doors, and bars on windows, are equipped with a quick release mechanism. A quick release mechanism is a lock that can be opened from inside the setting without special knowledge (such as a combination) or equipment (such as a key). The Department may grant an exception to this requirement for a double-key deadbolt on a door if:
- a. There is breakable glass within 40 inches of the interior locking mechanism;
  - b. There is another exit with a quick release mechanism on the same level of the premises; and
  - c. The key for the deadbolt is permanently maintained in a location that is:
    - i. Within six feet of the locking mechanism;
    - ii. Accessible to all household members;
    - iii. Reviewed with persons residing in or receiving care in the home; and
    - iv. Identified on the emergency evacuation plan, specified in subsection (6).
12. The address for the home is posted and visible from the street, or the local emergency response team, such as the local fire department, is notified of the location of the home in writing, with a copy of this notification maintained in the home.
13. Providers must maintain a comprehensive list of emergency telephone numbers, including poison control, and post those numbers in a prominent place in the home.

#### **Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3517, effective January 24, 2016 (Supp. 15-4).

### **EMERGENCY RULEMAKING**

#### **R21-8-113. Pool Safety**

- A. The provisions of this Section apply to each Child Welfare Agency residential group care facility and licensee.
- B. For a home that has a pool, and provides care to a child six years of age or less, or an individual with a Developmental Disability, the provider shall ensure the following:
  - 1. That the pool complies with A.R.S. § 36-1681 and all local municipal codes to the extent not inconsistent with this Section.
  - 2. A fence or barrier meeting the following requirements is maintained between the pool and the home, or any building used to provide care and supervision.
    - a. The exterior side of the fence or barrier is at least five feet high;
    - b. If the barrier is a chain link fence or lattice, each opening in the mesh measures less than 1 3/4 inches horizontally. Chicken wire and other light gauge wire are prohibited as a primary fencing material for the pool;
    - c. If the barrier is a fence constructed of vertical bars or wooden slats, the openings between bars or slats measure less than four inches;

- d. The exterior side of the barrier is free of hand holds or foot holds or other means that could be used to climb over it and if it has a horizontal component spaced at least 45 inches, measured vertically;
  - e. The gate to the enclosure is locked, except when in use and there is an adult within the enclosure to supervise the pool and spa area;
  - f. The connection between the panels of the fence cannot be separated without a key or a tool;
  - g. The fence is secured to the ground or has sufficient tension to prevent the fence from being lifted more than four inches from the ground;
  - h. If the home or building to provide care or supervision constitutes part of the enclosure:
    - i. The enclosure does not interfere with safe egress from the home;
    - ii. A door from the home does not open within the pool enclosure, unless it is a bedroom door in a bedroom not occupied by an individual receiving care and such a door cannot be opened by a foster child or child in a residential group care facility because it is either locked as required in R21-8-112(6)(c)(iii) or inoperable. Any key shall not be accessible to a foster child or child in a residential group care facility;
    - iii. A window located in a room that is designated as a bedroom for a foster child or child in a residential group care facility shall not open into the pool enclosure or shall be permanently locked and not used for egress; and
    - iv. Other windows that open into the pool enclosure are secured as required in R21-8-122(c)(ii).
  - v. Animal or doggie doors shall not open directly into the pool enclosure.
3. A pool shall have its methods of access through the barrier equipped with a safety device, such as a bolt lock:
- a. Gates should be self-closing and self-latching, maintained in good repair, and open out or away from the pool.
  - b. The gate latch is at least 54" above the ground and is equipped with a key or combination lock.
4. If the swimming pool cannot be emptied after each use, the pool must have a working pump and filtering system.
5. Hot tubs and spas must have safety covers that are locked when not in use.
6. Hot tubs and spas that are drained must be disconnected from the power and water source and have safety covers that are always locked.
- C. The Department shall not approve a locked cover in lieu of the fence required under subsection (B).
- D. After a fence has been inspected and approved by OLR as meeting the standards required under subsection (B), the provider shall ensure the fence is not dismantled or moved for as long as the provider is licensed by OLR.
- E. Regardless of the age of the foster child or child in a residential group care facility living in the home, if the pool is deeper than six feet, the care provider shall ensure the following rescue equipment is available in the pool area:
- 1. A shepherd's crook attached to a pole; and
  - 2. A ring buoy attached to a rope that measures at least half of the distance across the pool plus 10 feet.
- F. A drained pool is a safety hazard. The provider shall comply with this Section or R21-8-105, if applicable.

#### **Historical Note**

Amended by emergency rulemaking at 23 A.A.R. 1040, effective April 14, 2017, for 180 days (Supp. 17-2).

#### **R21-8-113. Pool Safety**

- A. The provisions of this Section apply to each Child Welfare Agency residential group care facility and licensee.

- B. For a home that has a pool, and provides care to a child six years of age or less, or an individual with a Developmental Disability, the provider shall ensure the following:
1. That the pool complies with A.R.S. § 36-1681 and all local municipal codes to the extent not inconsistent with this Section.
  2. A fence or barrier meeting the following requirements is maintained between the pool and the home, or any building used to provide care and supervision:
    - a. The exterior side of the fence or barrier is at least five feet high;
    - b. If the barrier is a chain link fence or lattice, each opening in the mesh measures less than 1 3/4 inches horizontally. Chicken wire and other light gauge wire are prohibited as a primary fencing material for the pool;
    - c. If the barrier is a fence constructed of vertical bars or wooden slats, the openings between bars or slats measure less than four inches;
    - d. The exterior side of the barrier is free of hand holds or foot holds or other means that could be used to climb over it and if it has a horizontal component spaced at least 45 inches, measured vertically;
    - e. The gate to the enclosure is locked, except when in use and there is an adult within the enclosure to supervise the pool and spa area;
    - f. The connection between the panels of the fence cannot be separated without a key or a tool;
    - g. The fence is secured to the ground or has sufficient tension to prevent the fence from being lifted more than four inches from the ground;
    - h. If the home or building to provide care or supervision constitutes part of the enclosure:
      - i. The enclosure does not interfere with safe egress from the home;
      - ii. A door from the home does not open within the pool enclosure. Such a door cannot be opened by a foster child or child in a residential group care facility because it is either permanently locked or barricaded. Any key shall not be accessible to a foster child or child in a residential group care facility;
      - iii. A window located in a room that is designated as a bedroom for a foster child or child in a residential group care facility shall not open into the pool enclosure; and
      - iv. Other windows that open into the pool enclosure are permanently secured to open no more than four inches;
  3. A pool shall have its methods of access through the barrier equipped with a safety device, such as a bolt lock:
    - a. Gates should be self-closing and self-latching, maintained in good repair, and open out or away from the pool.
    - b. The gate latch is at least 54" above the ground and is equipped with a key or combination lock.
  4. If the swimming pool cannot be emptied after each use, the pool must have a working pump and filtering system.
  5. Hot tubs and spas must have safety covers that are locked when not in use.
  6. Hot tubs and spas that are drained must be disconnected from the power and water source and have safety covers that are always locked.
- C. The Department shall not approve a locked cover in lieu of the fence required under subsection (B).
- D. After a fence has been inspected and approved by OLR as meeting the standards required under subsection (B), the provider shall ensure the fence is not dismantled or moved for as long as the provider is licensed by OLR.

- E. Regardless of the age of the foster child or child in a residential group care facility living in the home, if the pool is deeper than six feet, the care provider shall ensure the following rescue equipment is available in the pool area:
  - 1. A shepherd's crook attached to a pole; and
  - 2. A ring buoy attached to a rope that measures at least half of the distance across the pool plus 10 feet.
- F. A drained pool is a safety hazard. The provider shall comply with this Section or R21-8-105, if applicable.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3517, effective January 24, 2016 (Supp. 15-4).

## Arizona Revised Statutes

### 8-453. Powers and duties

A. The director shall:

1. Carry out the purposes of the department prescribed in section 8-451.
2. Provide transparency by being open and accountable to the public for the actions of the department.
3. Develop a data system that enables persons and entities that are charged with a responsibility relating to child safety to access all relevant information relating to an abused, neglected or abandoned child as provided by law.
4. Subject to title 41, chapter 4, article 4 and, as applicable, articles 5 and 6, employ deputy directors and other key personnel based on qualifications that are prescribed by the director.
5. Adopt rules to implement the purposes of the department and the duties and powers of the director.
6. Petition, as necessary to implement the case plan established under section 8-824 or 8-845, for the appointment of a guardian or a temporary guardian under title 14, chapter 5 for children who are in custody of the department pursuant to court order. Persons applying to be guardians or temporary guardians under this section shall be fingerprinted. A foster parent or certified adoptive parent already fingerprinted is not required to be fingerprinted again, if the foster parent or certified adoptive parent is the person applying to be the guardian or temporary guardian.
7. Cooperate with other agencies of this state, county and municipal agencies, faith-based organizations and community social services agencies, if available, to achieve the purposes of this chapter.
8. Exchange information, including case specific information, and cooperate with the department of economic security for the administration of the department of economic security's programs.
9. Administer child welfare activities, including:
  - (a) Cross-jurisdictional placements pursuant to section 8-548.
  - (b) Providing the cost of care of:
    - (i) Children who are in temporary custody, are the subject of a dependency petition or are adjudicated by the court as dependent and who are in out-of-home placement, except state institutions.
    - (ii) Children who are voluntarily placed in out-of-home placement pursuant to section 8-806.
    - (iii) Children who are the subject of a dependency petition or are adjudicated dependent and who are in the custody of the department and ordered by the court pursuant to section 8-845 to reside in an independent living program pursuant to section 8-521.
  - (c) Providing services for children placed in adoption.
10. Formulate policies, plans and programs to effectuate the missions and purposes of the department.

11. Make contracts and incur obligations within the general scope of the department's activities and operations subject to the availability of funds.
12. Coordinate with, contract with or assist other departments, agencies and institutions of this state and local and federal governments in the furtherance of the department's purposes, objectives and programs.
13. Accept and disburse grants, matching funds and direct payments from public or private agencies for the conduct of programs that are consistent with the overall purposes and objectives of the department.
14. Collect monies owed to the department.
15. Act as an agent of the federal government in furtherance of any functions of the department.
16. Carry on research and compile statistics relating to the child welfare program throughout this state, including all phases of dependency.
17. Cooperate with the superior court in all matters related to this title and title 13.
18. Provide the cost of care and transitional independent living services for a person under twenty-one years of age pursuant to section 8-521.01.
19. Ensure that all criminal conduct allegations and reports of imminent risk of harm are investigated.
20. Ensure the department's compliance with the Indian child welfare act of 1978 (P.L. 95-608; 92 Stat. 3069; 25 United States Code sections 1901 through 1963).
21. Strengthen relationships with tribal child protection agencies or programs.

B. The director may:

1. Take administrative action to improve the efficiency of the department.
2. Contract with a private entity to provide any functions or services pursuant to this title.
3. Apply for, accept, receive and expend public and private gifts or grants of money or property on the terms and conditions as may be imposed by the donor and for any purpose provided for by this title.
4. Reimburse department volunteers, designated by the director, for expenses in transporting clients of the department on official business. Volunteers reimbursed for expenses are not eligible for workers' compensation under title 23, chapter 6.

C. The department shall administer individual and family services, including sections on services to children and youth and other related functions in furtherance of social service programs under the social security act, as amended, title IV, parts B and E, grants to states for aid and services to needy families with children and for child-welfare services, title XX, grants to states for services and other related federal acts and titles.

D. If the department has responsibility for the care, custody or control of a child or is paying the cost of care for a child, the department may serve as representative payee to receive and administer social

security and veterans administration benefits and other benefits payable to the child. Notwithstanding any law to the contrary, the department:

1. Shall deposit, pursuant to sections 35-146 and 35-147, any monies it receives to be retained separate and apart from the state general fund on the books of the department of administration.
2. May use these monies to defray the cost of care and services expended by the department for the benefit, welfare and best interests of the child and invest any of the monies that the director determines are not necessary for immediate use.
3. Shall maintain separate records to account for the receipt, investment and disposition of monies received for each child.
4. On termination of the department's responsibility for the child, shall release any monies remaining to the child's credit pursuant to the requirements of the funding source or, in the absence of any requirements, shall release the remaining monies to:

(a) The child, if the child is at least eighteen years of age or is emancipated.

(b) The person who is responsible for the child if the child is a minor and not emancipated.

E. Subsection D of this section does not apply to benefits that are payable to or for the benefit of a child receiving services under title 36.

F. Notwithstanding any other law, a state or local governmental agency or a private entity is not subject to civil liability for the disclosure of information that is made in good faith to the department pursuant to this section.

G. Notwithstanding section 41-192, the department may employ legal counsel to provide legal advice to the director. The attorney general shall represent the department in any administrative or judicial proceeding pursuant to title 41, chapter 1, article 5.

H. The total amount of state monies that may be spent in any fiscal year by the department for foster care as provided in subsection A, paragraph 9, subdivision (b) of this section may not exceed the amount appropriated or authorized by section 35-173 for that purpose. This section does not impose a duty on an officer, agent or employee of this state to discharge a responsibility or to create any right in a person or group if the discharge or right would require an expenditure of state monies in excess of the expenditure authorized by legislative appropriation for that specific purpose.

#### **8-504. Sanitation, fire and hazard inspection**

A. The division shall visit each child welfare agency and foster home and inspect the premises used for care of children for sanitation, fire and other actual and potential hazards. The division shall take action it deems necessary to carry out the duties imposed by this section including the denial of the application for licensure and the suspension or revocation of a license.

B. The division may delegate any additional inspection, examination or study provided for by this article, including inspection of premises for fire hazards, to an agency, department, political subdivision or governmental entity deemed appropriate by the division.

#### **8-505. Issuance of licenses; application; investigation; renewal**

- A. The issuance of initial and renewal licenses for child welfare agencies shall be made by the division.
- B. A child welfare agency shall not receive any child for care or maintenance or for placement in a foster home unless the agency is licensed by the division. Application for a license shall be made on a form prescribed by the division.
- C. The division shall, before issuing a license to an agency, investigate the activities and standards of care of the agency, its financial stability, the character and training of the applicant, the need for such agency, and the adequacy of its intended services to insure the welfare of children. A provisional license may be issued to any agency whose services are needed but which is temporarily unable to conform to the established standards of care. If the applicant meets the standards as established by the division a regular license shall be issued for a period of one year.
- D. Each license shall state in general terms the kind of child welfare service the licensee is authorized to undertake, the number of children that can be received if the licensee is a private agency, their ages and sex, and, if authorized to place and supervise children in foster homes, the geographical area the agency is equipped to serve.
- E. Every license shall expire one year from the date of issuance, and may be renewed annually on application of the agency, except that provisional licenses may be issued for not more than six months from the date of issuance and may not be renewed.

#### **8-509. Licensing of foster homes; renewal of license; provisional license; exemption from licensure; immunization requirements**

- A. The department shall license and certify foster homes. Licenses are valid for a period of two years.
- B. The department shall not issue a license without satisfactory proof that the foster parent or parents have completed six actual hours of approved initial foster parent training as set forth in section 8-503 and that each foster parent and each other adult member of the household has a valid fingerprint clearance card issued pursuant to section 41-1758.07. The foster parent and each other adult member of the household must certify on forms that are provided by the department and that are notarized whether the foster parent or other adult member of the household is awaiting trial on or has ever been convicted of any of the criminal offenses listed in section 41-1758.07, subsections B and C in this state or similar offenses in another state or jurisdiction.
- C. The department shall not renew a license without satisfactory proof that the foster parent or parents have completed twelve actual hours of approved ongoing foster parent training during the two-year period of licensure as set forth in section 8-503.
- D. If the department determines that completing the training required in subsections B and C of this section would be a hardship to the foster parent or parents, the department may issue a provisional license for a period not to exceed six months. A provisional license may not be renewed.

E. Child welfare agencies that submit foster homes for licensing shall conduct an investigation of the foster home pursuant to licensing rules of the department. The department shall conduct investigations of all other foster homes. If the foster home meets all requirements set by the department, the agency shall submit an application stating the foster home's qualifications to the department. The agency may also recommend the types of licensing and certification to be granted to the foster home.

F. The department shall accept an adoptive home certification study as a licensing home study if the study has been updated within the past three months to include the information necessary to determine whether the home meets foster care licensing standards.

G. This section does not apply if the child is placed in a home by a means other than by court order and if the home does not receive compensation from this state or any political subdivision of this state.

H. The department may not prohibit a person operating a licensed foster home from applying for or receiving compensation as a foster home parent due to employment with this state.

I. The department shall not require a foster parent to immunize the foster parent's natural or adoptive children as a condition of foster home licensure.

J. A licensee may modify the renewal date of a license issued pursuant to this section by submitting an application for modification of renewal date with the department on a form prescribed by the department. The licensee must specify the new month of renewal on the application. The modified renewal date must be before, but not more than six months earlier than, the existing renewal date.

K. The foster care review board shall review the cases of children placed by the department in foster homes licensed pursuant to this section as required by section 8-515.03.

### **36-1681. Pool enclosures; requirements; exceptions; enforcement**

A. A swimming pool, or other contained body of water that contains water eighteen inches or more in depth at any point and that is wider than eight feet at any point and is intended for swimming, shall be protected by an enclosure surrounding the pool area, as provided in this section.

B. A swimming pool or other contained body of water required to be enclosed by subsection A whether a belowground or aboveground pool shall meet the following requirements:

1. Be entirely enclosed by at least a five foot wall, fence or other barrier as measured on the exterior side of the wall, fence or barrier.

2. Have no openings in the wall, fence or barrier through which a spherical object four inches in diameter can pass. The horizontal components of any wall, fence or barrier shall be spaced not less than forty-five inches apart measured vertically or shall be placed on the pool side of a wall, fence or barrier which shall not have any opening greater than one and three-quarter inches measured horizontally. Wire mesh or chain link fences shall have a maximum mesh size of one and three-quarter inches measured horizontally.

3. Gates for the enclosure shall:

(a) Be self-closing and self-latching with the latch located at least fifty-four inches above the underlying ground or on the pool side of the gate with a release mechanism at least five inches below the top of the

gate and no opening greater than one-half inch within twenty-four inches of the release mechanism or be secured by a padlock or similar device which requires a key, electric opener or integral combination which can have the latch at any height.

(b) Open outward from the pool.

4. The wall, fence or barrier shall not contain openings, handholds or footholds accessible from the exterior side of the enclosure that can be used to climb the wall, fence or barrier.

5. The wall, fence or barrier shall be at least twenty inches from the water's edge.

C. If a residence or living area constitutes part of the enclosure required by subsection B for a swimming pool or other contained body of water in lieu of the requirements of subsection B, there shall be one of the following:

1. Between the swimming pool or other contained body of water and the residence or living area, a minimum four foot wall, fence or barrier to the pool area which meets all of the requirements of subsection B, paragraphs 2 through 5.

2. The pool shall be protected by a motorized safety pool cover which requires the operation of a key switch which meets the American society of testing and materials emergency standards 13-89 and which does not require manual operation other than the use of the key switch.

3. All ground level doors or other doors with direct access to the swimming pool or other contained body of water shall be equipped with a self-latching device which meets the requirements of subsection B, paragraph 3, subdivision (a). Emergency escape or rescue windows from sleeping rooms with access to the swimming pool or other contained body of water shall be equipped with a latching device not less than fifty-four inches above the floor. All other openable dwelling unit or guest room windows with similar access shall be equipped with a screwed in place wire mesh screen, or a keyed lock that prevents opening the window more than four inches, or a latching device located not less than fifty-four inches above the floor.

4. The swimming pool shall be an aboveground swimming pool which has non-climbable exterior sides which are a minimum height of four feet. Any access ladder or steps shall be removable without tools and secured in an inaccessible position with a latching device not less than fifty-four inches above the ground when the pool is not in use.

D. This section does not apply to:

1. A system of sumps, irrigation canals, irrigation, flood control or drainage works constructed or operated for the purpose of storing, delivering, distributing or conveying water.

2. Stock ponds, storage tanks, livestock operations, livestock watering troughs or other structures used in normal agricultural practices.

3. Public or semi-public swimming pools.

4. A swimming pool or contained body of water or barrier constructed prior to the effective date of this article.

5. Political subdivisions which enact a swimming pool barrier ordinance before the effective date of this article.

6. Political subdivisions which adopt ordinances after the effective date of this article provided that the ordinance is equal to or more stringent than the provisions of this article.

7. A residence in which all residents are at least six years of age.

E. A person on entering into an agreement to build a swimming pool or contained body of water or sell, rent or lease a dwelling with a swimming pool or contained body of water shall give the buyer, lessee or renter a notice explaining safety education and responsibilities of pool ownership as approved by the department of health services.

F. A person who violates this section is guilty of a petty offense except that no fine may be imposed if a sufficient showing is made that the person has subsequently equipped the swimming pool or contained body of water with a barrier pursuant to the standards adopted in subsection B within forty-five days of citation and has attended an approved swimming pool safety course.

**DEPARTMENT OF INSURANCE (R-17-1203)**  
Title 20, Chapter 6, Article 6, Types of Insurance Contracts

**Amend:** R20-6-607



**GOVERNOR'S REGULATORY REVIEW COUNCIL  
M E M O R A N D U M**

**MEETING DATE:** December 5, 2017

**AGENDA ITEM: D-3**

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**TO:** Members of the Governor's Regulatory Review Council (Council)  
**FROM:** Council Staff  
**DATE:** November 21, 2017  
**SUBJECT: DEPARTMENT OF INSURANCE (R-17-1203)**  
Title 20, Chapter 6, Article 6, Types of Insurance Contracts  
Amend: R20-6-607

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**SUMMARY OF THE RULEMAKING**

The purpose of the Arizona Department of Insurance (Department) is to administer the state's insurance laws, protect the citizens of the state who purchase insurance, provide a better response to the needs of persons who purchase insurance, stimulate the insurance market by encouraging competition, protect the public from unregulated insurers and represent insurance consumers' interests. See Laws 2010, Ch. 13 § 3.

This rulemaking seeks to amend one rule in A.A.C. Title 20, Chapter 6, Article 6, related to different types of insurance contracts. The Department is engaging in this rulemaking to update references and the subsection governing the reasonableness of benefits in relation to premium charged with respect to individual disability insurance policy forms.

The rule has not been updated since it was first adopted in 1981. The Department received an exception from the moratorium on May 19, 2017.

**Proposed Action**

In addition to clarifying changes throughout the rule, the Department proposes to amend subsection (G) to raise the dollar thresholds for low-dollar premium policies, thereby increasing the number of policies that fall into a lower benefit to premium ratio. The expansion of the number of policies that meet the low-dollar premium category will better reflect pricing in the current insurance market.

**1. Are the rules legal, consistent with legislative intent, and within the agency’s statutory authority?**

Yes. The Department cites to A.R.S. § 20-143(A) as general authority for the rule, under which the Director “may make reasonable rules necessary for effectuating any provision of this title [Insurance].” The Department also cites to A.R.S. § 20-1342.02, under which the Director “may disapprove any disability policy form if the benefits provided in the policy form are unreasonable in relation to the premium charged.”

**2. Do the rules establish a new fee or contain a fee increase?**

No. The rule does not establish a new fee or contain a fee increase.

**3. Summary of the agency’s economic impact analysis:**

The Department is proposing to adopt rules that will change the “Reasonableness of Benefits in Relation to Premium Charged”. When this was first implemented in 1981, the range of average annual premium was \$100-\$200. At that time, the Department opted to use a fixed dollar amount instead of utilizing the Consumer Price Index to adjust the range accordingly. The proposed range is \$200-\$700 and is anticipated to accommodate market changes through 2024.

**4. Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

Yes. The Department believes that this is the least costly and least intrusive method.

**5. What are the economic impacts on stakeholders?**

The Department anticipates the only stakeholders this rulemaking will impact are insurers issuing individual disability insurance policy forms.

**6. Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

Yes. The Department indicates that no written comments have been received on this rulemaking.

**7. Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

No. The Department indicates that no changes were made between the proposed rule and final rule.

**8. Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

No. The Department indicates that the rule does not correspond to any federal laws.

**9. Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

No. The Department indicates that the rule does not require a permit or license.

**10. Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

Yes. The Department indicates that it relied on an analysis by an actuarial consulting firm, Omega Squared, Inc., to determine the correct average premium value in R20-6-607(G).<sup>1</sup> The Department's own actuary also conducted the same analysis. The analysis used a Historical Consumer Price Index for all Urban Consumers, U.S. city average, which is determined by the U.S. Department of Labor, Bureau of Labor Statistics.

**11. Conclusion**

The Department requests the usual 60-day delayed effective date for the rule. Council staff recommends approval of the rule.

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<sup>1</sup> The letter submitted by Omega Squared Inc. to the Department is attached to the Notice of Final Rulemaking.



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Arizona Department of Insurance**

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**Douglas A. Ducey, Governor**  
**Leslie R. Hess, Interim Director**

November 2, 2017

Nicole Ong Colyer, Council Chair  
Governor's Regulatory Review Council  
100 North 15<sup>th</sup> Avenue, Suite 402  
Phoenix, Arizona 85007

RE: Arizona Department of Insurance  
Notice of Final Rulemaking; R20-6-607

Dear Ms. Colyer:

Please accept this Notice of Final Rulemaking from the Arizona Department of Insurance ("Department") for consideration and approval by the Council.

In compliance with R1-6-201(A)(1) we respectfully submit:

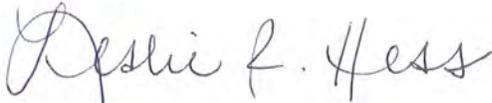
- a. The close of record date for this rulemaking is October 16, 2017. The Department published the Notice of Close of Record on its website.
- b. This rulemaking is not related to a five-year review report. Instead, it is a rulemaking to update the subsection governing reasonableness of benefits in relation to premium charged with respect to individual disability insurance policy forms.
- c. The rule does not establish a new fee.
- d. The rule does not contain a fee increase.
- e. An immediate effective date is not being requested for the rule.
- f. We certify that the Preamble discloses a reference to a study relevant to the rule that the Department relied on in our evaluation of the rule.
- g. No additional employees are necessary to implement and enforce the rule.
- h. Please find the following documents enclosed (no one submitted written comments or testimony on the rulemaking; and no one submitted an analysis regarding the rule's impact on the competitiveness of businesses in this state as compared to businesses in other states):

Notice of Final Rulemaking  
November 2, 2017

- i. Notice of Final Rulemaking; and
- ii. An economic, small business, and consumer impact statement pursuant to A.R.S. § 41-1055.

If you have any questions or need additional information regarding this Notice of Final Rulemaking, please feel free to contact Mary Kosinski, Regulatory Legal Affairs Officer, at (602) 364-3476.

Sincerely,

A handwritten signature in cursive script that reads "Leslie R. Hess".

Leslie R. Hess  
Interim Director

Enclosures

**NOTICE OF FINAL RULEMAKING**  
**TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS AND INSURANCE**  
**CHAPTER 6. DEPARTMENT OF INSURANCE**  
**ARTICLE 6. TYPES OF INSURANCE CONTRACTS**

**PREAMBLE**

**1. Sections Affected**

**Rulemaking Action**

R20-6-607

Amend

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

Authorizing statute: A.R.S. § 20-143

Implementing statute: A.R.S. § 20-1342.02

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

As specified under A.R.S. § 41-1032(A), the rule will be effective 60 days after the rule package is filed with the Office of the Secretary of State.

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

Not applicable.

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

Not applicable.

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

Notice of Rulemaking Docket Opening: 23 A.A.R. 2209, August 18, 2017

Notice of Proposed Rulemaking: 23 A.A.R. 2485, September 15, 2017

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

Name: Mary E. Kosinski

Address: Department of Insurance  
2910 N. 44<sup>th</sup> Street, Suite 210  
Phoenix, Arizona 85018

Telephone: (602) 364-3471

E-mail: mkosinski@azinsurance.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 of Insurance ("Department") seeks to propose amendments to the current regulation to correct some reference errors and to update the subsection governing the reasonableness of benefits in relation to premium charged with respect to individual disability insurance policy forms. The Department seeks to raise the dollar thresholds for low-dollar premium policies under A.A.C. R20-6-607, Subsection G thereby increasing the number of policies that fall into a lower benefit to premium ratio. The Department established the prior thresholds in 1981. The effect of this rule change is to expand the number of policies that meet the low-dollar premium category to reflect pricing in the current insurance market.

**7. A reference to any study relevant to the rule that the agency reviewed and either to rely on or did 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:**

An actuarial consulting firm, Omega Squared, Inc., submitted an analysis to an insurer, AFLAC, which was forwarded to the Department and upon which the Department relied to determine the correct average premium value in subsection (G) of the rule. The Department also asked its own actuary to perform the same analysis.

The submitted analysis is available for review by contacting the person listed in paragraph 5.

The analysis used a Historical Consumer Price Index for all Urban Consumers, U.S. city average; all items as determined by the U.S. Department of Labor, Bureau of Labor Statistics.

**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:**

The rule will not diminish a previous grant of authority of a political subdivision of this state.

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

**a. An identification of the proposed rulemaking, including (i) the conduct and its frequency of occurrence that the rule is designed to change; (ii) the harm resulting from the conduct the rule is designed to change and the**

**likelihood it will continue to occur if the rule is not changed; and (iii) the estimated change in frequency of the targeted conduct expected from the rule change:**

Not applicable.

**b. A brief summary of the information included in the economic, small business and consumer impact statement:**

Arizona Revised Statutes (“ARS”) § 20-1342.02 allows the Director to disapprove any disability insurance policy if the benefits provided in the policy form are unreasonable in relation to the premium charged for the policy. In 1981, the Department promulgated R20-6-607, *Reasonableness of Benefits in Relation to Premium Charged*, to assist the Department in implementing ARS § 20-1342.02.

The Department used a National Association of Insurance Commissioners (NAIC) Model Regulation, *Guidelines for Filing of Rates for Individual Health Insurance Forms* (“Model Regulation”), as a template for R20-6-607. However, the Department opted to use a dollar amount to establish the average premium amounts instead of the formula in the Model Regulation which utilized the Consumer Price Index.

Since that time, market conditions have seen an increase in the average premium amounts. The changes being proposed reflect the increase in average premium amounts and are calculated to accommodate increases until 2024 before another rulemaking may be needed.

The range of average annual premiums is changed from a range of \$100 to \$200 to a range of \$200 to \$700 to more accurately reflect current policy values.

The rulemaking also corrects some reference errors within the rule and rewrites one subsection to conform with rule writing standards.

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

Name: Mary E. Kosinski  
Address: Department of Insurance  
2910 N. 44<sup>th</sup> Street, Suite 210  
Phoenix, Arizona 85018  
Telephone: (602) 364-3471  
E-mail: mkosinski@azinsurance.gov

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

No changes.

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

The Department did not receive any public or stakeholder comments.

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

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

No permit is required.

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

No federal law is 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 person submitted an analysis that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states.

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

Not applicable.

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

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

**15. The full text of the rule follows:**

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

**CHAPTER 6. DEPARTMENT OF INSURANCE**

**ARTICLE 6. TYPES OF INSURANCE CONTRACTS**

**R20-6-607.** Reasonableness of Benefits in Relation to Premium Charged.

**R20-6-607. Reasonableness of Benefits in Relation to Premium Charged**

- A.** Applicability. This rule shall apply to individual disability insurance (as defined in A.R.S. § 20-253) policy forms and rates.
- B.** When rate filing is required. Every individual policy form, rider or endorsement form affecting benefits which is submitted for approval shall be accompanied by a rate filing unless such rider or endorsement form does not require a change in the rate. Any subsequent addition to or change in rates applicable to such policy, rider or endorsement form shall also be filed.
- C.** General contents of all rate filings. Each rate submission shall include an actuarial memorandum describing the basis on which rates were determined and shall indicate and describe the calculation of the ratio, hereinafter called “anticipated loss ratio,” of the present value of the expected benefits to the present value of the expected premiums over the entire period for which rates are computed to provide coverage. Each rate submission must also include a certification by a qualified actuary that to the best of the actuary’s knowledge and judgment, the rate filing is in compliance with applicable laws and regulations of this state and that the benefits are reasonable in relation to the premiums.
- D.** Previously approved forms. Filings of rate revisions for a previously approved policy, rider or endorsement form shall also include the following:

  - 1. A statement of the scope and reason for the revision, and an estimate of the expected average effect on premiums including the anticipated loss ratio for the form.

2. A statement as to whether the filing applies only to new business, only to in-force business, or both, and the reasons therefor.
3. A history of the experience under existing rates, including at least the data indicated in subsection ~~(D)~~. (E). The history may also include, if available and appropriate, the ratios of actual claims to the claims expected according to the assumptions underlying the existing rates. ~~Additional data might include: substitution of actual claim run-offs for claim reserves and liabilities; determination of loss ratios with the increase in policy reserves (other than unearned premium reserves) added to benefits rather than subtracted from premiums; accumulations of experience funds; substitution of net level policy reserves for preliminary term policy reserves; adjustment of premiums to an annual mode basis; or other adjustments or schedules suited to the form and to the records of the company.~~ All additional data must be reconciled, as appropriate, to the required data. Additional data might include:
  - a. Substitution of actual claim run-offs for claim reserves and liabilities,
  - b. Determination of loss ratios with the increase in policy reserves (other than unearned premium reserves) added to benefits rather than subtracted from premiums,
  - c. Substitution of net level policy reserves for preliminary term policy reserves,
  - d. Adjustment of premiums to an annual mode basis, or
  - e. Other adjustments or schedules suited to the form and to the records of the company.
4. The date and magnitude of each previous rate change, if any.

- E.** Experience records. Insurers shall maintain records of earned premiums and incurred benefits for each calendar year for each policy form, including data for rider and endorsement forms which are used with the policy form, on the same basis, including all reserves, as required for the Accident and Health Policy Experience Exhibit to the NAIC annual statement convention blank. Separate data may be maintained for each rider or endorsement form to the extent appropriate. Experience under forms which provide substantially similar coverage may be combined. The data shall be for all years of issue combined, for each calendar year of experience since the year the form was first issued, except the data for calendar years prior to the most recent five years may be combined.
- F.** Evaluation experience data. In determining the credibility and appropriateness of experience data, due consideration must be given to all relevant factors, such as:
1. Statistical credibility of premiums and benefits, e.g., low exposure, low loss frequency.
  2. Experienced and projected trends relative to the kind of coverage, e.g., inflation in medical expenses, economic cycles affecting disability income experience.
  3. The concentration of experience at early policy durations where select morbidity and preliminary term reserves are applicable and where loss ratios are expected to be substantially lower than at later policy durations.
  4. The mix of business by risk classification.
- G.** Anticipated loss ratio standard. With respect to a new form or a currently approved form, except currently approved non-cancelable policy forms, under which the

average annual premium (as defined below) is expected to be at least ~~\$200~~, \$700, benefits shall be deemed reasonable in relation to premiums provided the anticipated loss ratio is at least as great as shown in the following table.

Type of Coverage	Renewal Clause			
	OR	CR	GR	NC
Medical expense	60%	55%	55%	50%
Loss of income and other	60%	55%	50%	45%

For a policy form including riders and endorsements, under which the expected average annual premium per policy is ~~\$100~~ \$200 or more but less than ~~\$200~~, \$700, subtract 5 percentage points from the numbers in the table above, or if less than ~~\$100~~, \$200, subtract 10 percentage points.

The average annual premium per policy shall be computed by the insurer based on an anticipated distribution of business by all applicable criteria having a price difference, such as age, sex, amount, dependent status, rider frequency, etc., except assuming an annual mode for all policies (i.e., the fractional premium loading shall not affect the average annual premium or anticipated loss ratio calculation.)

The above anticipated loss ratio standards do not apply to a class of business which is regulated by specific statutes or regulations mandating loss ratios for such business, e.g., Medicare Supplement and Credit Life and Disability.

#### Definitions of Renewal Clause

OR – Optionally Renewable: renewal is at the option of the insurance company.

CR – Conditionally Renewable: renewal can be declined by the insurance company only for stated reasons other than deterioration of health.

GR – Guaranteed Renewable: renewal cannot be declined by the insurance company for any reason, but the insurance company can revise rates on a class basis.

NC – Non-Cancelable: renewal cannot be declined nor can rates be revised by the insurance company.

**H. Rate revisions.** With respect to filings of rate revisions for a previously approved form, benefits shall be deemed reasonable in relation to premiums provided both the following loss ratios meet the standards in subsection ~~(F)~~ (G) above.

1. The anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage;
2. The anticipated loss ratio derived by dividing (a) by (b) where:
  - a. Is the sum of the accumulated benefits, from the original effective date of the form or the effective date of this regulation, whichever is later, to the effective date of the revision, and the present value of future benefits;<sub>i</sub> and
  - b. Is the sum of the accumulated premiums from the original effective date of the form or the effective date of the regulation, whichever is later, to the effective date of the revision, and the present value of future premiums.

Such present values shall be taken over the entire period for which the

revised rates are computed to provide coverage, and such accumulated benefits and premiums to include an explicit estimate of the actual benefits and premiums from the last date as of which an accounting has been made to the effective date of the revision. Interest shall be used in the calculation of these accumulated benefits and premiums and present values only if it is a significant factor in the calculation of this loss ratio.

I. Anticipated loss ratios lower than those indicated in subsections ~~(H) and (I)~~ (H)(1) and (H)(2) will require justification based on the special circumstances that may be applicable.

1. Examples of coverages requiring special consideration are as follows:

- a. Accident only;
- b. Short term nonrenewable, e.g., airline trip, student accident;
- c. Specified peril, e.g., common carrier; and
- d. Other special risks.

2. Examples of other factors requiring special consideration are as follows:

- a. Marketing methods, giving due consideration to acquisition and administration costs and to premium mode;
- b. Extraordinary expenses;
- c. High risk of claim fluctuation because of the low loss frequency of the catastrophic, or experimental nature of the coverage;
- d. Product features such as long elimination periods, high deductibles and high maximum limits;
- e. The industrial or debit method of distribution; and

- f. Forms issued prior to the effective date of this rule.  
  
Companies are urged to review their experience periodically and to file rate revisions, as appropriate, in a timely manner to avoid the necessity of later filing of exceptionally large rate increases.
- 3. Notwithstanding the foregoing paragraphs to the contrary, hospital indemnity and cancer and other dread diseases policies shall develop the loss ratios pursuant to subsection (G).
- J.** Severability provision. If any provision of this rule or the application thereof to any person or circumstances is held invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.
- K.** Effective date. This rule shall become effective upon filing with the Secretary of State and shall apply to all individual disability policy form and rate filings submitted on and after said date.



## OMEGA SQUARED, INC.

Actuarial Consulting

William Weller  
President

Mr. Malcolm P. Smith  
Second Vice President  
AFLAC  
1932 Wynnton Rd  
Columbus, GA 31999

Dear Malcolm:

I have used the historical review of the CPI-U reported values for September of the period from 1982 through 2013 as the basis for the following calculation of an updated value for Arizona Regulation R20-6-607.G.

Their regulation was based on the NAIC version adopted in 1981 and, therefore, uses a value for low average premiums of \$200.00. It would appear that all agree to reflect the values based on the NAIC's most recent version, adopted in 1983, which uses a low average premium value of \$250.00 and adjusts that value for changes in the September CPI-U values for years later than 1982. It also appears that the Arizona Department of Insurance may wish to merely adjust the \$200.00 value in their regulation rather than adopting the many changes necessary to match the 1983 NAIC version.

The CPI-U values for September 2013 and September 1983 are 234.149 and 100.7 respectively. Their ratio (2.325213) is a compound of annual increases over the thirty year period. The average compounded value is 1.02852636 (this value raised to the thirtieth power equals 2.325213).

Assuming the Arizona does not want to change their regulation every year, it would be appropriate to assume that the first updated value should be for some period of time starting in 2016. For purposes of this calculation I have assumed a period of 2016-2023. The mid-point would be 2019 which is 6 years beyond 2013. Using the average compound CPI-U value from 1983 to 2013 for the full period 1983 to 2019 gives a factor of 2.752678 (this is 1.02852636 raised to the thirty-sixth power).

Finally, applying this factor to the 1983 NAIC value of \$250.00 produces an adjusted value for low average premiums of \$688. Assuming the value should be rounded to the nearest \$50 value, this would suggest that Arizona revise their regulation to use a low average premium value of \$700 effective as soon as possible. Future adjustments should be considered for 2024 and beyond.

Sincerely,

William C. Weller  
President

Table 24. Historical Consumer Price Index for All Urban Consumers (CPI-U): U. S. city average, all items-Continued

(1982-84=100, unless otherwise noted)

Year	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sep.	Oct.	Nov.	Dec.
1970	37.8	38.0	38.2	38.5	38.6	38.8	39.0	39.0	39.2	39.4	39.6	39.8
1971	39.8	39.9	40.0	40.1	40.3	40.6	40.7	40.8	40.8	40.9	40.9	41.1
1972	41.1	41.3	41.4	41.5	41.6	41.7	41.9	42.0	42.1	42.3	42.4	42.5
1973	42.6	42.9	43.3	43.6	43.9	44.2	44.3	45.1	45.2	45.6	45.9	46.2
1974	46.6	47.2	47.8	48.0	48.6	49.0	49.4	50.0	50.6	51.1	51.5	51.9
1975	52.1	52.5	52.7	52.9	53.2	53.6	54.2	54.3	54.6	54.9	55.3	55.5
1976	55.6	55.8	55.9	56.1	56.5	56.8	57.1	57.4	57.6	57.9	58.0	58.2
1977	58.5	59.1	59.5	60.0	60.3	60.7	61.0	61.2	61.4	61.6	61.9	62.1
1978	62.5	62.9	63.4	63.9	64.5	65.2	65.7	66.0	66.5	67.1	67.4	67.7
1979	68.3	69.1	69.8	70.6	71.5	72.3	73.1	73.8	74.6	75.2	75.9	76.7
1980	77.8	78.9	80.1	81.0	81.8	82.7	82.7	83.3	84.0	84.8	85.5	86.3
1981	87.0	87.9	88.5	89.1	89.8	90.6	91.6	92.3	93.2	93.4	93.7	94.0
1982	94.3	94.6	94.5	94.9	95.8	97.0	97.5	97.7	97.9	98.2	98.0	97.6
1983	97.8	97.9	97.9	98.6	99.2	99.5	99.9	100.2	100.7	101.0	101.2	101.3
1984	101.9	102.4	102.6	103.1	103.4	103.7	104.1	104.5	105.0	105.3	105.3	105.3
1985	105.5	106.0	106.4	106.9	107.3	107.6	107.8	108.0	108.3	108.7	109.0	109.3
1986	109.6	109.3	108.8	108.6	108.9	109.5	109.5	109.7	110.2	110.3	110.4	110.5
1987	111.2	111.6	112.1	112.7	113.1	113.5	113.8	114.4	115.0	115.3	115.4	115.4
1988	115.7	116.0	116.5	117.1	117.5	118.0	118.5	119.0	119.8	120.2	120.3	120.5
1989	121.1	121.6	122.3	123.1	123.8	124.1	124.4	124.6	125.0	125.6	125.9	126.1
1990	127.4	128.0	128.7	128.9	129.2	129.9	130.4	131.6	132.7	133.5	133.8	133.8
1991	134.6	134.8	135.0	135.2	135.6	136.0	136.2	136.6	137.2	137.4	137.8	137.9
1992	138.1	138.6	139.3	139.5	139.7	140.2	140.5	140.9	141.3	141.8	142.0	141.9
1993	142.6	143.1	143.6	144.0	144.2	144.4	144.4	144.8	145.1	145.7	145.8	145.8
1994	146.2	146.7	147.2	147.4	147.5	148.0	148.4	149.0	149.4	149.5	149.7	149.7
1995	150.3	150.9	151.4	151.9	152.2	152.5	152.5	152.9	153.2	153.7	153.6	153.5
1996	154.4	154.9	155.7	156.3	156.6	156.7	157.0	157.3	157.8	158.3	158.6	158.6
1997	159.1	159.6	160.0	160.2	160.1	160.3	160.5	160.8	161.2	161.6	161.5	161.3
1998	161.6	161.9	162.2	162.5	162.8	163.0	163.2	163.4	163.6	164.0	164.0	163.9
1999	164.3	164.5	165.0	166.2	166.2	166.2	166.7	167.1	167.9	168.2	168.3	168.3
2000	168.8	169.8	171.2	171.3	171.5	172.4	172.8	172.8	173.7	174.0	174.1	174.0
2001	175.1	175.8	176.2	176.9	177.7	178.0	177.5	177.5	178.3	177.7	177.4	176.7
2002	177.1	177.8	178.8	179.8	179.8	179.9	180.1	180.7	181.0	181.3	181.3	180.9
2003	181.7	183.1	184.2	183.8	183.5	183.7	183.9	184.6	185.2	185.0	184.5	184.3
2004	185.2	186.2	187.4	188.0	189.1	189.7	189.4	189.5	189.9	190.9	191.0	190.3
2005	190.7	191.8	193.3	194.6	194.4	194.5	195.4	196.4	198.8	199.2	197.6	196.8
2006	198.3	198.7	199.8	201.5	202.5	202.9	203.5	203.9	202.9	201.8	201.5	201.8
2007	202.416	203.499	205.352	206.686	207.949	208.352	208.299	207.917	208.490	208.936	210.177	210.036
2008	211.080	211.693	213.528	214.823	216.632	218.815	219.964	219.086	218.783	216.573	212.425	210.228
2009	211.143	212.193	212.709	213.240	213.856	215.693	215.351	215.834	215.969	216.177	216.330	215.949
2010	216.687	216.741	217.631	218.009	218.178	217.965	218.011	218.312	218.439	218.711	218.803	219.179
2011	220.223	221.309	223.467	224.906	225.964	225.722	225.922	226.545	226.889	226.421	226.230	225.672
2012	226.665	227.663	229.392	230.085	229.815	229.478	229.104	230.379	231.407	231.317	230.221	229.601
2013	230.280	232.166	232.773	232.531	232.945	233.504	233.566	233.877	234.149	233.546	233.069	233.049
2014	233.916	234.781	236.293	237.072	237.900	238.343	238.250	237.852	238.031	237.433	236.151	234.812
2015	233.707	234.722	236.119	236.599	237.805	238.638	238.654	-	-	-	-	-

See footnotes at end of table.

# ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT

## TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS AND INSURANCE

### CHAPTER 6. DEPARTMENT OF INSURANCE

#### ARTICLE 6. TYPES OF INSURANCE CONTRACTS

##### **1. Identification of the proposed rule making.**

Arizona Revised Statutes (“ARS”) § 20-1342.02 allows the Director to disapprove any disability insurance policy if the benefits provided in the policy form are unreasonable in relation to the premium charged for the policy. In 1981, the Department promulgated R20-6-607, *Reasonableness of Benefits in Relation to Premium Charged*, to assist the Department in implementing ARS § 20-1342.02. The Department used a National Association of Insurance Commissioners (NAIC) Model Regulation, *Guidelines for Filing of Rates for Individual Health Insurance Forms* (“Model Regulation”), as a template for R20-6-607. However, the Department opted to use a dollar amount to establish the average premium amounts instead of the formula in the Model Regulation which utilized the Consumer Price Index. Since that time, market conditions have seen an increase in the average premium amounts. The changes being proposed reflect the increase in average premium amounts and are calculated to accommodate increases until 2024 before another rulemaking may be needed.

The range of average annual premiums is changed from a range of \$100 to \$200 to a range of \$200 to \$700 to more accurately reflect current policy values.

The rulemaking also corrects some reference errors within the rule and rewrites one subsection to conform with rule writing standards.

**2. Identification of the persons who will be directly affected by, bear the costs of or directly benefit from the proposed rule making.**

Insurers issuing individual disability insurance policy forms will be directly affected by the proposed rule making. The effect of this rule change is to expand the number of policies that meet the low-dollar premium category to reflect pricing in the current insurance market. The current rule established thresholds that met the 1981 market.

**3. Cost benefit analysis of:**

**a. The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rule making. The probable costs to the implementing agency shall include the number of new full-time employees necessary to implement and enforce the proposed rule. The preparer of the economic, small business and consumer impact statement shall notify the joint legislative budget committee of the number of new full-time employees necessary to implement and enforce the rule before the rule is approved by the council.**

The Department does not anticipate any costs will be incurred or any benefits realized by implementation and enforcement of the proposed rule making.

**b. The probably costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rule making.**

Not applicable.

**c. The probable costs and benefits to business directly affected by the proposed rule making including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the proposed rule making.**

The Department does not anticipate any costs will be incurred or any benefits realized by businesses directly affected by the proposed rule making. The proposed rulemaking aligns the language of the R20-6-607 with current market pricing.

**4. General description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the proposed rule making.**

No impact is anticipated.

**5. Statement of the probable impact of the proposed rule making on small businesses. The statement shall include:**

**a. Identification of the small businesses subject to the proposed rule making.**

Not applicable. This rule making applies to insurers who issue disability insurance policy forms in the individual market.

**b. Administrative and other costs required for compliance with the proposed rule making.**

The Department does not anticipate any administrative or other costs will be incurred by insurers complying with the proposed rule making.

**c. Description of the methods prescribed in section 41-1035 that the agency may use to reduce the impact on small businesses, with reasons for the agency's decision to use or not to use each method.**

Not applicable.

**d. Probable cost and benefit to private persons and consumers who are directly affected by the proposed rule making.**

No direct effect to private persons and consumers.

**6. Statement of the probable effect on state revenues.**

No effect on state revenues is anticipated.

**7. Description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule making, including the monetizing of the costs and benefits for each option and providing the rationale for not using nonselected alternatives.**

No less intrusive or less costly alternative methods for achieving the purpose of the proposed rule making is available.

**8. Description of any data on which a rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data. An agency advocating that any data is acceptable data has the burden of proving that the data is acceptable. For the purposes of this paragraph, "acceptable data" means empirical, replicable and testable data as evidenced in supporting documentation, statistics, reports, studies or research.**

The rule making is based on a request from an insurer. An actuarial consulting firm submitted a justification for raising the \$200 premium threshold established in 1981

to \$700 to reflect current market values and to accommodate market changes up to 2024. The Department's actuary reviewed the submitted justification and suggested a lower threshold, \$600. The Director rejected this suggestion because the change needs to anticipate future market conditions.

## **R20-6-607. Reasonableness of Benefits in Relation to Premium Charged**

**A.** Applicability. This rule shall apply to individual disability insurance (as defined in A.R.S. § 20-253) policy forms and rates.

**B.** When rate filing is required. Every individual policy form, rider or endorsement form affecting benefits which is submitted for approval shall be accompanied by a rate filing unless such rider or endorsement form does not require a change in the rate. Any subsequent addition to or change in rates applicable to such policy, rider or endorsement form shall also be filed.

**C.** General contents of all rate filings. Each rate submission shall include an actuarial memorandum describing the basis on which rates were determined and shall indicate and describe the calculation of the ratio, hereinafter called "anticipated loss ratio," of the present value of the expected benefits to the present value of the expected premiums over the entire period for which rates are computed to provide coverage. Each rate submission must also include a certification by a qualified actuary that to the best of the actuary's knowledge and judgment, the rate filing is in compliance with applicable laws and regulations of this state and that the benefits are reasonable in relation to the premiums.

**D.** Previously approved forms. Filings of rate revisions for a previously approved policy, rider or endorsement form shall also include the following:

1. A statement of the scope and reason for the revision, and an estimate of the expected average effect on premiums including the anticipated loss ratio for the form.
2. A statement as to whether the filing applies only to new business, only to in-force business, or both, and the reasons therefor.

3. A history of the experience under existing rates, including at least the data indicated in subsection (D). The history may also include, if available and appropriate, the ratios of actual claims to the claims expected according to the assumptions underlying the existing rates. Additional data might include: substitution of actual claim run-offs for claim reserves and liabilities; determination of loss ratios with the increase in policy reserves (other than unearned premium reserves) added to benefits rather than subtracted from premiums; accumulations of experience funds; substitution of net level policy reserves for preliminary term policy reserves; adjustment of premiums to an annual mode basis; or other adjustments or schedules suited to the form and to the records of the company. All additional data must be reconciled, as appropriate, to the required data.

4. The date and magnitude of each previous rate change, if any.

**E. Experience records.** Insurers shall maintain records of earned premiums and incurred benefits for each calendar year for each policy form, including data for rider and endorsement forms which are used with the policy form, on the same basis, including all reserves, as required for the Accident and Health Policy Experience Exhibit to the NAIC annual statement convention blank. Separate data may be maintained for each rider or endorsement form to the extent appropriate. Experience under forms which provide substantially similar coverage may be combined. The data shall be for all years of issue combined, for each calendar year of experience since the year the form was first issued, except the data for calendar years prior to the most recent five years may be combined.

**F. Evaluation experience data.** In determining the credibility and appropriateness of experience data, due consideration must be given to all relevant factors, such as:

1. Statistical credibility of premiums and benefits, e.g., low exposure, low loss frequency.
2. Experienced and projected trends relative to the kind of coverage, e.g., inflation in medical expenses, economic cycles affecting disability income experience.
3. The concentration of experience at early policy durations where select morbidity and preliminary term reserves are applicable and where loss ratios are expected to be substantially lower than at later policy durations.
4. The mix of business by risk classification.

**G.** Anticipated loss ratio standard. With respect to a new form or a currently approved form, except currently approved non-cancelable policy forms, under which the average annual premium (as defined below) is expected to be at least \$200, benefits shall be deemed reasonable in relation to premiums provided the anticipated loss ratio is at least as great as shown in the following table:

**Renewal Clause**

<b>Type of Coverage</b>	<b>OR</b>	<b>CR</b>	<b>GR</b>	<b>NC</b>
Medical expense	60%	55%	55%	50%
Loss of income	60%	55%	50%	45%
and other				

For a policy form including riders and endorsements, under which the expected average annual premium per policy is \$100 or more but less than \$200, subtract 5

percentage points from the numbers in the table above, or if less than \$100, subtract 10 percentage points.

The average annual premium per policy shall be computed by the insurer based on an anticipated distribution of business by all applicable criteria having a price difference, such as age, sex, amount, dependent status, rider frequency, etc., except assuming an annual mode for all policies (i.e., the fractional premium loading shall not affect the average annual premium or anticipated loss ratio calculation).

The above anticipated loss ratio standards do not apply to a class of business which is regulated by specific statutes or regulations mandating loss ratios for such business, e.g., Medicare Supplement and Credit Life and Disability.

#### Definitions of Renewal Clause

OR – Optionally Renewable: renewal is at the option of the insurance company.

CR – Conditionally Renewable: renewal can be declined by the insurance company only for stated reasons other than deterioration of health.

GR – Guaranteed Renewable: renewal cannot be declined by the insurance company for any reason, but the insurance company can revise rates on a class basis.

NC – Non-Cancelable: renewal cannot be declined nor can rates be revised by the insurance company.

**H.** Rate revisions. With respect to filings of rate revisions for a previously approved form, benefits shall be deemed reasonable in relation to premiums provided both the following loss ratios meet the standards in subsection (F) above.

1. The anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage;

2. The anticipated loss ratio derived by dividing (a) by (b) where
  - a. Is the sum of the accumulated benefits, from the original effective date of the form or the effective date of this regulation, whichever is later, to the effective date of the revision, and the present value of future benefits, and
  - b. Is the sum of the accumulated premiums from the original effective date of the form or the effective date of the regulation, whichever is later, to the effective date of the revision, and the present value of future premiums.

Such present values shall be taken over the entire period for which the revised rates are computed to provide coverage, and such accumulated benefits and premiums to include an explicit estimate of the actual benefits and premiums from the last date as of which an accounting has been made to the effective date of the revision. Interest shall be used in the calculation of these accumulated benefits and premiums and present values only if it is a significant factor in the calculation of this loss ratio.

**I.** Anticipated loss ratios lower than those indicated in subsections (H) and (I) will require justification based on the special circumstances that may be applicable.

1. Examples of coverages requiring special consideration are as follows:
  - a. Accident only;
  - b. Short term nonrenewable, e.g., airline trip, student accident;
  - c. Specified peril, e.g., common carrier;
  - d. Other special risks.
2. Examples of other factors requiring special consideration are as follows:
  - a. Marketing methods, giving due consideration to acquisition and administration costs and to premium mode;

- b. Extraordinary expenses;
- c. High risk of claim fluctuation because of the low loss frequency of the catastrophic, or experimental nature of the coverage;
- d. Product features such as long elimination periods, high deductibles and high maximum limits;
- e. The industrial or debit method of distribution;
- f. Forms issued prior to the effective date of this rule.

Companies are urged to review their experience periodically and to file rate revisions, as appropriate, in a timely manner to avoid the necessity of later filing of exceptionally large rate increases.

3. Notwithstanding the foregoing paragraphs to the contrary, hospital indemnity and cancer and other dread diseases policies shall develop the loss ratios pursuant to subsection (G).

**J.** Severability provision. If any provision of this rule or the application thereof to any person or circumstances is held invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.

**K.** Effective date. This rule shall become effective upon filing with the Secretary of State and shall apply to all individual disability policy form and rate filings submitted on and after said date.

20-143. Rule-making power

A. The director may make reasonable rules necessary for effectuating any provision of this title.

B. The director shall make rules concerning proxies, consents or authorizations in respect of securities issued by domestic stock insurance companies having a class of equity securities held of record by one hundred or more persons to conform with the requirements of section 12(g)(2)(G)(ii) of the securities exchange act of 1934, as amended, and as may be amended. Such rule shall not apply to any such company having a class of equity securities which are registered or are required to be registered pursuant to section 12 of the securities exchange act of 1934, as amended, or as may be amended. Whenever such equity securities of any such company are registered or are required to be registered pursuant to section 12 of the securities exchange act of 1934, as amended, or as may be amended, then, no person shall solicit or permit the use of his name to solicit, in any manner whatsoever, any proxy, consent or authorization in respect of any equity security of such company without having first complied with the rules prescribed by the securities and exchange commission pursuant to section 14 of the securities exchange act of 1934, as amended, or as may be amended.

C. All rules made pursuant to this section shall be subject to title 41, chapter 6.

D. In addition to any other penalty provided, wilful violation of any rule made by the director is a violation of this title.

20-1342.02. Disapproval of disability policy form

The director may disapprove any disability policy form if the benefits provided in the policy form are unreasonable in relation to the premium charged.

**BOARD OF CHIROPRACTIC EXAMINERS (R-17-1204)**

Title 4, Chapter 7, Article 5, Licenses; Article 6, Acupuncture Certification; Article 8, Continuing Education; Article 13, Charges; Article 14, Business Entities

**Amend:** R4-7-502; R4-7-503; R4-7-602; R4-7-801; R4-7-1301; R4-7-1401; R4-7-1403; R4-7-1404



**GOVERNOR'S REGULATORY REVIEW COUNCIL  
M E M O R A N D U M**

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**MEETING DATE:** December 5, 2017

**AGENDA ITEM:** D-4

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** November 21, 2017

**SUBJECT: BOARD OF CHIROPRACTIC EXAMINERS (R-17-1204)**  
Title 4, Chapter 7, Article 5, Licenses; Article 6, Specialty Certifications  
(Proposed); Article 8, Continuing Education; Article 13, Fees; Article 14,  
Business Entities

**Amend:** R4-7-502; R4-7-503; R4-7-602; R4-7-801; R4-7-1301;  
R4-7-1401; R4-7-1403; R4-7-1404

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**SUMMARY OF THE RULEMAKING**

The Board of Chiropractic Examiners (Board) protects public health and safety by ensuring the competency of chiropractic examiners. *See* A.R.S. § 32-904.

This rulemaking updates the Board's rules in A.A.C. Title 4, Chapter 7 to address regulation of the "Percutaneous Therapy" technique, legislative changes to the license application process, outdated rules, and to reduce the regulatory burden on professionals when they apply for a license. The Board indicated in its most recent five-year review report (November 2015) that it was going to make many of these amendments.

The Governor's Office approved an exception from Executive Order 2017-02 on February 22, 2017.

**Proposed Action**

- **R4-7-502** – *Procedures for Processing Initial License Applications*: The section is amended to allow for obtaining the license application package from the Board website, clarify requirements for application photos, clarify the fees applicable, and add an exception for applicants seeking licensure by endorsement.

- **R4-7-503 – *Renewal License: Issuance, Reinstatement***
  - Subsection (A) removes the requirement that the Board mails a renewal application to all licensees, and adds that renewals are due before January 1.
  - Subsection (C)(7) removes the codification of the precise renewal fee amount.
  - Subsection (E) increases the license reinstatement penalty fee to \$200, from \$100.
  - Subsection (F) amends the license reinstatement application deadline to July 1 from April 1.
  - Subsection (G) is amended to allow for the Board to prescribe the ways the reinstatement application will be made available.
- **R4-7-602 – *Specialty Certifications (Proposed)***: This new section regulates the practice of “Percutaneous Therapy” by defining the practice, laying out the qualifications necessary for approval of a license, and sets the application fee at \$50. Additionally, it requires applicants to attend 24 in-person hours of training before approval (unless the applicant provides proof of adequate training), and sets the standard of care in accordance with other chiropractic rules.
- **R4-7-801 – *Continuing Education Requirements***: The rule is amended to allow the board to waive the 60-day waiting requirement for continuing education course content approvals, and changes the topics that may be covered in continuing education courses.
- **R4-7-1301 – *Additional Charges***: The rule is amended to increase the annual license renewal fee to \$225, from \$170. It is also amended to add new charges for licensure by examination and reciprocity applications, licensure by endorsement applications, specialties certification applications, and insurance fees.
- **R4-7-1401 – *Application for Business Entity; Qualifications for Applicant; Fee (Proposed)***: The fingerprinting requirement for applicant business entities is repealed.
- **R4-7-1403 – *Procedures for Processing Initial Registration Applications***: The rule is amended to allow Business Entity Registration applications to be made available as prescribed by the Board. Fingerprinting and business contract disclosure requirements are repealed.
- **R4-7-1404 – *Business Entity Registration Renewal: Issuance, Reinstatement***: The rule is amended to require business entity renewals be submitted before June 1, to allow the Board to make applications available as it prescribes, and to change the last day of the late registration period to July 30, from June 30.

**1. Are the rules legal, consistent with legislative intent, and within the agency’s statutory authority?**

Yes. A.R.S. § 32-904 (B)(2) authorizes the Board to “[a]dopt rules that are necessary and proper” for the purpose and function of the Board. Further, the Board cites A.R.S. § 32-922.02 (C) as specific authority for the “Percutaneous Therapy” license, which instructs the Board to review applications for specialties.

**2. Do the rules establish a new fee or contain a fee increase?**

Yes. The rules increase fees as approved by the Legislature in 2015, to align fees with the costs that the Board incurs. The renewal fee is increased from \$170 to \$225, and the late renewal penalty fee is increased from \$100 to \$200.

**3. Summary of the agency's economic impact:**

In this rulemaking, the Board of Chiropractic Examiners is adopting rules that will align with statutory mandates to increase fees for licensure. The annual license renewal fee will increase from \$170 to \$225.

In FY17, the Board licensed approximately 2,500 chiropractic physicians. The Board receives roughly 100 applicants for licensure each year. By the Board's calculations, the increased fees are still consistent with national averages for licensure renewal fees.

**4. Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

The Board believes the rules impose the least burden and costs. The increased fees are a result of statutory changes made in 2015.

**5. What are the economic impacts on stakeholders?**

Key stakeholders include applicants pursuing or renewing licensure, owners of registered business entities who offer chiropractic services, and the agency itself.

The Board is the only state agency directly affected by the rulemaking. The Board plans to use the new funds from increased fees to reduce technological burdens that persist in the application process.

**6. Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

Yes. The Board indicates that no written comments were received on this rulemaking.

**7. Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

No. The Board made no changes between the proposed and final rulemaking.

**8. Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

No. The Board indicates there are no applicable federal laws.

**9. Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

No. The rules do not require issuance of a regulatory permit, license or authorization.

**10. Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

No. No studies were reviewed for the rulemaking.

**11. Conclusion**

An immediate effective date of January 1, 2018 is requested pursuant to A.R.S. § 41-1032(A)(1) and (4) to preserve the public peace, health and safety, and to provide a benefit to the public when a penalty is not associated with a violation of the rule. Council staff recommends approval of the rules.



## State of Arizona Board of Chiropractic Examiners

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Douglas A. Ducey  
Governor

•••

James Badge, D.C.  
Chairperson

Richard Guarino, D.C.  
Vice-Chairperson

Steven Knauf, D.C.  
Member

•••

Justin Bohall  
Executive Director

September 15, 2017

Ms. Nicole Ong Colyer, Chair  
100 North 15th Avenue, Ste. 305  
Phoenix, Arizona 85007

To Whom It May Concern:

The attached final rule package is submitted for review and approval by the Council. The following information is provided for the Council's use in reviewing the proposed rules:

- A. Close of record date: The rulemaking record was closed on August 18, 2017, following a period for public comment and an oral proceeding. The rule package is being submitted within the 120 days provided by A.R.S. § 41-102(B).
- B. Relation of the rulemaking to a five-year-review report: The rulemaking does not relate to a five-year-review report.
- C. New Fee: The rulemaking does not contain a new fee.
- D. Fee increase: The rulemaking does contain a fee increase. The legislature increased the Board's fees in 2015 to align with the cost that the Board incurs in the process of day to day operations. The Board indicates that the benefits provided through technology enhancements such as online renewals, applications and examinations are greater than the increase of the fees.
- E. Immediate effective date: An immediate effective date is not requested.
- F. Certification regarding studies: I certify that the preamble accurately discloses the Board did not review or rely on a study in its evaluation of or justification for any rule in this rulemaking.
- G. Certification that the preparer of the EIS notified the JLBC of the number of new full-time employees necessary to implement and enforce the rule: I certify that none of the rules in this rulemaking will require a state agency to employ a new full-time employee. No notification was provided to JLBC.
- H. List of documents enclosed:
  - a. Cover Letter signed by the Executive Director;
  - b. Notice of Final Rulemaking including preamble, table of contents, and text of the rule;
  - c. Economic, Small Business, and Consumer Impact Statement; and
  - d. General and specific statutes authorizing the rule.

Kind Regards,

  
Justin Bohall  
Executive Director

**NOTICE OF FINAL RULEMAKING**  
**TITLE 4. PROFESSIONS AND OCCUPATIONS**  
**CHAPTER 7. BOARD OF CHIROPRACTIC EXAMINERS**

**PREAMBLE**

<b><u>1. Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
R4-7-502	Amend
R4-7-503	Amend
R4-7-602	Amend
R4-7-801	Amend
R4-7-1301	Amend
R4-7-1401	Amend
R4-7-1403	Amend
R4-7-1404	Amend

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

Authorizing statute: A.R.S. § 32-904(B)(2)

Implementing statute: A.R.S. § 32-904(B)(2)

**3. The effective date of the rule:** January 1, 2018

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

Notice of Rulemaking Docket Opening: 23 A.A.R. 1905, July 14, 2017

Notice of Proposed Rulemaking: 23 A.A.R. 1847, July 14, 2017

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

Name: Justin Bohall, Executive Director

Address: 1951 West Camelback Road, Suite 330, Phoenix, Arizona 85015

Telephone: (602) 864-5088

Fax: (602) 864-5099

E-mail: [Rules@chiroboard.az.gov](mailto:Rules@chiroboard.az.gov)

Web site: [www.chiroboard.az.gov](http://www.chiroboard.az.gov)

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

An exemption from Executive Order 2017-02 was provided for this rulemaking by Mara Mellstrom, Policy Advisor, Governor’s Office, in an email dated February 22, 2017.

The Board proposed to amend rules to address: legislative changes, outdated rules, and to reduce the regulatory burden on professionals.

The Board is also proposing to promulgate rules regarding “Percutaneous Therapy” Technique.

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

Not Applicable.

**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:**

This rulemaking does not diminish a previous grant of authority of a political subdivision.

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

The Board does not anticipate a substantial increase cost to licensees, small businesses or consumers. The Board anticipates that there will be a reduction of cost due to the relieving of regulatory burdens as well as a reduction of the processing times in various applications. The Board expects the rulemaking, which implements a statutory change made by the legislature to have a minimal economic impact. The fees that increased have not been changed for over 20 years.

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

There have been no changes between the proposed rulemaking and the final rulemaking. The Board may make minor grammatical and technical corrections, as needed.

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

No comments were received regarding the rulemaking. No one presented oral or written comments at the oral proceeding held on August 16, 2017. The record closed at 5:00 p.m. on August 18, 2017.

**12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any**

**specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

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

The rules do not require a permit.

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

There is no applicable federal law regarding Chiropractors, Chiropractic Business Entities, “Percutaneous Therapy” Technique, or other subjects of the rules.

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

No analysis was submitted.

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

None.

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

No rule in this rulemaking was previously made, amended, or repealed as an emergency rule.

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS  
CHAPTER 7. BOARD OF CHIROPRACTIC EXAMINERS**

**ARTICLE 5. LICENSES**

Section

R4-7-502. Procedures for Processing Initial License Applications

R4-7-503. Renewal License: Issuance, Reinstatement

**ARTICLE 6. ACUPUNCTURE CERTIFICATION SPECIALITY CERTIFICATIONS**

Section

R4-7-602. ~~Repealed~~ Percutaneous Therapy as Applied to Chiropractic

#### **ARTICLE 8. CONTINUING EDUCATION**

Section

R4-7-801. Continuing Education Requirements

#### **ARTICLE 13. CHARGES**

Section

R4-7-1301. Additional Charges

#### **ARTICLE 14. BUSINESS ENTITIES**

Section

R4-7-1401. Application for Business Entity; Qualifications of ~~applicant~~ Applicant; ~~fee~~ Fee; ~~background~~ background investigations

R4-7-1403. Procedures for Processing Initial Registration Applications

R4-7-1404. Business Entity Registration Renewal: Issuance, Reinstatement

## ARTICLE 5. LICENSES

### R4-7-502. Procedures for Processing Initial License Applications

- A. An applicant may obtain a license application package at the Board Office on business days, from the Board website, or by requesting that the Board mail the application to an address specified by the applicant. An applicant shall pay the Board a non-refundable \$10 fee for each license application package.
- B. A completed license application package shall be submitted to the Board office on business days. The Board shall deem the license application package received on the date that the Board stamps on the package as the date the package is delivered to the Board office;
- C. To complete a license application package, an applicant shall provide the following information and documentation:
1. Two identical passport quality photographs, ~~measuring three inches by four inches,~~ showing the applicant's full front face ~~as the applicant will appear at the time of the examination~~ and a description of identifying characteristics, if any;
  2. The applicant's full current name and any former names;
  3. The applicant's current home and all office addresses, current home and all office phone numbers, all current office fax numbers, and any previous home or office address or addresses for the past five years;
  4. The type of license, for which application is made;
  5. All applicable fees, ~~required by A.R.S. §§ 32-921(D) and (E) and 32-922.02(E).~~
  6. A record of education requirements described in A.R.S. § 32-921(B) including the applicant's chiropractic college transcript and the applicant's certificate of attainment of passing scores for Parts I, II, III, and IV of the examination conducted by the National Board of Chiropractic Examiners;
  7. Any record of being convicted of, pleading guilty to, or pleading nolo contendere to a misdemeanor or a felony, even if the record of the conviction or plea was sealed or expunged or the conviction was set aside or forgiven, and any record of an arrest, investigation, indictment, or charge within the last 12 months. The applicant shall submit any record of being refused a license to practice chiropractic or any other health care profession in this or any other state, and any record of a formal sanction taken against the applicant's license in this or any other state;
  8. A completed fingerprint card;

9. A list of all other states or jurisdictions in which the applicant is or has been licensed or certified to practice chiropractic or any other health care profession with a verification of good standing for each current license or certification submitted directly by the licensing agency of the other state or jurisdiction;

10. The name and professional designation of the owner or owners of the clinic or office at which the applicant will be employed, if applicable;

11. The applicant's Social Security number;

12. The applicant's notarized signature, attesting to the truthfulness of the information provided by the applicant;

13. A score of 75% or higher on the Arizona Jurisprudence Examination. The applicant shall not sit for the Arizona Jurisprudence Examination until the application package is otherwise complete.

**D.** Within 25 business days of receiving a license application package, the Board shall notify the applicant in writing that the package is either complete or incomplete. If the package is incomplete, the notice shall specify the information that is missing. If the Board does not provide notice to the applicant, the license application package shall be deemed complete after the passage of 25 business days.

**E.** An applicant with an incomplete license application package shall supply the missing information within 60 calendar days from the date of the notice. An applicant who is unable to supply the missing information within 60 calendar days may submit a written request to the Board for an extension of time in which to provide a complete application package. The request for an extension of time shall be submitted to the Board office before the 60-day deadline for submission of a complete application package, and shall state the reason that the applicant is unable to comply with the 60-day requirement and the amount of additional time requested. The Board shall grant a request for an extension of time if the Board finds that the reason the applicant was unable to comply with the 60-day requirement was due to circumstances beyond the applicant's control and that compliance can reasonably be expected to be remedied during the extension of time.

**F.** If an applicant fails to submit a complete license application package within the time permitted, the Board shall close the applicant's file and send a notice to the applicant by U.S. Mail that the application file has been closed. An applicant whose file has been closed and who later wishes to become licensed, shall apply anew.

**G.** After receiving all missing information as specified in subsection (E), the Board shall notify the applicant that the license application package is complete.

**H.** The Board shall render a licensing decision no later than 120 business days after receiving a completed license application package. The Board shall deem a license application package to be complete on the postmarked date of the notice advising the applicant that the package is complete.

**I.** An applicant seeking initial licensure by reciprocity under A.R.S. § 32-922.01 shall submit an application to the Board and shall comply with all provisions of R4-7-502 except that the applicant is not required to submit proof of obtaining a passing score on Part IV of the examination conducted by the National Board of Chiropractic Examiners.

**J.** An applicant seeking initial licensure by endorsement under A.R.S. § 32-922.03 shall submit an application to the Board and shall comply with all provisions of R4-7-502 except that the applicant is not required to submit proof of obtaining a passing score on Part III & IV of the examination conducted by the National Board of Chiropractic Examiners.

**J.K.** For the purpose of A.R.S. § 41-1073, the Board establishes the following time-frames for initial licenses:

1. Administrative completeness review time-frame: 25 business days.
2. Substantive review time-frame: 120 business days.
3. Overall time-frame: 145 business days.

**R4-7-503. Renewal License: Issuance, Reinstatement**

**A.** ~~At least 30 days before a renewal application and renewal fee are due, the Executive Director of the Board shall send by first class mail to a licensee at the licensee's address of record, a renewal application and notice.~~ Under A.R.S. §32-923(B), an individual licensed under A.R.S. Title 32, Chapter 8, shall renew the license every year before January 1.

**B.** The licensee renewal application shall be returned to the Board office on a business day. The date of receipt shall be the postmarked date or the date the licensee hand delivers the license renewal application.

**C.** To complete a license renewal application, a licensee shall provide the following information and documentation:

1. The licensee's full name;

2. The licensee's current home and office addresses, current home and all office phone numbers, and all current office fax numbers;
3. The name and professional designation of the owner or owners of the clinic or office at which the licensee is employed;
4. The licensee's Social Security number;
5. A record of any professional disciplinary investigation or sanction taken against the licensee by a licensing board since the licensee last applied for renewal of a license in this or any other state;
6. A record of any arrest, indictment or charge or any conviction or plea agreement for a misdemeanor or felony since the licensee last applied for renewal of the license;
7. The renewal fee of ~~\$170.00~~ as required by A.R.S. § 32-923;
8. Attestation of compliance with the continuing education requirements under A.R.S. § 32-931 and R4-7-801. The licensee shall attest to compliance with continuing education requirements by documenting, on the renewal form, the date or dates the continuing education course was attended, the number of hours of continuing education completed, the qualifying course topic or topics, and the name of the accredited college or university with whom the course instructor is affiliated with as faculty. If the course does not meet the requirements under A.R.S. § 32-931 and R4-7-801, but has been approved by the Board, the applicant shall provide the continuing education course approval number issued by the Board instead of the name of the affiliated college or university;
9. The licensee's signature attesting to the truthfulness of the information provided by the licensee.

**D.** In accordance with A.R.S. § 32-923(C), the Board shall automatically suspend a license if the licensee does not submit a completed application for renewal before January 1 of each calendar year. The Board shall send written notice of the license suspension to the licensee on or before January 20.

**E.** The Board shall reinstate a suspended license if the licensee pays the annual license renewal fee, pays an additional fee of ~~\$100~~ \$200 as required by A.R.S. § 32-923(D), and submits a completed license renewal application between January 1, and March 31 of the calendar year for which the license renewal is made.

**F.** On or after ~~April~~ July 1 of the calendar year for which a license renewal application was to be made, an individual who wishes to have a suspended license reinstated shall apply for reinstatement in accordance with A.R.S. § 32-923(D).

**G.** An application for reinstatement of license ~~may be obtained at the Board office on business days or by requesting that the Board mail one to an address specified by the applicant~~ shall be made on a form and in a manner prescribed by the Board.

**H.** A completed application for reinstatement of a license shall be submitted to the Board office on a business day. The Board shall deem an application for reinstatement of a license received on the date that the Board stamps on the application as the date it is delivered to the Board office.

**I.** To complete an application for reinstatement of license, an applicant shall provide the following information and documentation:

1. The applicant's full current name, suspended license number, and certification number if a specialty certification was held by the licensee;

2. The applicant's current home and all office addresses, current home and all office phone numbers, and all current office fax numbers;

3. The name and professional designation of the owner or owners of the office or clinic at which the applicant will be employed;

4. The applicant's Social Security number;

5. A list of all other states or jurisdictions in which the applicant is or has been licensed or certified to practice chiropractic or any other health care profession with a verification of good standing for each current license or certification submitted directly by the licensing agency of the other states or jurisdictions;

6. A list of required continuing education courses completed and certification of course completion;

7. A record of any professional disciplinary investigation or sanction initiated since the applicant last applied to renew the license;

8. A record of any arrest, indictment or charge or any conviction or plea agreement for a misdemeanor or a felony since the date of the applicant's last application for licensure;

9. The applicant's notarized signature attesting to the truthfulness of the information provided by the applicant.

**J.** The Board shall process a license reinstatement application in accordance with R4-7502(D) through (J). The Board shall deem the application received on the date that the Board stamps on the application as the date the application is delivered to the Board Office.

**K.** The Board shall reinstate or renew a license if:

1. The applicant or licensee has complied with the requirements of this Chapter and A.R.S. § 32-900 et seq.;

2. The applicant or licensee has not had any professional disciplinary sanction taken against the applicant's or licensee's license by a licensing board since the last application for licensure;

3. The applicant or licensee has not been convicted of, pled guilty to, or pled nolo contendere to a misdemeanor or a felony since the last application for licensure.

**L.** If the provisions of subsection (K) are satisfied, the Board shall issue a license renewal certificate on or before February 1, of each year. The license renewal certificate shall serve as notice that the renewal application is complete and approved.

**M.** If there is reason to believe that the provisions of subsection (K) have not been satisfied or that possible grounds for denying the renewal or reinstatement application exist, the Board shall notify the applicant of this possibility within 25 business days of the date that the application is received at the Board office.

**N.** An applicant who is so notified that renewal or reinstatement may be denied may provide a written response and shall submit any documentation as required through written notice by the Board within 60 calendar days from the date of the Board's notice. An applicant who is unable to supply the required documentation within 60 calendar days may submit a written request to the Board for an extension of time in which to provide the required documentation. The request for an extension of time shall be submitted to the Board office before the 60-day deadline for submission of the required documentation, and shall state the reason that the applicant is unable to comply with the 60-day requirement and the amount of additional time requested. The Board shall grant a request for an extension of time if the Board finds that the reason the applicant was unable to comply with the 60-day requirement was due to circumstances beyond the

applicant's control and that compliance can reasonably be expected to be remedied during the extension of time.

**O.** If an applicant fails to submit required documentation within the time permitted, the Board shall issue a notice of intent to deny the renewal application or reinstatement application.

**P.** The Board shall make a licensing decision no later than 70 business days after receiving all required documentation as specified in subsection (N). The Board shall deem required documentation received on the date that the Board stamps on the documentation as the date the documentation is delivered to the Board's office.

**Q.** For the purpose of A.R.S. § 41-1073, the Board establishes the following time-frames for renewal or reinstatement of licenses:

1. Administrative completeness review time-frame: 25 business days.
2. Substantive review time-frame: 70 business days.
3. Overall time-frame: 95 business days.

#### **ARTICLE 6. ~~ACUPUNCTURE CERTIFICATION~~ SPECIALTY CERTIFICATIONS**

##### **R4-7-602. ~~Repealed. Percutaneous Therapy as Applied to Chiropractic~~**

**A.** “Percutaneous Therapy” means a skilled procedure performed by a Chiropractic Physician that uses a filiform needle to penetrate the skin and produce changes to underlying neural, muscular and other biologic tissues for the evaluation and management of neuromusculoskeletal conditions.

**B.** “Percutaneous Therapy” includes the use of electrified needles.

**C.** Effective January 1, 2018, A Chiropractic Physician, who wishes to perform the Percutaneous Therapy procedure, shall have met the qualifications established in paragraph (D) before providing “Percutaneous Therapy.”

**D.** A Chiropractic Physician offering to provide or providing “Percutaneous Therapy” procedure(s) shall provide documented proof of compliance with the qualifications to the Board within 30 days of completion of the course content in paragraph (G - J) or with 30 days of initial licensure as a chiropractic physician in Arizona.

**E.** An application for review and approval of a chiropractic physician offering to provide “Percutaneous Therapy” shall be made on a form and in a matter prescribed by the Board. An applicant shall pay the Board a non-refundable \$50 fee for each application package.

**F.** An application for approval of a “Percutaneous Therapy” course shall comply with R4-7-801 (E).

**G.** The course content shall be approved by one or more of the following entities prior to the course(s) being completed by the Chiropractic Physician.

1. State of Arizona Board of Chiropractic Examiners
2. American Chiropractic Association
3. The Federation of Chiropractic Licensing Boards
4. International Chiropractic Association
5. Providers of Approved Continuing Education (PACE)
6. American Medical Association
7. American Osteopathic Association
8. Accreditation Council for Continuing Medical Education (ACCME)

**H.** The course content shall include the following components of education and training:

1. Sterile Needle procedures to include either the U.S. Centers for Disease Control and Prevention, or The U.S. Occupational Safety and Health Administration

2. Anatomical Review
3. Blood Borne Pathogens
4. Indications and Contraindication for "Percutaneous Therapy"

**I.** The course content required of this section shall total a minimum of 24 in person contact hours of education.

**J.** At the request of a licensee, the Board may:

1. Review coursework completed prior to January 1, 2018 for approval.
2. Waive some or all of the hours required by subsection 4, if the licensee presents satisfactory proof of completing course work that constitutes adequate training of “Percutaneous Therapy” or of the components of education and training require for “Percutaneous Therapy”.

3. Determine the licensee has received adequate training to be eligible to perform “Percutaneous Therapy.”

4. Determine that a licensee who has been issued an Acupuncture certification is qualified to perform “Percutaneous Therapy”.

**K.** The Standard of Care of the “Percutaneous Therapy” procedure includes, but is not limited to the following:

1. “Percutaneous Therapy” cannot be delegated to any assistive personnel.

2. Consent & Documentation for Treatment shall be maintained in accordance with R4-7-101(1) and R4-7-902(5) & (6).

**L.** The Board may upon its own motion or on receipt of a complaint may withdraw its approval for a licensee to provide “Percutaneous Therapy” or it may withdraw its approval of a “Percutaneous Therapy” course.

**M.** The Board shall keep a register of licensees who have been approved to provide “Percutaneous Therapy”.

## **ARTICLE 8. CONTINUING EDUCATION**

### **R4-7-801. Continuing Education Requirements**

**A.** To be eligible to renew a license, a licensee shall complete 12 credits of continuing education between January 1 and December 31 of each year, and document compliance with continuing education requirements on the license renewal application as required by R4-7-503(C). Continuing education credit shall be given for a minimum of fifty minutes of continuous study for each class hour. No credit shall be allowed for breaks or for time expended for study outside of the classroom.

**B.** Basic requirements – The primary consideration in determining whether or not a specific course qualifies as acceptable continuing education is that it must be a formal program of learning which will contribute directly to the professional competence of a licensee in the practice of chiropractic. Each course shall be on subjects of clinical benefit to the consumer of chiropractic services.

1. The content of the course, seminar or workshop must be recognized by reputable authorities as having validity, and must conform to the scope of practice for assessment, treatment and diagnosis as authorized under A.R.S. § 32-925 and A.R.S. § 32-922.02.

2. Instructors shall be qualified by education and/ or experience to provide instruction in the relevant subject matter.

3. Each licensee is responsible for determining in advance that the course which he or she attends qualifies for continuing education credit under this Article.

**C.** A licensee shall only obtain continuing education credit by:

1. Attending a course, (which includes a seminar or workshop), through a provider and on a subjects that have been pre-approved by the Board.

2. Participating in the development of, or proctoring the National Board of Chiropractic Examiners (NBCE) examinations. Continuing education credits earned in this manner are calculated as one credit hour for each hour of participation in the development of the NBCE examination for a maximum credit of eight hours per year, and one credit hour for each hour proctoring the NBCE exam for a total of eight hours per year. A licensee shall obtain a certificate of participation from the National Board of Chiropractic Examiners to verify compliance with this provision.

3. By teaching a post-graduate course that has been pre-approved by the Board for continuing education credit under this Section as a faculty member of a college or university that is accredited by or is in good standing with the Council on Chiropractic Education or is accredited by an accrediting agency recognized by the United States Department of Education or the Private Postsecondary Education Board during the renewal year. Continuing education credits earned in this manner are calculated as one credit of continuing education for each hour of post-graduate course instruction. A maximum of six credits of continuing education credit may be earned in this manner annually.

4. By completing a post-graduate mediated instruction or programmed learning course pre-approved by the Board through an accredited college or university that meets the requirements of A.R.S. § 32-931(B). Mediated instruction and programmed learning refers to learning transmitted by intermediate mechanisms such as webinar or other internet delivered courses that are structured to confirm 50 minutes of continuous instruction for each credit hour received. A licensee shall obtain a certificate of program completion from the accredited college or university to verify compliance with this provision.

**D.** The following are predetermined to meet Board approval as providers for continuing education. Additional approval is not required, nor should it be expected. An application submitted for a course that falls under this subsection shall be returned to the applicant without a review and subsection (E) does not

apply. Coursework provided by these entities is approved as meeting continuing education requirements only for those subjects listed in subsections (J) and (K) of this Section. Preapproval does not include mediated instruction or programmed learning courses.

1. A college or university that meets the requirements of A.R.S. § 32-921(B)(2)(a), the American Chiropractic Association and the International Chiropractors Association, with qualified instructors and that provide courses that meet the subject requirements under subsections (J) or (K).

2. CPR training provided or sponsored by the American Heart Association, the American Red Cross, or an entity that meets equivalent standards of the American Heart Association and the American Red Cross. A maximum of four credits of continuing education credit may be earned in this manner annually.

3. Participation in the development of or proctoring the NBCE examinations.

**E.** Prior approval is required for all course providers not mentioned in subsection (D) and for all mediated instruction or programmed learning courses regardless of subsection (D). A provider applying for approval of a continuing education course shall submit a complete application to the Board at least 60 days prior to the anticipated initial date of the course if submitted by internet, or 75 days if provided in hard copy form. The Board shall notify the applicant in writing that the package is either complete or incomplete. If the package is incomplete, the notice shall specify the information that is missing and the applicant must submit the missing information within 10 days of the notice. The Board will not approve a course if a complete application has not been submitted at least 15 business days prior to the initial date of the course identified in the initial application. If the applicant changes the initial date of the course or the course content or the instructors, it shall be considered a new application. A complete application shall include:

1. The name, dates, and locations of the course.
2. The number of hours requested for approval.
3. The subjects of the course, broken down by the specific time of instruction in/of each subject.
4. A course description including the content, explicit written objectives identifying expected learner outcomes for each section of the course and teaching method (i.e. lecture, discussion, PowerPoint, internet, webinar).

5. A detailed, hour by hour syllabus identifying the subject of instruction for each hour, with the instructor for each section identified. If less than an hour is dedicated to a subject, the syllabus shall identify the number of minutes dedicated to instruction on that subject.

6. A resume or curriculum vitae for each instructor and an attestation of the following:

- a. Licenses for all instructors are currently in good standing.
- b. No instructor has had a license placed on probation or restricted within the past five years in this or any other jurisdiction.
- c. No instructor has ever had a license suspended or surrendered for unprofessional conduct or revoked in this or any other jurisdiction.
- d. No instructor has had a license application or renewal denied for unprofessional conduct.
- e. No instructor has been convicted of a misdemeanor involving moral turpitude or a felony in this or any other jurisdiction.

7. Documentation of license in good standing for each instructor for each state in which the instructor has or currently holds a license, if applicable. If an instructor is currently under investigation by a regulatory agency or is under investigation for, or been charged with, a criminal offence, the applicant shall disclose the investigation or charge and shall provide all relevant records.

8. One letter of reference for each course instructor from a person familiar with the instructor's qualifications as an instructor and education and/or experience in the relevant subject.

9. Identification of a sponsor, if applicable, and disclosure of any connection between the provider and/or instructor and/or sponsor of any commercial relationship and/or any external entity giving financial support to the course. If the course does have a sponsor, a completed sponsor/program provider agreement for continuing education, signed and notarized by a responsible party must be provided with the application.

10. Documentation of the method by which attendance will be monitored, confirmed and documented.

11. The name and contact information for the attendance certifying officer with an attestation that the certifying officer is supervised by the applicant provider and a description of the supervision method employed to confirm that the certifying officer is performing the duty of monitoring and confirming attendance.

12. Attestation that each course hour consists of no less than 50 minutes of continuous instruction and that credit is not provided for breaks.

13. The non-refundable fee required under R4-7-1301 for each course, whether individual or included in a program of multiple courses.

14. The name, address, telephone number, fax number and e-mail of a contact person.

15. Any other information required or requested by the Board.

16. If the course is a mediated instruction or programmed learning course, a detailed description of the method used to confirm that the participant was engaged in 50 minutes of continuous instruction for each credit hour awarded.

17. The Board may require that the applicant provide additional information in support of the application if the course qualifications are not clearly demonstrated through the materials provided.

18. At the request of a provider, the Board may review courses for retroactive approval and waive the requirement of 60 days, if the following requirements are met:

a. The provider submits an application for retroactive course approval.

b. Pays the nonrefundable retroactive application fee of \$50.00.

c. The course was provided no more than 12 months prior to the application being submitted.

d. Meets all other requirements of this section.

**F.** The Board shall approve a continuing education course if the applicant has submitted a complete application to the Board's satisfaction within the time-frame required by this chapter and has demonstrated the following:

1. The course complies with this Chapter.

2. The course instructor is faculty at an accredited college or university that meets the requirements of A.R.S. § 32-921(B)(2)(a) or demonstrates equivalent qualifications through postgraduate study and experience teaching postgraduate coursework. An instructor must:

- a. Hold an applicable license in good standing.
  - b. Shall not have had a license placed on probation within the last five years.
  - c. Shall not ever have had a license suspended, surrendered for unprofessional conduct or revoked.
  - d. Shall not have had a license application or renewal denied for unprofessional conduct.
  - e. Shall not or been convicted of a felony in this or any other jurisdiction.
- 3. The course instructor is qualified by education and experience to provide instruction in the relevant subject matter.
  - 4. The subject of the course qualifies under subsections (D)(2) and (3), (J) and (K).
  - 5. The course demonstrates attendance and/or monitoring procedures. Monitoring procedures must provide confirmation that a licensee was engaged in 50 minutes of continuous study for each credit hour.

**G.** The Board shall not approve a continuing education course if the applicant fails to submit a complete application within the time-frame required by this Chapter or if:

- 1. The course does not qualify under this Chapter.
- 2. The course subject does not qualify for continuing education credit under subsections (D)(2) and (3), (J) and (K).
- 3. The instructor's does not qualify as per subsection (F)(2).
- 4. The instructor's references do not support the qualifications of the instructor as per subsection (F).
- 5. The course primary focus is to promote a product or service.
- 6. The course requires participants to purchase a product or service.
- 7. The course has no significant relationship to the assessment, diagnosis or treatment of patients within the scope of practice of chiropractic as defined under A.R.S. §§ 32-925 and 32-922.02.
- 8. The content cannot be verified.
- 9. The course refutes generally accepted medical care and treatment and/or instructs participants to encourage patients to stop taking medication and/or stops participating in generally accepted medical care or fails to qualify under subsection (K).

**H.** A course approved by the Board pursuant to subsections (E) and (F) shall be issued an approval number. Once approved, a course provider shall:

1. Provide course attendees with a certificate confirming course participation. The certificate shall: a.) include the name of the college or university through which the course was completed, or the course approval code issued by the Board, if applicable, b.) the name and Arizona license number of the attendee, c.) the name of the course provider, the course subject matter, d.) the name of the course if different than the subject matter listed, e.) the date and location of the course, and the number of hours of continuing education completed.

2. Maintain a list of all course attendees for a minimum of five years after each date that the course is held, and shall provide a copy of the list to the board within 10 days of a written request to do so.

3. Maintain a copy of the course syllabus and stated learning objectives, a list of instructors and documentation of the name, location and date of the course for a minimum of five years and shall provide the Board with a copy these materials within 10 days of a written request to do so.

4. Monitor course attendance by each attendee in a manner that confirms that the attendee was present and participating in the course for a continuous 50 minutes for each hour of continuing education credited.

5. Notify the Board immediately of concerns or problems that may arise regarding the approved course, to include discipline being imposed on the license of an instructor or an instructor being convicted of a criminal offense.

6. Reapply for Board approval every two years no later than the first day of the month in which the course was initially approved, and every time the subject of the course changes and/or there is a change in instructors that does not include an instructor already approved by the Board. Failure to reapply as per this subsection shall disqualify the course for ongoing continuing education credit.

7. Not represent that the course is sanctioned or promoted by the state of Arizona Board of Chiropractic Examiners. The provider may state that the course meets the continuing education requirements as per A.R.S. § 32-931. If the course has been directly approved by the Board, the provider may display the Board's course approval number.

**I.** The Board may monitor a continuing education provider's compliance with continuing education statutes and rules as follows:

1. The Board may request any or all documentation as per Section (H) of this rule from a board-approved Continuing education provider for any course registered for license renewal to ensure compliance with this rule.

2. A representative of the Board may attend any approved continuing education course for the purpose of verifying the content of the program and ensuring compliance with the Board's continuing education rules at no charge to the Board representative.

3. If the Board finds that a course or provider is not compliant with the Continuing statutes or rules, has misrepresented course content or instructors in an application, failed to obtain new approval for a course with a change in subject or instructor or failed to pay the course fee, the Board may withdraw its approval for continuing credit for the course and/or the provider. The withdrawal of approval shall be effective upon written notification to the provider's contact of record by the Board.

4. The Board shall notify a provider that it will consider withdrawal of course approval and provide the date, time and location of the meeting at which the matter will be discussed and possible action taken.

5. If approval is withdrawn, the Board shall notify the provider of the reasons for withdrawal of approval.

6. The provider shall notify all Arizona licensees who attended the course that any course hours obtained through the course cannot be used for continuing education credit of license renewal in the State of Arizona. If a provider fails to provide appropriate notice to Arizona licensed attendees, within ten business days of written notice from the Board that course approval has been withdrawn, that provider shall not be considered for approval of continuing education credit in the future. The notice to the Arizona licensed attendees must be made by certified mail in order to establish documentation that the requirement was met.

**J.** Course subjects approved for continuing education for renewal of an Arizona chiropractic license are:

1. Adjusting techniques;
2. Spinal analysis;

3. Physical medicine modalities and therapeutic procedures as defined in A.R.S. § 32-900(7) and (8);
4. Record keeping and documentation;
5. Ethics;
6. CPR;
7. Public health;
8. Communicable diseases;
9. Sexual boundaries;
10. Emergency procedures;
11. Acupuncture;
12. Nutrition;
13. Examination;
14. Assessment and diagnostic procedures to include physical, orthopedic, neurological procedures;
15. Radiographic technique;
16. Diagnostic imaging and interpretation;
17. Laser as permitted by law;
18. Clinical laboratory procedures limited to urine collection, fingerpicks and venipuncture (not to be confused with evaluation of lab reports);
19. Anatomy;
20. Physiology;
21. Bacteriology;
22. Chiropractic orthopedics and neurology;
23. Chemistry;
24. Pathology;
25. Patient management;
26. Evidence-based clinical interventions models;
27. Symptomatology;
28. Arizona jurisprudence; ~~and~~

~~29. Participation in National Board of Chiropractic Examiners examination development or administration of examinations.~~

29. Billing & Coding

30. recognition of substance abuse in a patient and Substance Abuse and Mental Health Services Administration Topics, and,

31. Participation in National Board of Chiropractic Examiners examination development or administration of examinations.

**K.** In addition to the subjects in subsections (A), (C), (D) and (J), courses for the purpose of recognizing, assessing and determining appropriate referral or collaborative treatment of complex conditions, including but not limited to cancer, autism, multiple sclerosis, diabetes, and developmental disorders, for the purpose of co-management of the patient's condition with qualified medical providers shall qualify for continuing education credit.

**L.** The following subjects shall not qualify for continuing education for the purpose of license renewal and shall not be approved by the Board:

- ~~4. Billing, coding;~~
1. Malpractice defense;
2. Practice management;
3. Risk management;
4. Promotion of a product or a service or a requirement that attendees purchase a product or service;
5. Strategies to increase insurance payments;
6. Administrative or economic aspects of a practice;
7. Motivational courses;
8. Legal courses other than pre-approved Board jurisprudence;
9. Anti-aging;
10. Hormone treatment;
11. Aroma therapy;
12. Stress management;
13. Psychological treatment;

- 14 HIPAA;
15. Homeopathic practice that exceeds A.R.S. § 32-925;
16. Professional or business meetings, speeches at luncheons, banquets, etc.;
- 17 Subject matter that exceeds the assessment, diagnosis and treatment of patients within the scope of practice of chiropractic as defined in this chapter;
18. Any course without a significant relationship to the safe and effective practice of chiropractic under A.R.S. § 32-925 and A.R.S. § 32-922.02;
19. And any course that involves a distance learning format or materials if the course has not been pre-approved by the board and issued a board approval number;

**M.** A licensee's compliance with subsections (A), and (C), shall include the following coursework in order to renew a license.

1. Each licensee shall complete a minimum of two hours of continuing education in recordkeeping for every even numbered year.

2. Each person who is issued a new license to practice chiropractic in Arizona on or after January 1, 2013 is required to attend three hours of a single regularly scheduled Board meeting within the first year of residence in Arizona. The licensee cannot distribute the three hours of Board meeting attendance over two or more Board meetings. The licensee shall notify the Board in writing within ten days of moving to Arizona. The meeting attendance must be pre-scheduled and pre-approved by Board staff. Continuing education credit will not be awarded if the licensee is attending the meeting as a subject of an investigation or other Board review or if the licensee fails to properly schedule attendance as per this Section. This subsection does not pertain to any person who has had a license to practice chiropractic in Arizona issued prior to January 1, 2013.

**N.** The Board shall grant an extension of 90 days to comply with the continuing education requirements to a qualified licensee. To qualify for an extension, a licensee shall:

1. Timely file a license renewal application and renewal fee; and
2. Submit a written request for an extension no later than December 1 of the current renewal year, including evidence of good cause why the continuing education requirements cannot be met by December 31 of the current renewal year.

**O.** The following reasons constitute good cause for the Board to grant an extension of time to comply with the continuing education requirements:

1. The licensee lived in a country where there was no accredited chiropractic college, or a college that meets the requirements of R4-7-702, for at least seven months during the year that the continuing education requirements are to be met;
2. The licensee was in active military service for at least seven months during the year that the continuing education requirements are to be met; or
3. The licensee was not able to complete the continuing education requirements because of a documented disability of the licensee or the licensee's spouse, child, or parent.

**P.** If the Board grants an extension of time to complete the required 12 hours of continuing education requirements, 12 hours of required continuing education credits obtained during the 90-day extension shall be applied to meet only the requirements for which the extension is granted. A licensee shall not report those 12 hours of continuing education credit earned during a 90-day extension for a subsequent renewal year.

### ARTICLE 13. FEES

#### **R4-7-1301. Additional Charges**

~~**A.** The Board shall collect charges for services as follows:~~

- ~~1. Annual license renewal fee: \$170.00;~~
- ~~2. Copies of public records: \$0.25 per page, with a minimum fee of \$2.00;~~
- ~~3. Directories or labels: \$40.00;~~
- ~~4. Annual subscription for meeting minutes: \$70.00;~~
- ~~5. Agendas: \$25.00 for an annual subscription or \$2.00 per agenda;~~
- ~~6. Recordings of Board meetings: \$5.00 per disc or tape;~~
- ~~7. Lists of licensees, applicants, chiropractic assistants: \$0.05 per name, with a minimum fee of \$2.00;~~
- ~~8. Hard copy credential verification: \$2.00 per name;~~
- ~~9. Verification of license status: \$25.00;~~
- ~~10. Continuing education course review for approval: \$50.00;~~
- ~~11. Jurisprudence booklet: \$10.00;~~

12. ~~Duplicate renewal receipt: \$5.00;~~
13. ~~Duplicate ornamental license: \$20.00;~~
14. ~~Duplicate ornamental certificate: \$20.00; and~~
15. ~~Penalty for insufficient funds check submitted to Board as payment of fee or other charge: \$25.00.~~

**A.** The Board shall collect charges for services as follows:

1. Annual license renewal fee: \$225.00;
2. Licensure by Examination & Reciprocity Application Fee: \$325.00
3. Licensure by Endorsement Application Fee: \$500.00
4. Specialties Certification Application Fee: \$125.00
5. Issuance Fee: \$125.00
6. Copies of public records: \$0.25 per page, with a minimum fee of \$2.00;
7. Directories or labels: \$40.00;
8. Annual subscription for meeting minutes: \$70.00;
9. Agendas: \$25.00 for an annual subscription or \$2.00 per agenda;
10. Recordings of Board meetings: \$5.00 per disc or tape;
11. Lists of licensees, applicants, chiropractic assistants: \$0.05 per name, with a minimum fee of \$2.00;
12. Hard copy credential verification: \$2.00 per name;
13. Verification of license status: \$25.00;
14. Continuing education course review for approval: \$50.00;
15. Jurisprudence booklet: \$10.00;
16. Renewal Receipt: \$5.00;
17. Ornamental License: \$20.00;
18. Ornamental Certificate: \$20.00; and
19. Penalty for insufficient funds check submitted to Board as payment of fee or other charge: \$25.00.

**B.** All charges are non-refundable, except if A.R.S. § 41-1077 applies.

**C.** The fees in this Section pertain regardless of the method by which the document is delivered.

## ARTICLE 14. BUSINESS ENTITIES

### **R4-7-1401. Application for Business Entity; Qualifications of ~~applicant~~Applicant; ~~fee~~Fee; ~~background investigations~~**

**A.** A business entity that wishes to operate a clinic, franchise, business, club, or any other entity which uses the services of a licensed doctor of chiropractic to provide a service, supervise the provision of services, act as clinical director or otherwise perform any function under a person's chiropractic license (doctor of chiropractic) shall submit a complete application to the Board at least sixty days prior to the intended implementation of engaging the services of a licensed doctor of chiropractic. A business entity that uses the services of a doctor of chiropractic as defined in this subsection prior to the effective date of these rules shall submit a complete application to the Board no later than ten days from the effective date of these rules. A business entity shall not engage the services of a doctor of chiropractic as noted in this section until the Board has approved and issued the registration. The registration shall serve as a license for the purpose of compliance with this Chapter.

**B.** "Owner, officer or director" means any person with a fiscal or an administrative interest in the business entity, regardless of whether the business is a for-profit or non-profit affiliation.

**C.** To be eligible for business entity registration, the applicant owners, officers or directors shall:

1. Be of good character and reputation.
2. Have obtained a license or a permit to conduct a business under applicable law and jurisdiction.

**D.** The Board may deny registration to a business entity if:

1. The business entity fails to qualify for registration.
2. An owner, an officer or a director has had a license to practice any profession refused, revoked, suspended, surrendered or restricted by a regulatory entity in this or any other jurisdiction for any act that constitutes unprofessional conduct pursuant to this Chapter.
3. An owner, an officer or a director is currently under investigation by a regulatory entity in this or any other jurisdiction for an act that may constitute unprofessional conduct pursuant to this Chapter.
4. An owner, an officer or a director has surrendered a license for an act that constitutes unprofessional conduct pursuant to this Chapter in this or any other jurisdiction.

5. An owner, an officer or a director has been convicted of criminal conduct that constitutes grounds for disciplinary action pursuant to this Chapter.

6. The business entity allows or has allowed any person to practice chiropractic without a license or fails or failed to confirm that a person that practices chiropractic is properly licensed.

7. The business entity allows or has allowed a person who is not a licensed doctor of chiropractic and who is not a chiropractic assistant to provide patient services according to this Chapter.

E. The applicant shall pay to the Board a nonrefundable application fee of \$400.00.

~~F. In order to determine an applicant business entity's (applicant) eligibility for approval, the Board may require the business entity's owners, officers or directors to submit a full set of fingerprints to the Board. The Board shall submit the fingerprints to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to section A.R.S. 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation. The Board shall charge each applicant a fee that is necessary to cover the cost of the investigation. The Board shall forward this fee to the department of public safety.~~

#### **R4-7-1403. Procedures for Processing Initial Registration Applications**

A. An application for Business Entity Registration shall be made on a form and in a manner prescribed by the Board. ~~An applicant may obtain an application package at the Board Office on a business day, or by requesting that the Board send the application to an address specified by the applicant~~

B. A completed business entity registration application package shall be submitted to the Board office on a business day. The Board shall deem the business entity application package received on the date that the Board stamps on the package as the date the package is delivered to the Board office.

C. To complete a business entity application package, an applicant shall provide the following information and documentation:

1. The full current name and any former names and title of any and all owners, officers or directors.

2. The current home and all office addresses, current home and all office phone numbers, all current office fax numbers, and any previous home or office addresses for the past five years for each owner, officer or director.

3. The business name and the current addresses, phone numbers and fax numbers for each office, clinic or other setting where any service is performed, supervised or directed by a licensed doctor of chiropractic according to R4-7-1401(A) and this Chapter.

4. The non-refundable application fee of four hundred dollars.

5. The name and license number of each doctor of chiropractic employed with, contracted with, or otherwise affiliated with the business entity according to R4-7-1401(A) and this Chapter.

~~6. A completed fingerprint card for each owner, officer or director.~~

~~7. Copies of any and all contracts or any other agreement between the business entity and the doctor of chiropractic, to include employment or franchise contracts, agreements or equivalent.~~

~~8.6.~~ Any record of an owner, officer or director being convicted of, pleading guilty to, or pleading nolo contendere to a misdemeanor or a felony, even if the record of the conviction or plea was sealed or expunged or the conviction was set aside or forgiven, and any record of an arrest, investigation, indictment, or charge that has not been concluded.

~~9. 7.~~ Any record of an owner, officer or director being refused a license to practice chiropractic or any other profession in this or any other jurisdiction, and any record of a disciplinary action taken against an owner, officer or director's license in this or any other jurisdiction.

~~10. 8.~~ The social security number for each owner, officer, or director.

~~11. 9.~~ A government issued photo identification confirming U.S. citizenship or legal presence in the United States for each owner, officer or director, or if those individuals reside outside of the United States, confirmation of legal authority to operate a business in the United States.

~~12. 10.~~ A copy of the written protocol required by A.R.S. § 32-934(G).

~~13. 11.~~ The name, phone number and address for a contact person.

~~14. 12.~~ A notarized signature for each owner, officer or director attesting to the truthfulness of the information provided by the applicants. A stamped signature will not be accepted for the purposes of completing the application.

**D.** Within 25 business days of receiving a business entity registration application package, the Board shall notify the applicant in writing that the package is either complete or incomplete. If the package is incomplete, the notice shall specify the information that is missing.

**E.** An applicant with an incomplete business entity registration application package shall supply the missing information within 30 calendar days from the date of the notice. An applicant who is unable to supply the missing information within 30 calendar days may submit a written request to the Board for an extension of time in which to provide a complete application package. The request for an extension of time shall be submitted to the Board office before the 30-day deadline for submission of a complete application package, and shall state the reason that the applicant is unable to comply with the 30-day requirement and the amount of additional time requested. The Board shall grant a request for an extension of time if the Board finds that the reason the applicant was unable to comply with the 30-day requirement was due to circumstances beyond the applicant's control and that compliance can reasonably be expected to be remedied during the extension of time.

**F.** If an applicant fails to submit a complete business entity registration application package within the time permitted, the Board shall close the applicant's file and send a notice to the applicant by U.S. Mail that the application file has been closed. An applicant whose file has been closed and who later wishes to become registered shall reapply pursuant to R4-7-1401 and R4-7-1403.

**G.** After timely receipt of all missing information as specified in subsection (E), the Board shall notify the applicant that the application package is complete.

**H.** The Board shall render a decision no later than 120 business days after receiving a completed registration application package. The Board shall deem a registration application package to be complete on the postmarked date of the notice advising the applicant that the package is complete.

**I.** The Board shall approve the registration for a business entity that meets all of the following requirements:

1. Timely submits a complete application.
2. The Board does not find grounds to deny the application under subsection R4-7-1401(D).
3. Pays the original business entity prorated renewal fee of seventeen dollars per month from the first day of the month the business entity is registered through May 31 plus \$25 for each duplicate license issued by the Board for the purpose of compliance with R4-7-1402.

**J.** For the purpose of A.R.S. § 41-1073, the Board establishes the following time-frames for initial registration:

1. Administrative completeness review time-frame: 25 business days.

2. Substantive review time-frame: 120 business days.
3. Overall time-frame: 145 business days.

**R4-7-1404. Business Entity Registration Renewal: Issuance, Reinstatement**

- A. A business entity registration expires on ~~May 31~~ June 1 of each year.
- B. ~~At least 30 days before a renewal application and renewal fee are due; the executive director of the Board shall send a business entity a renewal application and notice by first class mail to its address of record for the business entity contact person.~~ Under A.R.S. §32-934(C), a Business Entity Registered under A.R.S. Title 32, Chapter 8, shall renew the registration every year before June 1.
- C. The business entity registration renewal application shall be returned to the Board office on a business day. The Board shall deem the business entity registration renewal application package received on the date that the Board stamps on the package as the date the package is delivered to the Board office.
- D. To complete a registration renewal application, a business entity shall provide the following information and documentation:
  1. The name of the business entity.
  2. The current addresses, phone numbers, and fax numbers for each facility requiring registration under this Chapter.
  3. Notice of any change of owners, officers or directors, to include any additions and/or deletions with the date of the change for each individual, and notice of any change in home address, office address and phone numbers for owners, officers or directors with the date of the change for each individual.
  4. The name and license number of each doctor of chiropractic employed with, contracted with, or otherwise affiliated with the business entity per Section R4-7-1401(A), to include any affiliation through a franchise.
  5. The record of any professional disciplinary investigation or action taken against an owner, officer or director in this or any other jurisdiction within the last 12 months.
  6. Any record of an owner, officer or director being convicted of, pleading guilty to, or pleading nolo contendere to a misdemeanor or a felony, even if the record of the conviction or plea was sealed or expunged or the conviction was set aside or forgiven, within the last 12 months and any record of an arrest, investigation, indictment within the last 12 months.

7. A statement attesting that the contract or any other form of agreement with the doctors of chiropractic has not changed, or if the contract or agreement has changed, a copy of any new or amended contract or agreement.

8. Report any change in the status of the business entity's license or permit to own and operate a business in the State of Arizona.

9. The renewal fee of \$200 plus a \$25 fee for each duplicate Board issued renewal certificate for the purpose of compliance with R4-7-1402. A business entity applying for renewal for the first time shall pay a prorated fee according to A.R.S. § 32-934(C).

10. The name, address, phone number, fax number and email for a contact person.

11. The original signature of the delegated contact person attesting to the truthfulness of the information provided by the business entity. All owners, officers or directors also remain responsible for the accuracy and truthfulness of the application. A stamped signature will not be accepted for the purpose of a complete application.

**E.** A business entity registration shall automatically expire if the business entity does not submit a completed application for renewal, the renewal fee and the fee for duplicate renewal certificates for the purpose of complying with R4-71402 before June 1 of each registration period. The Board shall send written notice to the business entity that its registration has expired on or before June 20. A business entity shall not use the services of a licensed doctor of chiropractic according to R4-7-1401(A) if the business entity's registration has expired.

**F.** The Board shall reinstate an expired business entity registration if the business entity pays the annual renewal fee, the additional fee for duplicate certificates for the purpose of compliance with R4-7-1402, pays an additional non-refundable late fee of \$200 as required by A.R.S. § 32-934(C), and submits a completed renewal application between June 1, and ~~June~~ July 30 of the registration period for which the business entity registration renewal is made.

**G.** On or after ~~July~~ August 1 of the registration period for which a renewal application was to be made, a business entity that wishes to have an expired registration reinstated shall apply in accordance with subsection (L).

**H.** If the business entity fails to timely submit a complete business entity reinstatement application within 6 months of the date the registration expired, the business entity's registration shall lapse. "Lapse" means that the business entity is no longer registered and cannot offer services per this Chapter.

**I.** A business entity that has had a registration lapse and that later wishes to become registered must apply as a new candidate pursuant to R4-7-1401 and R4-7-1403.

**J.** An application for reinstatement of business entity registration ~~may be obtained from the Board office on business days or by requesting that the Board send one to an address specified by the applicant.~~ shall be made on a form and in a manner prescribed by the Board.

**K.** A completed application for reinstatement of a business entity registration shall be submitted to the Board office on a business day. The Board shall deem an application for reinstatement of a business entity registration received on the date that the Board stamps on the application as the date it is delivered to the Board office.

**L.** To complete an application for reinstatement of a registration, a business entity shall provide the following information and documentation:

1. The business entity's name and expired registration number.
2. The current addresses, phone numbers, and fax numbers for each facility requiring registration under this Chapter.
3. The names, home addresses, office addresses and phone numbers for each owner, officer or director.
4. The name and license number of each doctor of chiropractic employed with, contracted with or otherwise affiliated with the business entity according to R4-7-1401(A) and this Chapter, to include franchises.
5. The record of any professional disciplinary investigation or action taken against an owner, officer or director in this or any other jurisdiction.
6. Any record of an owner, officer or director being convicted of, pleading guilty to, or pleading nolo contendere to a misdemeanor or a felony, even if the record of the conviction or plea was sealed or expunged or the conviction was set aside or forgiven, within the last 12 months and any record of an arrest, investigation, indictment, or charge within the last 12 months, to include new owners, officers or directors.

7. A statement attesting that the contract or other agreement with the doctors of chiropractic has not changed, or if the contract or agreement has changed, a copy of the new or amended contract or agreement.

8. Report any change in the status of the business entity's license or other permit to own and operate a business in the State of Arizona.

9. The non-refundable renewal fee of \$200 and a \$25 fee for each Board issued duplicate renewal certificate for the purpose of compliance with R4-7-1402.

10. The non-refundable late fee of \$200.

11. The name, phone number, fax number and email for a contact person.

12. The original signature of the delegated contact attesting to the truthfulness of the information provided by the business entity. All owners, officers or directors also remain responsible for the accuracy and truthfulness of on application. A stamped signature will not be accepted for the purpose of completing an application.

**M.** The Board shall process a business entity registration reinstatement application in accordance with R4-7-1403(D) through (G).

**N.** The Board shall reinstate or renew a business entity registration if:

1. The business entity has timely submitted a complete application and paid all fees.

2. The business entity has complied with the requirements of this Chapter and A.R.S. § 32-900 et seq.

3. The Board does not find grounds to deny the application under subsection (D).

4. The business holds a current business license or other permit to own and operate the business in the State of Arizona.

**O.** If the provisions of subsection (N) are satisfied, the Board shall issue a business registration renewal certificate. The renewal certificate shall serve as notice that the renewal application is complete and approved.

**P.** The Board shall make a decision no later than 70 business days after receiving all required documentation as specified in subsection (N). The Board shall deem required documentation received on the date that the Board stamps on the documentation as the date the documentation is delivered to the Board's office.

**Q.** For the purpose of A.R.S. § 41-1073, the Board establishes the following time-frames for registration renewal or reinstatement of registration:

1. Administrative completeness review time-frame: 25 business days.
2. Substantive review time-frame: 70 business days.
3. Overall time-frame: 95 business days.

# Economic, Small Business, and Consumer Impact Statement <sup>1</sup>

## Title 4. Professions and Occupations

### Chapter 8.

#### 1. Identification of the rulemaking:

Under Laws 2015, Chapter 134, the legislature increased various fees collected by the board, and added a new type of licensure application, the Board was directed to update the fees in rule as well as provide a reduction of outdated regulations in the current rule. The proposed rule increases the options for continuing education course subjects to include items like recognition of substance abuse. The other portion of the rulemaking addresses concerns for the health, safety, and welfare of the public by defining the training in the Percutaneous Therapy technique that is able to be performed by Chiropractic Physicians. In this rulemaking, the Board makes the directed changes. An exemption from EO2017-02 was provided for this rulemaking by Mara Mellstrom, Policy Advisor in the Governor's office, in an email dated February 22, 2017.

- a. The conduct and its frequency of occurrence that the rule is designed to change:  
Until this rulemaking is completed, the Board will not have established standards for reviewing training taken by Chiropractic Physicians who wish to perform the Percutaneous Therapy technique. Additionally, this rulemaking codifies in rules the changes set in statute in to address application and renewal fees as well as reduce regulatory burdens by removing outdated regulatory items.
  - b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:  
The Board is attempting to act on the principles of good government by keeping rules consistent with statute and up to date.
  - c. The estimated change in frequency of the targeted conduct expected from the rule change: Upon completion of this rulemaking, the Board's rules will be consistent and current with state statute and the Board will have continued in its duty to keep regulatory burden to a minimum will protect the health, safety, and welfare of the public.
2. A brief summary of the information included in the economic, small business, and consumer impact statement:

The Board does not anticipate a substantial increase cost to licensees, small businesses or consumers. The Board anticipates that there will be a reduction of cost due to the relieving of regulatory burdens as well as a reduction of the processing times in various applications. The Board expects the rulemaking, which implements a statutory change made by the legislature to have a minimal economic impact. The fees that increased have not been changed for over 20 years.

<sup>1</sup> If adequate data is not reasonably available, the agency shall explain the limitations of the data, the methods used in an attempt to obtain the data, and characterize the probable impacts in qualitative terms.

3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:

Name: Justin Bohall, Executive Director

Address: 1951 West Camelback Road, Suite 330, Phoenix, Arizona 85015

Telephone: (602) 864-5088

Fax: (602) 864-5099

E-mail: [Rules@chiroboard.az.gov](mailto:Rules@chiroboard.az.gov)

Website: [www.chiroboard.az.gov](http://www.chiroboard.az.gov)

4. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:

Applicants for a Chiropractic License or License Renewal, Licensed Chiropractic Physicians performing the Percutaneous Therapy technique, and owners of registered business entities who offer chiropractic services will be directly affected by and benefit from this rulemaking. However, the economic benefits and costs resulting from the statutory change rather than the rulemaking.

The Board currently licenses about 2500 Chiropractic Physicians in the state of Arizona and receives about 100 applications for Chiropractic licensure each year. The fees addressed in this statutory fee change is on average is less than fifty dollars a year per licensed individual. The Board is in research has determined that even with the increased fees the Arizona Board of Chiropractic Examiners operates at the national average for licensure renewal fees of Chiropractic Physicians.

The Board does not anticipate any financial impact with the vast majority of the proposed rule.

The Board is also directly affected by, bears the cost of, or directly benefits from the rulemaking. With the increased funds, the Board is undertaking technology enhancements to reduce applications times and reduce technological burdens in the application and renewal process. In this undertaking, the Board strives to allow new chiropractors to enter the profession in a reduced time-frame which will overall limit the time that a new chiropractor is unable to work within the state.

5. Cost-benefit analysis:
  - a. Costs and benefits to state agencies directly affected by the rulemaking include the number of new full-time employees at the implementation agency required to implement and enforce the proposed rule:

The Board of Chiropractic Examiners is the only state agency directly affected by the rulemaking. The costs and benefits for the Board are discussed in item #4. The Board has determined no additional FTEs are required to implement and enforce the proposed rules.

b. Costs and benefits to political subdivisions directly affected by the rulemaking:

No political subdivision is directly affected by the proposed rules.

c. Costs and benefits to businesses directly affected by the rulemaking:

This was addressed broadly in item #4, but to specifically address business entity owners, this rule reduces Des

6. Impact on private or public employment:

The Board believes the rulemaking will have no impact on private or public employment.

7. Impact on small business:

a. Identification of the small businesses subject to the rulemaking:

The less than half of the businesses identified in item 5c are small businesses.

b. Administrative and other costs required for compliance with the rulemaking:

All applicants for licensure are required to submit an application, take a licensing examination, and pay a licensing and renewal fee.

c. Description of methods that may be used to reduce the impact on small business:

The Board has taken every step to ensure a reduction of the impact on small businesses. There is no increase in fees for registered chiropractic business entities.

8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:

No private persons or consumers are directly affected by the rulemaking.

9. Probable effects on state revenues:

As the agency is a 90 /10 agency, there will not be an impact on state revenues. This state will not expend any general funds on the implementation of these rules. The effect on the increased fees will be a potential increase in revenue to the state's general fund.

10. Less intrusive or less costly alternative methods considered:

The Board believes the rules are the least intrusive and least costly possible.

<sup>2</sup> Small business has the same meaning specified in A.R.S. § 41-1001(21).

**TITLE 4. PROFESSIONS AND OCCUPATIONS**  
**CHAPTER 7. BOARD OF CHIROPRACTIC EXAMINERS**

(Authority: A.R.S. § 32-904 et seq.)

*Editor's Note: All former rules renumbered, and a new Article 10 added (Supp. 85-5).*

**ARTICLE 1. DEFINITIONS; MEETINGS**

Section	
R4-7-101.	Definitions
R4-7-102.	Repealed
R4-7-103.	Renumbered
R4-7-104.	Meetings

**ARTICLE 2. COMMITTEES**

Section	
R4-7-201.	Formation
R4-7-202.	Powers and duties
R4-7-203.	Renumbered

**ARTICLE 3. HEARINGS**

Section	
R4-7-301.	Investigation of a Complaint
R4-7-302.	Service
R4-7-303.	Conduct of Hearing
R4-7-304.	Repealed
R4-7-305.	Rehearing or Review

**ARTICLE 4. EXAMINATIONS**

Section	
R4-7-401.	Repealed
R4-7-402.	Renumbered
R4-7-403.	Repealed
R4-7-404.	Investigations
R4-7-405.	Refusal to Issue Licenses
R4-7-406.	Repealed

**ARTICLE 5. LICENSES**

Section	
R4-7-501.	Display of Licenses
R4-7-502.	Procedures for Processing Initial License Applications
R4-7-503.	Renewal License: Issuance, Reinstatement
R4-7-504.	License: Denial
R4-7-505.	Renumbered

**ARTICLE 6. ACUPUNCTURE CERTIFICATION**

Section	
R4-7-601.	Definition of Acupuncture as Applied to Chiropractic
R4-7-602.	Repealed
R4-7-603.	Renumbered
R4-7-604.	Renumbered
R4-7-605.	Renumbered
R4-7-606.	Renumbered

**ARTICLE 7. STANDARDS OF EDUCATION**

Section	
R4-7-701.	Repealed
R4-7-702.	Educational Requirements for Licensure

**ARTICLE 8. CONTINUING EDUCATION**

*New Article 8, consisting of Sections R4-7-801 through R4-7-803, adopted effective June 19, 1997 (Supp. 97-2).*

*Article 8, consisting of Sections R4-7-60 through R4-7-62, renumbered as Sections R4-7-801 through R4-7-803, effective September 27, 1985 (Supp. 85-5).*

*Article 8, consisting of Sections R4-7-60 through R4-7-63, repealed effective May 14, 1980 (Supp. 80-3).*

Section	
R4-7-801.	Continuing Education Requirements
R4-7-802.	Documenting Compliance with Continuing Education Requirements
R4-7-803.	Effect on Suspension of Continuing Education Requirements

**ARTICLE 9. UNPROFESSIONAL CONDUCT**

Section	
R4-7-901.	Advertising of a Deceptive and Misleading Nature
R4-7-902.	Unprofessional or Dishonorable Conduct

**ARTICLE 10. PRECEPTORSHIP TRAINING PROGRAM**

*Former Sections R4-7-1001 through R4-7-1003 repealed by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2). New Sections R4-7-1001 through R4-7-1003 adopted by final rulemaking at 5 A.A.R. 1602, effective May 20, 1999 (Supp. 99-2).*

*Article 10, consisting of Sections R4-7-1001 through R4-7-1003, adopted effective September 27, 1985.*

Section	
R4-7-1001.	Eligibility; Application
R4-7-1002.	Practice Limitations
R4-7-1003.	Regulation and Termination of the Preceptorship Program
Appendix A.	Repealed
Appendix B.	Repealed
Appendix C.	Repealed
Appendix D.	Repealed
Appendix E.	Repealed
Appendix F.	Repealed

**ARTICLE 11. CHIROPRACTIC ASSISTANTS**

*Article 11, consisting of Sections R4-7-1101 through R4-7-1103, adopted effective December 18, 1992 (Supp. 92-4).*

Section	
R4-7-1101.	Use of the Term "Chiropractic Assistant"
R4-7-1102.	Chiropractic Assistant Training
R4-7-1103.	Scope of Practice

**ARTICLE 12. EXPIRED**

*Article 12, consisting of Sections R4-7-1201 through R4-7-1204, expired under A.R.S. § 41-1056(E) at 12 A.A.R. 688, effective December 31, 2005 (Supp. 06-1).*

*Article 12, consisting of Sections R4-7-1201 through R4-7-1204, made by final rulemaking at 8 A.A.R. 259, effective December 17, 2001 (Supp. 01-4).*

Section	
R4-7-1201.	Expired
R4-7-1202.	Expired
R4-7-1203.	Expired
R4-7-1204.	Expired

**ARTICLE 13. CHARGES**

*Article 13, consisting of Section R4-7-1301, adopted by final rulemaking at 5 A.A.R. 4532, effective November 9, 1999 (Supp. 99-4).*

5. Excessive or insufficient penalties;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
  7. That the decision is not justified by the evidence or is contrary to law.
- D.** The Board may affirm or modify the decision or grant a rehearing or review to all or any of the parties on all or part of the issues for any of the reasons in subsection (C). An order granting a rehearing or review shall specify with particularity the grounds for the order.
- E.** Not later than 10 days after the decision, the Board may, after serving each party with notice and an opportunity to be heard, order a rehearing or review of its decision for any reason for which it might have granted a rehearing or review on motion of a party. The Board may grant a motion for rehearing or review for a reason not stated in the motion. In either case, the order granting a rehearing or review shall specify the grounds on which it is granted.
- F.** When a motion for rehearing or review is based upon an affidavit, the affidavit shall be served with the motion. An opposing party may, within 10 days after service, serve an opposing affidavit. The Board may extend the period for serving an opposing affidavit for not more than 20 days for good cause shown or by written stipulation of the parties. The Board may permit a reply affidavit.
- G.** If the Board makes a specific finding that the immediate effectiveness of a particular decision is necessary for the preservation of the public peace, health, or safety and that a rehearing or review is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, an application for judicial review of the decision may be made within the time limits permitted for applications for judicial review of the Board's final decisions.

**Historical Note**

Adopted effective September 15, 1978 (Supp. 78-5). Former Section R4-7-19 renumbered as Section R4-7-305 without change effective September 27, 1985 (Supp. 85-5). Amended effective July 6, 1993 (Supp. 93-3). Amended effective June 23, 1997 (Supp. 97-2). Amended by final rulemaking at 7 A.A.R. 1539, effective March 13, 2001 (Supp. 01-1). Amended by final rulemaking at 13 A.A.R. 1846, effective July 10, 2007 (Supp. 07-2).

**ARTICLE 4. EXAMINATIONS****R4-7-401. Repealed****Historical Note**

Former Article IV, Rule 1 (in part); Amended effective December 31, 1975 (Supp. 75-2). Former Section R4-7-20 renumbered as Section R4-7-401 without change effective September 27, 1985 (Supp. 85-5). Repealed effective December 9, 1994 (Supp. 94-4).

**R4-7-402. Renumbered****Historical Note**

Former Article IV, Rule 1 (in part); Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-21 renumbered as Section R4-7-402 effective September 27, 1985 (Supp. 85-5).

**R4-7-403. Repealed****Historical Note**

Former Article IV, Rule 1 (in part); Amended effective December 31, 1975 (Supp. 75-2). Former Section R4-7-

22 renumbered as Section R4-7-403 without change effective September 27, 1985 (Supp. 85-5). Repealed effective December 9, 1994 (Supp. 94-4).

**R4-7-404. Investigations**

The Board may require an applicant to appear and supply to the Board information or documents necessary to establish the qualifications of applicant.

**Historical Note**

Former Article IV, Rule 2; Former Section R4-7-23 renumbered as Section R4-7-404 without change effective September 27, 1985 (Supp. 85-5). Amended by final rulemaking at 7 A.A.R. 1539, effective March 13, 2001 (Supp. 01-1). Amended by final rulemaking at 18 A.A.R. 2552, effective November 19, 2012 (Supp. 12-3).

**R4-7-405. Refusal to Issue Licenses**

If the Board, after investigation of an applicant either before or after the applicant has taken the examination, determines that an applicant is not qualified to be issued a license, the Board shall notify applicant immediately of its decision to refuse to issue a license and the reasons therefore.

**Historical Note**

Former Article IV, Rule 3; Former Section R4-7-24 renumbered as Section R4-7-405 without change effective September 27, 1985 (Supp. 85-5). Amended effective December 9, 1994 (Supp. 94-4).

**R4-7-406. Repealed****Historical Note**

Former Article IV, Rule 4; Former Section R4-7-25 renumbered as Section R4-7-406 without change effective September 27, 1985 (Supp. 85-5). Repealed effective December 9, 1994 (Supp. 94-4).

**ARTICLE 5. LICENSES****R4-7-501. Display of Licenses**

A licensee shall, at all times, display the license issued to the licensee by the Board in a conspicuous place at all locations where the licensee engages in the practice of chiropractic, including mobile practices. A licensee shall, upon request of any person, produce for inspection the license renewal certificate for the current calendar year.

**Historical Note**

Former Article V, Rule 1; Former Section R4-7-30 renumbered as Section R4-7-501 without change effective September 27, 1985 (Supp. 85-5). Amended by final rulemaking at 7 A.A.R. 2821, effective June 12, 2001 (Supp. 01-2). Amended by final rulemaking at 13 A.A.R. 1848, effective July 10, 2007 (Supp. 07-2).

**R4-7-502. Procedures for Processing Initial License Applications**

- A.** An applicant may obtain a license application package at the Board Office on business days, or by requesting that the Board mail the application to an address specified by the applicant. An applicant shall pay the Board a non-refundable \$10 fee for each license application package.
- B.** A completed license application package shall be submitted to the Board office on business days. The Board shall deem the license application package received on the date that the Board stamps on the package as the date the package is delivered to the Board office;
- C.** To complete a license application package, an applicant shall provide the following information and documentation:

## Board of Chiropractic Examiners

1. Two identical photographs, measuring three inches by four inches, showing the applicant's full front face as the applicant will appear at the time of the examination and a description of identifying characteristics, if any;
  2. The applicant's full current name and any former names;
  3. The applicant's current home and all office addresses, current home and all office phone numbers, all current office fax numbers, and any previous home or office address or addresses for the past five years;
  4. The type of license, for which application is made;
  5. All fees required by A.R.S. §§ 32-921(D) and (E) and 32-922.02(E);
  6. A record of education requirements described in A.R.S. § 32-921(B) including the applicant's chiropractic college transcript and the applicant's certificate of attainment of passing scores for Parts I, II, III, and IV of the examination conducted by the National Board of Chiropractic Examiners;
  7. Any record of being convicted of, pleading guilty to, or pleading nolo contendere to a misdemeanor or a felony, even if the record of the conviction or plea was sealed or expunged or the conviction was set aside or forgiven, and any record of an arrest, investigation, indictment, or charge within the last 12 months. The applicant shall submit any record of being refused a license to practice chiropractic or any other health care profession in this or any other state, and any record of a formal sanction taken against the applicant's license in this or any other state;
  8. A completed fingerprint card;
  9. A list of all other states or jurisdictions in which the applicant is or has been licensed or certified to practice chiropractic or any other health care profession with a verification of good standing for each current license or certification submitted directly by the licensing agency of the other state or jurisdiction;
  10. The name and professional designation of the owner or owners of the clinic or office at which the applicant will be employed, if applicable;
  11. The applicant's Social Security number;
  12. The applicant's notarized signature, attesting to the truthfulness of the information provided by the applicant;
  13. A score of 75% or higher on the Arizona Jurisprudence Examination. The applicant shall not sit for the Arizona Jurisprudence Examination until the application package is otherwise complete.
- D.** Within 25 business days of receiving a license application package, the Board shall notify the applicant in writing that the package is either complete or incomplete. If the package is incomplete, the notice shall specify the information that is missing. If the Board does not provide notice to the applicant, the license application package shall be deemed complete after the passage of 25 business days.
- E.** An applicant with an incomplete license application package shall supply the missing information within 60 calendar days from the date of the notice. An applicant who is unable to supply the missing information within 60 calendar days may submit a written request to the Board for an extension of time in which to provide a complete application package. The request for an extension of time shall be submitted to the Board office before the 60-day deadline for submission of a complete application package, and shall state the reason that the applicant is unable to comply with the 60-day requirement and the amount of additional time requested. The Board shall grant a request for an extension of time if the Board finds that the reason the applicant was unable to comply with the 60-day requirement was due to circumstances beyond the applicant's control and that compliance can reasonably be expected to be remedied during the extension of time.
- F.** If an applicant fails to submit a complete license application package within the time permitted, the Board shall close the applicant's file and send a notice to the applicant by U.S. Mail that the application file has been closed. An applicant whose file has been closed and who later wishes to become licensed, shall apply anew.
- G.** After receiving all missing information as specified in subsection (E), the Board shall notify the applicant that the license application package is complete.
- H.** The Board shall render a licensing decision no later than 120 business days after receiving a completed license application package. The Board shall deem a license application package to be complete on the postmarked date of the notice advising the applicant that the package is complete.
- I.** An applicant seeking initial licensure by reciprocity under A.R.S. § 32-922.01 shall submit an application to the Board and shall comply with all provisions of R4-7-502 except that the applicant is not required to submit proof of obtaining a passing score on Part IV of the examination conducted by the National Board of Chiropractic Examiners.
- J.** For the purpose of A.R.S. § 41-1073, the Board establishes the following time-frames for initial licenses:
1. Administrative completeness review time-frame: 25 business days.
  2. Substantive review time-frame: 120 business days.
  3. Overall time-frame: 145 business days.

**Historical Note**

Former Article V, Rule 2; Amended effective December 31, 1975 (Supp. 75-2). Former Section R4-7-31 renumbered as Section R4-7-502 without change effective September 27, 1985 (Supp. 85-5). Repealed effective July 6, 1993 (Supp. 93-3). Adopted effective November 1, 1998; filed in the Office of the Secretary of State October 22, 1998 (Supp. 98-4). Amended by final rulemaking at 13 A.A.R. 1848, effective July 10, 2007 (Supp. 07-2).

**R4-7-503. Renewal License: Issuance, Reinstatement**

- A.** At least 30 days before a renewal application and renewal fee are due, the Executive Director of the Board shall send by first class mail to a licensee at the licensee's address of record, a renewal application and notice.
- B.** The licensee renewal application shall be returned to the Board office on a business day. The date of receipt shall be the post-marked date or the date the licensee hand delivers the license renewal application.
- C.** To complete a license renewal application, a licensee shall provide the following information and documentation:
1. The licensee's full name;
  2. The licensee's current home and office addresses, current home and all office phone numbers, and all current office fax numbers;
  3. The name and professional designation of the owner or owners of the clinic or office at which the licensee is employed;
  4. The licensee's Social Security number;
  5. A record of any professional disciplinary investigation or sanction taken against the licensee by a licensing board since the licensee last applied for renewal of a license in this or any other state;
  6. A record of any arrest, indictment or charge or any conviction or plea agreement for a misdemeanor or felony since the licensee last applied for renewal of the license;
  7. The renewal fee of \$170.00 required by A.R.S. § 32-923;

8. Attestation of compliance with the continuing education requirements under A.R.S. § 32-931 and R4-7-801. The licensee shall attest to compliance with continuing education requirements by documenting, on the renewal form, the date or dates the continuing education course was attended, the number of hours of continuing education completed, the qualifying course topic or topics, and the name of the accredited college or university with whom the course instructor is affiliated with as faculty. If the course does not meet the requirements under A.R.S. § 32-931 and R4-7-801, but has been approved by the Board, the applicant shall provide the continuing education course approval number issued by the Board instead of the name of the affiliated college or university;
  9. The licensee's signature attesting to the truthfulness of the information provided by the licensee.
- D.** In accordance with A.R.S. § 32-923(C), the Board shall automatically suspend a license if the licensee does not submit a completed application for renewal before January 1 of each calendar year. The Board shall send written notice of the license suspension to the licensee on or before January 20.
  - E.** The Board shall reinstate a suspended license if the licensee pays the annual license renewal fee, pays an additional fee of \$100 as required by A.R.S. § 32-923(D), and submits a completed license renewal application between January 1, and March 31 of the calendar year for which the license renewal is made.
  - F.** On or after April 1 of the calendar year for which a license renewal application was to be made, an individual who wishes to have a suspended license reinstated shall apply for reinstatement in accordance with A.R.S. § 32-923(D).
  - G.** An application for reinstatement of license may be obtained at the Board office on business days or by requesting that the Board mail one to an address specified by the applicant.
  - H.** A completed application for reinstatement of a license shall be submitted to the Board office on a business day. The Board shall deem an application for reinstatement of a license received on the date that the Board stamps on the application as the date it is delivered to the Board office.
  - I.** To complete an application for reinstatement of license, an applicant shall provide the following information and documentation:
    1. The applicant's full current name, suspended license number, and certification number if a specialty certification was held by the licensee;
    2. The applicant's current home and all office addresses, current home and all office phone numbers, and all current office fax numbers;
    3. The name and professional designation of the owner or owners of the office or clinic at which the applicant will be employed;
    4. The applicant's Social Security number;
    5. A list of all other states or jurisdictions in which the applicant is or has been licensed or certified to practice chiropractic or any other health care profession with a verification of good standing for each current license or certification submitted directly by the licensing agency of the other states or jurisdictions;
    6. A list of required continuing education courses completed and certification of course completion;
    7. A record of any professional disciplinary investigation or sanction initiated since the applicant last applied to renew the license;
    8. A record of any arrest, indictment or charge or any conviction or plea agreement for a misdemeanor or a felony since the date of the applicant's last application for licensure;
  9. The applicant's notarized signature attesting to the truthfulness of the information provided by the applicant.
  - J.** The Board shall process a license reinstatement application in accordance with R4-7-502(D) through (J). The Board shall deem the application received on the date that the Board stamps on the application as the date the application is delivered to the Board Office.
  - K.** The Board shall reinstate or renew a license if:
    1. The applicant or licensee has complied with the requirements of this Chapter and A.R.S. § 32-900 et seq.;
    2. The applicant or licensee has not had any professional disciplinary sanction taken against the applicant's or licensee's license by a licensing board since the last application for licensure;
    3. The applicant or licensee has not been convicted of, pled guilty to, or pled nolo contendere to a misdemeanor or a felony since the last application for licensure.
  - L.** If the provisions of subsection (K) are satisfied, the Board shall issue a license renewal certificate on or before February 1, of each year. The license renewal certificate shall serve as notice that the renewal application is complete and approved.
  - M.** If there is reason to believe that the provisions of subsection (K) have not been satisfied or that possible grounds for denying the renewal or reinstatement application exist, the Board shall notify the applicant of this possibility within 25 business days of the date that the application is received at the Board office.
  - N.** An applicant who is so notified that renewal or reinstatement may be denied may provide a written response and shall submit any documentation as required through written notice by the Board within 60 calendar days from the date of the Board's notice. An applicant who is unable to supply the required documentation within 60 calendar days may submit a written request to the Board for an extension of time in which to provide the required documentation. The request for an extension of time shall be submitted to the Board office before the 60-day deadline for submission of the required documentation, and shall state the reason that the applicant is unable to comply with the 60-day requirement and the amount of additional time requested. The Board shall grant a request for an extension of time if the Board finds that the reason the applicant was unable to comply with the 60-day requirement was due to circumstances beyond the applicant's control and that compliance can reasonably be expected to be remedied during the extension of time.
  - O.** If an applicant fails to submit required documentation within the time permitted, the Board shall issue a notice of intent to deny the renewal application or reinstatement application.
  - P.** The Board shall make a licensing decision no later than 70 business days after receiving all required documentation as specified in subsection (N). The Board shall deem required documentation received on the date that the Board stamps on the documentation as the date the documentation is delivered to the Board's office.
  - Q.** For the purpose of A.R.S. § 41-1073, the Board establishes the following time-frames for renewal or reinstatement of licenses:
    1. Administrative completeness review time-frame: 25 business days.
    2. Substantive review time-frame: 70 business days.
    3. Overall time-frame: 95 business days.

**Historical Note**

Former Article V, Rule 3; Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-32 renun-

## Board of Chiropractic Examiners

bered as Section R4-7-503 effective September 27, 1985 (Supp. 85-5). Adopted effective November 1, 1998; filed in the Office of the Secretary of State October 22, 1998 (98-4). Amended by final rulemaking at 13 A.A.R. 1848, effective July 10, 2007 (Supp. 07-2).

**R4-7-504. License: Denial**

If the Board denies a license, the Board shall send the applicant written notice explaining:

1. The reason for denial, with citations to supporting statutes or rules;
2. The applicant's right to seek a fair hearing to challenge the denial;
3. The time periods for appealing the denial; and
4. The right to request an informal settlement conference with the Board's authorized agent.

**Historical Note**

Former Article V, Rule 4 (in part); Amended effective December 31, 1975 (Supp. 75-2). Former Section R4-7-33 renumbered as Section R4-7-504 without change effective September 27, 1985 (Supp. 85-5). Repealed effective July 6, 1993 (Supp. 93-3). Adopted effective November 1, 1998; filed in the Office of the Secretary of State October 22, 1998 (98-4). Amended by final rulemaking at 18 A.A.R. 2552, effective November 19, 2012 (Supp. 12-3).

**R4-7-505. Renumbered****Historical Note**

Former Article V, Rule 4 (in part); Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-34 renumbered as Section R4-7-505 effective September 27, 1985 (Supp. 85-5).

**ARTICLE 6. ACUPUNCTURE CERTIFICATION****R4-7-601. Definition of Acupuncture as Applied to Chiropractic**

- A. Acupuncture as applied to chiropractic is stimulation of a certain meridian point or points on or near the surface of the body to control and regulate the flow and balance of energy of the body.
- B. Acupuncture includes acupuncture by needle, electrical stimulation, ultrasound, acupressure, laser, auricular therapy, or any implement that stimulates acupuncture points.
- C. Acupuncture does not include cupping, moxibustion, or cosmetic therapy.

**Historical Note**

Repealed effective December 31, 1975 (Supp. 75-2). New Section R4-7-40 adopted effective January 25, 1984 (Supp. 84-1). Former Section R4-7-40 renumbered as Section R4-7-601 without change effective September 27, 1985 (Supp. 85-5). Amended by final rulemaking at 7 A.A.R. 2821, effective June 12, 2001 (Supp. 01-2). Amended by final rulemaking at 18 A.A.R. 2552, effective November 19, 2012 (Supp. 12-3).

**R4-7-602. Repealed****Historical Note**

Repealed effective December 31, 1975 (Supp. 75-2). New Section R4-7-41 adopted effective January 25, 1984 (Supp. 84-1). Former Section R4-7-41 renumbered as Section R4-7-602 without change effective September 27, 1985 (Supp. 85-5). Repealed effective December 9, 1994 (Supp. 94-4).

**R4-7-603. Renumbered****Historical Note**

Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-42 renumbered as Section R4-7-603 effective September 27, 1985 (Supp. 85-5).

**R4-7-604. Renumbered****Historical Note**

Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-43 renumbered as Section R4-7-604 effective September 27, 1985 (Supp. 85-5).

**R4-7-605. Renumbered****Historical Note**

Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-44 renumbered as Section R4-7-605 effective September 27, 1985 (Supp. 85-5).

**R4-7-606. Renumbered****Historical Note**

Repealed effective December 31, 1975 (Supp. 75-2). Former Section R4-7-45 renumbered as Section R4-7-606 effective September 27, 1985 (Supp. 85-5).

**ARTICLE 7. STANDARDS OF EDUCATION****R4-7-701. Repealed****Historical Note**

Adopted as an emergency effective June 24, 1977 (Supp. 77-3). Former Section R4-7-50 adopted as an emergency pursuant to A.R.S. § 41-1003, valid for only 90 days. New Section R4-7-50 adopted effective December 29, 1977 (Supp. 77-6). Former Section R4-7-50 renumbered as Section R4-7-701 without change effective September 27, 1985 (Supp. 85-5). Amended effective July 6, 1993 (Supp. 93-3). Section repealed by final rulemaking at 8 A.A.R. 4895, effective January 7, 2003 (Supp. 02-4).

**R4-7-702. Educational Requirements for Licensure**

To qualify for licensure, an individual shall have graduated from a college of chiropractic that is accredited as specified in A.R.S. § 32-921(B)(2)(a) or that meets the standards of education for accreditation contained in The Council on Chiropractic Education Standards for Doctor of Chiropractic Programs and Institutions.

**Historical Note**

Adopted as an emergency effective June 24, 1977 (Supp. 77-3). Former Section R4-7-51 adopted as an emergency pursuant to A.R.S. § 41-1003, valid for only 90 days. New Section R4-7-51 adopted effective December 29, 1977 (Supp. 77-6). Former Section R4-7-51 renumbered as Section R4-7-702 without change effective September 27, 1985 (Supp. 85-5). Amended effective July 6, 1993 (Supp. 93-3). Section repealed; new Section made by final rulemaking at 8 A.A.R. 4895, effective January 7, 2003 (Supp. 02-4).

**ARTICLE 8. CONTINUING EDUCATION****R4-7-801. Continuing Education Requirements**

- A. To be eligible to renew a license, a licensee shall complete 12 credits of continuing education between January 1 and December 31 of each year, and document compliance with continuing education requirements on the license renewal application as required by R4-7-503(C). Continuing education credit shall be given for a minimum of 50 minutes of continuous study for each class hour. No credit shall be allowed for breaks or for time expended for study outside of the classroom.

- B.** Basic requirements – The primary consideration in determining whether or not a specific course qualifies as acceptable continuing education is that it must be a formal program of learning which will contribute directly to the professional competence of a licensee in the practice of chiropractic. Each course shall be on subjects of clinical benefit to the consumer of chiropractic services.
1. The content of the course, seminar or workshop must be recognized by reputable authorities as having validity, and must conform to the scope of practice for assessment, treatment and diagnosis as authorized under A.R.S. § 32-925 and A.R.S. § 32-922.02.
  2. Instructors shall be qualified by education and/or experience to provide instruction in the relevant subject matter.
  3. Each licensee is responsible for determining in advance that the course which he or she attends qualifies for continuing education credit under this Article.
- C.** A licensee shall only obtain continuing education credit by:
1. Attending a course, (which includes a seminar or workshop), through a provider and on subjects that have been pre-approved by the Board.
  2. Participating in the development of, or proctoring the National Board of Chiropractic Examiners (NBCE) examinations. Continuing education credits earned in this manner are calculated as one credit hour for each hour of participation in the development of the NBCE examination for a maximum credit of eight hours per year, and one credit hour for each hour proctoring the NBCE exam for a total of eight hours per year. A licensee shall obtain a certificate of participation from the National Board of Chiropractic Examiners to verify compliance with this provision.
  3. By teaching a post-graduate course that has been pre-approved by the Board for continuing education credit under this Section as a faculty member of a college or university that is accredited by or is in good standing with the Council on Chiropractic Education or is accredited by an accrediting agency recognized by the United States Department of Education or the Private Postsecondary Education Board during the renewal year. Continuing education credits earned in this manner are calculated as one credit of continuing education for each hour of post-graduate course instruction. A maximum of six credits of continuing education credit may be earned in this manner annually.
  4. By completing a post-graduate mediated instruction or programmed learning course pre-approved by the Board through an accredited college or university that meets the requirements of A.R.S. § 32-931(B). Mediated instruction and programmed learning refers to learning transmitted by intermediate mechanisms such as webinar or other internet delivered courses that are structured to confirm 50 minutes of continuous instruction for each credit hour received. A licensee shall obtain a certificate of program completion from the accredited college or university to verify compliance with this provision.
- D.** The following are predetermined to meet Board approval as providers for continuing education. Additional approval is not required, nor should it be expected. An application submitted for a course that falls under this subsection shall be returned to the applicant without a review and subsection (E) does not apply. Coursework provided by these entities is approved as meeting continuing education requirements only for those subjects listed in subsections (J) and (K) of this Section. Pre-approval does not include mediated instruction or programmed learning courses.
1. A college or university that meets the requirements of A.R.S. § 32-921(B)(2)(a), the American Chiropractic Association and the International Chiropractors Association, with qualified instructors and that provide courses that meet the subject requirements under subsections (J) or (K).
  2. CPR training provided or sponsored by the American Heart Association, the American Red Cross, or an entity that meets equivalent standards of the American Heart Association and the American Red Cross. A maximum of four credits of continuing education credit may be earned in this manner annually.
  3. Participation in the development of or proctoring the NBCE examinations.
- E.** Prior approval is required for all course providers not mentioned in subsection (D) and for all mediated instruction or programmed learning courses regardless of subsection (D). A provider applying for approval of a continuing education course shall submit a complete application to the Board at least 60 days prior to the anticipated initial date of the course if submitted by internet, or 75 days if provided in hard copy form. The Board shall notify the applicant in writing that the package is either complete or incomplete. If the package is incomplete, the notice shall specify the information that is missing and the applicant must submit the missing information within 10 days of the notice. The Board will not approve a course if a complete application has not been submitted at least 15 business days prior to the initial date of the course identified in the initial application. If the applicant changes the initial date of the course or the course content or the instructors, it shall be considered a new application. A complete application shall include:
1. The name, dates, and locations of the course.
  2. The number of hours requested for approval.
  3. The subjects of the course, broken down by the specific time of instruction in/of each subject.
  4. A course description including the content, explicit written objectives identifying expected learner outcomes for each section of the course and teaching method (i.e. lecture, discussion, PowerPoint, internet, webinar).
  5. A detailed, hour by hour syllabus identifying the subject of instruction for each hour, with the instructor for each section identified. If less than an hour is dedicated to a subject, the syllabus shall identify the number of minutes dedicated to instruction on that subject.
  6. A resume or curriculum vitae for each instructor and an attestation of the following:
    - a. Licenses for all instructors are currently in good standing.
    - b. No instructor has had a license placed on probation or restricted within the past five years in this or any other jurisdiction.
    - c. No instructor has ever had a license suspended or surrendered for unprofessional conduct or revoked in this or any other jurisdiction.
    - d. No instructor has had a license application or renewal denied for unprofessional conduct.
    - e. No instructor has been convicted of a misdemeanor involving moral turpitude or a felony in this or any other jurisdiction.
  7. Documentation of license in good standing for each instructor for each state in which the instructor has or currently holds a license, if applicable. If an instructor is currently under investigation by a regulatory agency or is under investigation for, or been charged with, a criminal

## Board of Chiropractic Examiners

- offence, the applicant shall disclose the investigation or charge and shall provide all relevant records.
8. One letter of reference for each course instructor from a person familiar with the instructor's qualifications as an instructor and education and/or experience in the relevant subject.
  9. Identification of a sponsor, if applicable, and disclosure of any connection between the provider and/or instructor and/or sponsor of any commercial relationship and/or any external entity giving financial support to the course. If the course does have a sponsor, a completed sponsor/program provider agreement for continuing education, signed and notarized by a responsible party must be provided with the application.
  10. Documentation of the method by which attendance will be monitored, confirmed and documented.
  11. The name and contact information for the attendance certifying officer with an attestation that the certifying officer is supervised by the applicant provider and a description of the supervision method employed to confirm that the certifying officer is performing the duty of monitoring and confirming attendance.
  12. Attestation that each course hour consists of no less than 50 minutes of continuous instruction and that credit is not provided for breaks.
  13. The non-refundable fee required under R4-7-1301 for each course, whether individual or included in a program of multiple courses.
  14. The name, address, telephone number, fax number and e-mail of a contact person.
  15. Any other information required or requested by the Board.
  16. If the course is a mediated instruction or programmed learning course, a detailed description of the method used to confirm that the participant was engaged in 50 minutes of continuous instruction for each credit hour awarded.
  17. The Board may require that the applicant provide additional information in support of the application if the course qualifications are not clearly demonstrated through the materials provided.
- F.** The Board shall approve a continuing education course if the applicant has submitted a complete application to the Board's satisfaction within the time-frame required by this Chapter and has demonstrated the following:
1. The course complies with this Chapter.
  2. The course instructors is faculty with an accredited college or university that meets the requirements of A.R.S. § 32-921(B)(2)(a) or demonstrates equivalent qualifications through postgraduate study and experience teaching postgraduate coursework. An instructor must:
    - a. Hold an applicable license in good standing.
    - b. Shall not have had a license placed on probation within the last five years.
    - c. Shall not ever had a license suspended, surrendered for unprofessional conduct or revoked.
    - d. Shall not have had a license application or renewal denied for unprofessional conduct.
    - e. Shall not or been convicted of a felony in this or any other jurisdiction.
  3. The course instructor is qualified by education and experience to provide instruction in the relevant subject matter.
  4. The subject of the course qualifies under subsections (D)(2) and (3), (J) and (K).
  5. The course demonstrates attendance and/or monitoring procedures. Monitoring procedures must provide confirmation that a licensee was engaged in 50 minutes of continuous study for each credit hour.
- G.** The Board shall not approve a continuing education course if the applicant fails to submit a complete application within the time-frame required by this Chapter or if:
1. The course does not qualify under this Chapter.
  2. The course subject does not qualify for continuing education credit under subsections (D)(2) and (3), (J) and (K).
  3. The instructor does not qualify as per subsection (F)(2).
  4. The instructor's references do not support the qualifications of the instructor as per subsection (F).
  5. The course primary focus is to promote a product or service.
  6. The course requires participants to purchase a product or service.
  7. The course has no significant relationship to the assessment, diagnosis or treatment of patients within the scope of practice of chiropractic as defined under A.R.S. §§ 32-925 and 32-922.02.
  8. The content cannot be verified.
  9. The course refutes generally accepted medical care and treatment and/or instructs participants to encourage patients to stop taking medication and/or stops participating in generally accepted medical care or fails to qualify under subsection (K).
- H.** A course approved by the Board pursuant to subsections (E) and (F) shall be issued an approval number. Once approved, a course provider shall:
1. Provide course attendees with a certificate confirming course participation. The certificate shall:
    - a. Include the name of the college or university through which the course was completed, or the course approval code issued by the Board, if applicable;
    - b. The name and Arizona license number of the attendee;
    - c. The name of the course provider, the course subject matter;
    - d. The name of the course if different than the subject matter listed;
    - e. The date and location of the course; and
    - f. The number of hours of continuing education completed.
  2. Maintain a list of all course attendees for a minimum of five years after each date that the course is held, and shall provide a copy of the list to the board within 10 days of a written request to do so.
  3. Maintain a copy of the course syllabus and stated learning objectives, a list of instructors and documentation of the name, location and date of the course for a minimum of five years and shall provide the Board with a copy of these materials within 10 days of a written request to do so.
  4. Monitor course attendance by each attendee in a manner that confirms that the attendee was present and participating in the course for a continuous 50 minutes for each hour of continuing education credited.
  5. Notify the Board immediately of concerns or problems that may arise regarding the approved course, to include discipline being imposed on the license of an instructor or an instructor being convicted of a criminal offense.
  6. Reapply for Board approval every two years no later than the first day of the month in which the course was initially approved, and every time the subject of the course changes and/or there is a change in instructors that does not include an instructor already approved by the Board.

- Failure to reapply as per this subsection shall disqualify the course for ongoing continuing education credit.
7. Not represent that the course is sanctioned or promoted by the state of Arizona Board of Chiropractic Examiners. The provider may state that the course meets the continuing education requirements as per A.R.S. § 32-931. If the course has been directly approved by the Board, the provider may display the Board's course approval number.
- I.** The Board may monitor a continuing education provider's compliance with continuing education statutes and rules as follows:
1. The Board may request any or all documentation as per Section (H) of this rule from a board-approved continuing education provider for any course registered for license renewal to ensure compliance with this rule.
  2. A representative of the Board may attend any approved continuing education course for the purpose of verifying the content of the program and ensuring compliance with the Board's continuing education rules at no charge to the Board representative.
  3. If the Board finds that a course or provider is not compliant with the continuing statutes or rules, has misrepresented course content or instructors in an application, failed to obtain new approval for a course with a change in subject or instructor or failed to pay the course fee, the Board may withdraw its approval for continuing credit for the course and/or the provider. The withdrawal of approval shall be effective upon written notification to the provider's contact of record by the Board.
  4. The Board shall notify a provider that it will consider withdrawal of course approval and provide the date, time and location of the meeting at which the matter will be discussed and possible action taken.
  5. If approval is withdrawn, the Board shall notify the provider of the reasons for withdrawal of approval.
  6. The provider shall notify all Arizona licensees who attended the course that any course hours obtained through the course cannot be used for continuing education credit of license renewal in the state of Arizona. If a provider fails to provide appropriate notice to Arizona licensed attendees, within ten business days of written notice from the Board that course approval has been withdrawn, that provider shall not be considered for approval of continuing education credit in the future. The notice to the Arizona licensed attendees must be made by certified mail in order to establish documentation that the requirement was met.
- J.** Course subjects approved for continuing education for renewal of an Arizona chiropractic license are:
1. Adjusting techniques;
  2. Spinal analysis;
  3. Physical medicine modalities and therapeutic procedures as defined in A.R.S. § 32-900(7) and (8);
  4. Recordkeeping and documentation;
  5. Ethics;
  6. CPR;
  7. Public health;
  8. Communicable diseases;
  9. Sexual boundaries;
  10. Emergency procedures;
  11. Acupuncture;
  12. Nutrition;
  13. Examination;
  14. Assessment and diagnostic procedures to include physical, orthopedic, neurological procedures;
  15. Radiographic technique;
  16. Diagnostic imaging and interpretation;
  17. Laser as permitted by law;
  18. Clinical laboratory procedures limited to urine collection, fingerpicks and venipuncture (not to be confused with evaluation of lab reports);
  19. Anatomy;
  20. Physiology;
  21. Bacteriology;
  22. Chiropractic orthopedics and neurology;
  23. Chemistry;
  24. Pathology;
  25. Patient management;
  26. Evidence-based clinical interventions models;
  27. Symptomatology;
  28. Arizona jurisprudence, and;
  29. Participation in National Board of Chiropractic Examiners examination development or administration of examinations.
- K.** In addition to the subjects in subsections (A), (C), (D) and (J), courses for the purpose of recognizing, assessing and determining appropriate referral or collaborative treatment of complex conditions, including but not limited to cancer, autism, multiple sclerosis, diabetes, and developmental disorders, for the purpose of co-management of the patient's condition with qualified medical providers shall qualify for continuing education credit.
- L.** The following subjects shall not qualify for continuing education for the purpose of license renewal and shall not be approved by the Board:
1. Billing, coding;
  2. Malpractice defense;
  3. Practice management;
  4. Risk management;
  5. Promotion of a product or a service or a requirement that attendees purchase a product or service;
  6. Strategies to increase insurance payments;
  7. Administrative or economic aspects of a practice;
  8. Motivational courses;
  9. Legal courses other than pre-approved Board jurisprudence;
  10. Anti-aging;
  11. Hormone treatment;
  12. Aroma therapy;
  13. Stress management;
  14. Psychological treatment;
  15. HIPAA;
  16. Homeopathic practice that exceeds A.R.S. § 32-925;
  17. Professional or business meetings, speeches at luncheons, banquets, etc.;
  18. Subject matter that exceeds the assessment, diagnosis and treatment of patients within the scope of practice of chiropractic as defined in this Chapter;
  19. Any course without a significant relationship to the safe and effective practice of chiropractic under A.R.S. § 32-925 and A.R.S. § 32-922.02;
  20. And any course that involves a distance learning format or materials if the course has not been pre-approved by the board and issued a board approval number;
- M.** A licensee's compliance with subsections (A), and (C), shall include the following coursework in order to renew a license.
1. Each licensee shall complete a minimum of two hours of continuing education in recordkeeping for every even numbered year.
  2. Each person who is issued a new license to practice chiropractic in Arizona on or after January 1, 2013, is required to attend three hours of a single regularly scheduled Board meeting within the first year of residence in Arizona. The licensee cannot distribute the three hours of

## Board of Chiropractic Examiners

Board meeting attendance over two or more Board meetings. The licensee shall notify the Board in writing within ten days of moving to Arizona. The meeting attendance must be pre-scheduled and pre-approved by Board staff. Continuing education credit will not be awarded if the licensee is attending the meeting as a subject of an investigation or other Board review or if the licensee fails to properly schedule attendance as per this Section. This subsection does not pertain to any person who has had a license to practice chiropractic in Arizona issued prior to January 1, 2013.

- N. The Board shall grant an extension of 90 days to comply with the continuing education requirements to a qualified licensee. To qualify for an extension, a licensee shall:
1. Timely file a license renewal application and renewal fee; and
  2. Submit a written request for an extension no later than December 1 of the current renewal year, including evidence of good cause why the continuing education requirements cannot be met by December 31 of the current renewal year.
- O. The following reasons constitute good cause for the Board to grant an extension of time to comply with the continuing education requirements:
1. The licensee lived in a country where there was no accredited chiropractic college, or a college that meets the requirements of R4-7-702, for at least seven months during the year that the continuing education requirements are to be met;
  2. The licensee was in active military service for at least seven months during the year that the continuing education requirements are to be met; or
  3. The licensee was not able to complete the continuing education requirements because of a documented disability of the licensee or the licensee's spouse, child, or parent.
- P. If the Board grants an extension of time to complete the required 12 hours of continuing education requirements, 12 hours of required continuing education credits obtained during the 90-day extension shall be applied to meet only the requirements for which the extension is granted. A licensee shall not report those 12 hours of continuing education credit earned during a 90-day extension for a subsequent renewal year.

**Historical Note**

Adopted as an emergency effective Oct. 7, 1977 (Supp. 77-5). Former Section R4-7-60 repealed, New Section R4-7-60 adopted effective December 29, 1977 (Supp. 77-6). Repealed effective May 14, 1980 (Supp. 80-3). Former Section R4-7-60 renumbered as Section R4-7-801 effective September 27, 1985 (Supp. 85-5). Adopted effective June 19, 1997 (Supp. 97-2). Amended by final rulemaking at 7 A.A.R. 2821, effective June 12, 2001 (Supp. 01-2). Amended by final rulemaking at 13 A.A.R. 1848, effective July 10, 2007 (Supp. 07-2). Amended by final rulemaking at 18 A.A.R. 2554, effective November 19, 2012 (Supp. 12-3).

**R4-7-802. Documenting Compliance with Continuing Education Requirements**

- A. A licensee shall retain documents to verify compliance with the continuing education requirements for at least five years from the date the continuing education credit is used to qualify the licensee for renewal. The Board may audit continuing education compliance at any time during those five years by requiring submission of documentation of course completion.
- B. With each license renewal application, a licensee shall attest by providing the licensee's signature, that the licensee has met

the continuing education requirements, and complied with R4-7-503(C)(8) and subsection (A). A licensee's documentation of compliance on the license renewal application shall include the name of the approved course provider.

- C. The Board may require a licensee to provide documentation to verify compliance with continuing education requirements, including evidence that:
1. Each continuing education credit was for 50 minutes of education,
  2. The requirements of subsections (A) and (B) were satisfied,
  3. Continuing education credit was earned between the immediately preceding January 1 and the date that the license renewal application was filed or the date on which an extension of time expired,
  4. No continuing education credit earned between the immediately preceding January 1 and the date that the license renewal application was filed was earned under an extension of time to comply with the continuing education requirements of a previous year, and
  5. The provisions of A.R.S. § 32-931 and R4-7-801 were met.
- D. Documentation shall be in the form of a certificate of completion issued by a Board-approved provider. The Board may require submission of a time sheet demonstrating that the licensee was in attendance for a continuous 50 minutes for every hour of continuing education credit awarded.
- E. The Board shall suspend a license upon notification to the licensee that the licensee has failed to demonstrate compliance with continuing education requirements as per A.R.S. §§ 32-923(C) and 32-931.

**Historical Note**

Adopted as an emergency effective Oct. 7, 1977 (Supp. 77-5). Former Section R4-7-61 repealed, new Section R4-7-61 adopted effective December 29, 1977 (Supp. 77-6). Repealed effective May 14, 1980 (Supp. 80-3). Former Section R4-7-61 renumbered as Section R4-7-802 effective September 27, 1985 (Supp. 85-5). Adopted effective June 19, 1997 (Supp. 97-2). Amended by final rulemaking at 13 A.A.R. 1848, effective July 10, 2007 (Supp. 07-2). Amended by final rulemaking at 18 A.A.R. 2554, effective November 19, 2012 (Supp. 12-3).

**R4-7-803. Effect of Suspension on Continuing Education Requirements**

A licensee whose license is suspended under A.R.S. §§ 32-923, 32-924, or 32-931, shall complete 12 credits of continuing education for each calendar year or part of a calendar year that the license is suspended before the license may be reinstated or renewed.

**Historical Note**

Adopted as an emergency effective Oct. 7, 1977 (Supp. 77-5). Former Section R4-7-62 repealed, new Section R4-7-62 adopted effective December 29, 1977 (Supp. 77-6). Repealed effective May 14, 1980 (Supp. 80-3). Former Section R4-7-62 renumbered as Section R4-7-803 effective September 27, 1985 (Supp. 85-5). Adopted effective June 19, 1997 (Supp. 97-2).

**ARTICLE 9. UNPROFESSIONAL CONDUCT****R4-7-901. Advertising of a Deceptive and Misleading Nature**

The Board shall investigate an allegation of advertising in a false, deceptive, or misleading manner by a licensee and may sanction a licensee for a violation under A.R.S. § 32-924. Advertising of a false, deceptive, or misleading manner includes, but is not limited to, the following:

(Supp. 07-4).

**ARTICLE 12. EXPIRED****R4-7-1201. Expired****Historical Note**

New Section made by final rulemaking at 8 A.A.R. 259, effective December 17, 2001 (Supp. 01-4). Section expired under A.R.S. § 41-1056(E) at 12 A.A.R. 688, effective December 31, 2005 (Supp. 06-1).

**R4-7-1202. Expired****Historical Note**

New Section made by final rulemaking at 8 A.A.R. 259, effective December 17, 2001 (Supp. 01-4). Section expired under A.R.S. § 41-1056(E) at 12 A.A.R. 688, effective December 31, 2005 (Supp. 06-1).

**R4-7-1203. Expired****Historical Note**

New Section made by final rulemaking at 8 A.A.R. 259, effective December 17, 2001 (Supp. 01-4). Section expired under A.R.S. § 41-1056(E) at 12 A.A.R. 688, effective December 31, 2005 (Supp. 06-1).

**R4-7-1204. Expired****Historical Note**

New Section made by final rulemaking at 8 A.A.R. 259, effective December 17, 2001 (Supp. 01-4). Section expired under A.R.S. § 41-1056(E) at 12 A.A.R. 688, effective December 31, 2005 (Supp. 06-1).

**ARTICLE 13. CHARGES****R4-7-1301. Additional Charges**

- A.** The Board shall collect charges for services as follows:
1. Annual license renewal fee: \$170.00;
  2. Copies of public records: \$0.25 per page, with a minimum fee of \$2.00;
  3. Directories or labels: \$40.00;
  4. Annual subscription for meeting minutes: \$70.00;
  5. Agendas: \$25.00 for an annual subscription or \$2.00 per agenda;
  6. Recordings of Board meetings: \$5.00 per disc or tape;
  7. Lists of licensees, applicants, chiropractic assistants: \$0.05 per name, with a minimum fee of \$2.00;
  8. Hard copy credential verification: \$2.00 per name;
  9. Verification of license status: \$25.00;
  10. Continuing education course review for approval: \$50.00;
  11. Jurisprudence booklet: \$10.00;
  12. Duplicate renewal receipt: \$5.00;
  13. Duplicate ornamental license: \$20.00;
  14. Duplicate ornamental certificate: \$20.00; and
  15. Penalty for insufficient funds check submitted to Board as payment of fee or other charge: \$25.00.
- B.** All charges are non-refundable, except if A.R.S. § 41-1077 applies.
- C.** The fees in this Section pertain regardless of the method by which the document is delivered.

**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 4532, effective November 9, 1999 (Supp. 99-4). Amended by final rulemaking at 7 A.A.R. 4328, effective September 20, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 5026, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R.

4687, effective February 3, 2007 (Supp. 06-4).

**ARTICLE 14. BUSINESS ENTITIES****R4-7-1401. Application for Business Entity; qualifications of applicant; fee; background investigations**

- A.** A business entity that wishes to operate a clinic, franchise, business, club, or any other entity which uses the services of a licensed doctor of chiropractic to provide a service, supervise the provision of services, act as clinical director or otherwise perform any function under a person's chiropractic license (doctor of chiropractic) shall submit a complete application to the Board at least sixty days prior to the intended implementation of engaging the services of a licensed doctor of chiropractic. A business entity that uses the services of a doctor of chiropractic as defined in this subsection prior to the effective date of these rules shall submit a complete application to the Board no later than ten days from the effective date of these rules. A business entity shall not engage the services of a doctor of chiropractic as noted in this section until the Board has approved and issued the registration. The registration shall serve as a license for the purpose of compliance with this Chapter.
- B.** "Owner, officer or director" means any person with a fiscal or an administrative interest in the business entity, regardless of whether the business is a for-profit or non-profit affiliation.
- C.** To be eligible for business entity registration, the applicant owners, officers or directors shall:
1. Be of good character and reputation.
  2. Have obtained a license or a permit to conduct a business under applicable law and jurisdiction.
- D.** The board may deny registration to a business entity if:
1. The business entity is not eligible for registration.
  2. An owner, an officer or a director has had a license to practice any profession refused, revoked, suspended, surrendered or restricted by a regulatory entity in this or any other jurisdiction for any act that constitutes unprofessional conduct pursuant to this Chapter.
  3. An owner, an officer or a director is currently under investigation by a regulatory entity in this or any other jurisdiction for an act that may constitute unprofessional conduct pursuant to this Chapter.
  4. An owner, an officer or a director has surrendered a license for an act that constitutes unprofessional conduct pursuant to this Chapter in this or any other jurisdiction.
  5. An owner, an officer or a director has been convicted of criminal conduct that constitutes grounds for disciplinary action pursuant to this Chapter.
  6. The business entity allows or has allowed any person to practice chiropractic without a license or fails or failed to confirm that a person that practices chiropractic is properly licensed.
  7. The business entity allows or has allowed a person who is not a licensed doctor of chiropractic and who is not a chiropractic assistant to provide patient services according to this Chapter.
- E.** The applicant shall pay to the Board a nonrefundable application fee of \$400.00.
- F.** In order to determine an applicant business entity's (applicant) eligibility for approval, the Board may require the business entity's owners, officers and directors to submit a full set of fingerprints to the Board. The Board shall submit the fingerprints to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to A.R.S. § 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation. The board shall charge each

applicant a fee that is necessary to cover the cost of the investigation. The Board shall forward this fee to the Department of Public Safety.

#### Historical Note

New Section made by final rulemaking at 20 A.A.R. 2239, effective October 5, 2014 (Supp.14-3).

#### R4-7-1402. Display of Registration

A business entity shall, at all times, display the registration issued to the business entity by the Board in a conspicuous place at all locations where a doctor of chiropractic is employed, contracted or otherwise functions in any capacity under a chiropractic license, including mobile practices. The business entity shall, upon request of any person, immediately produce for inspection the annual renewal certificate for the current registration period and shall keep a renewal certificate issued by the Board present at all locations.

#### Historical Note

New Section made by final rulemaking at 20 A.A.R. 2239, effective October 5, 2014 (Supp.14-3).

#### R4-7-1403. Procedures for Processing Initial Registration Applications

- A. An applicant may obtain an application package at the Board Office on a business day, or by requesting that the Board send the application to an address specified by the applicant.
  - B. A completed business entity registration application package shall be submitted to the Board office on a business day. The Board shall deem the business entity application package received on the date that the Board stamps on the package as the date the package is delivered to the Board office.
  - C. To complete a business entity application package, an applicant shall provide the following information and documentation:
    1. The full current name and any former names and title of any and all owners, officers or directors.
    2. The current home and all office addresses, current home and all office phone numbers, all current office fax numbers, and any previous home or office addresses for the past five years for each owner, officer or director.
    3. The business name and the current addresses, phone numbers and fax numbers for each office, clinic or other setting where any service is performed, supervised or directed by a licensed doctor of chiropractic according to R4-7-1401(A) and this Chapter.
    4. The non-refundable application fee of \$400.00.
    5. The name and license number of each doctor of chiropractic employed with, contracted with, or otherwise affiliated with the business entity according to R4-7-1401(A) and this Chapter.
    6. A completed fingerprint card for each owner, officer and director.
    7. Copies of any and all contracts or any other agreement between the business entity and the doctor of chiropractic, to include employment or franchise contracts, agreements or equivalent.
    8. Any record of an owner, officer or director being convicted of, pleading guilty to, or pleading nolo contendere to a misdemeanor or a felony, even if the record of the conviction or plea was sealed or expunged or the conviction was set aside or forgiven, and any record of an arrest, investigation, indictment, or unconcluded charge.
    9. Any record of an owner, officer or director being refused a license to practice chiropractic or any other profession in this or any other jurisdiction, and any record of a disciplinary action taken against an owner, officer or director's license in this or any other jurisdiction.
  10. The Social Security number for each owner, officer, or director.
  11. A government issued photo identification confirming U.S. citizenship or legal presence in the United States for each owner, officer or director, or if those individuals reside outside of the United States, confirmation of legal authority to operate a business in the United States.
  12. A copy of the written protocol required by A.R.S. § 32-934(G).
  13. The name, phone number and address for a contact person.
  14. A notarized signature for each owner, officer or director attesting to the truthfulness of the information provided by the applicants. A stamped signature will not be accepted for the purposes of completing the application.
- D. Within 25 business days of receiving a business entity registration application package, the Board shall notify the applicant in writing that the package is either complete or incomplete. If the package is incomplete, the notice shall specify the information that is missing.
  - E. An applicant with an incomplete business entity registration application package shall supply the missing information within 30 calendar days from the date of the notice. An applicant who is unable to supply the missing information within 30 calendar days may submit a written request to the Board for an extension of time in which to provide a complete application package. The request for an extension of time shall be submitted to the Board office before the 30-day deadline for submission of a complete application package, and shall state the reason that the applicant is unable to comply with the 30-day requirement and the amount of additional time requested. The Board shall grant a request for an extension of time if the Board finds that the reason the applicant was unable to comply with the 30-day requirement was due to circumstances beyond the applicant's control and that compliance can reasonably be expected to be remedied during the extension of time.
  - F. If an applicant fails to submit a complete business entity registration application package within the time permitted, the Board shall close the applicant's file and send a notice to the applicant by U.S. Mail that the application file has been closed. An applicant whose file has been closed and who later wishes to become registered shall reapply under R4-7-1401 and R4-7-1403.
  - G. After timely receipt of all missing information as specified in subsection (E), the Board shall notify the applicant that the application package is complete.
  - H. The Board shall render a decision no later than 120 business days after receiving a completed registration application package. The Board shall deem a registration application package to be complete on the postmarked date of the notice advising the applicant that the package is complete.
  - I. The Board shall approve the registration for a business entity that meets all of the following requirements:
    1. Timely submits a complete application.
    2. The Board does not find grounds to deny the application under R4-7-1401(D).
    3. The business entity has complied with the requirements of this Chapter and A.R.S. § 32-900 et. seq.
    4. Pays the original business entity prorated renewal fee of \$17.00 per month from the first day of the month the business entity is registered through May 31 plus \$25.00 for each duplicate license issued by the Board for the purpose of compliance with R4-7-1402.
  - J. An applicant shall reapply for registration if the applicant does not pay the prorated registration fee within 3 months after hav-

ing been notified by the Board that the applicant is eligible to receive an approved registration.

**K.** For the purpose of A.R.S. § 41-1073, the Board establishes the following time-frames for initial registration:

1. Administrative completeness review time-frame: 25 business days.
2. Substantive review time-frame: 120 business days.
3. Overall time-frame: 145 business days.

#### Historical Note

New Section made by final rulemaking at 20 A.A.R. 2239, effective October 5, 2014 (Supp.14-3).

#### **R4-7-1404. Business Entity Registration Renewal: Issuance, Reinstatement**

- A.** A business entity registration expires on May 31 of each year.
- B.** At least 30 days before a renewal application and renewal fee are due, the executive director of the Board shall send a business entity a renewal application and notice by first class mail to its address of record for the business entity contact person.
- C.** The business entity registration renewal application shall be returned to the Board office on a business day. The Board shall deem the business entity registration renewal application package received on the date that the Board stamps on the package as the date the package is delivered to the Board office;
- D.** To complete a registration renewal application, a business entity shall provide the following information and documentation:
1. The name of the business entity.
  2. The current addresses, phone numbers, and fax numbers for each facility requiring registration under this Chapter.
  3. Notice of any change of owners, officers or directors, to include any additions and/or deletions with the date of the change for each individual, and notice of any change in home address, office address and phone numbers for owners, officers or directors with the date of the change for each individual.
  4. The name and license number of each doctor of chiropractic employed with, contracted with, or otherwise affiliated with the business entity according to R4-7-1401(A), to include any affiliation through a franchise.
  5. The record of any professional disciplinary investigation or action taken against an owner, officer or director in this or any other jurisdiction within the last 12 months.
  6. Any record of an owner, officer or director being convicted of, pleading guilty to, or pleading nolo contendere to a misdemeanor or a felony, even if the record of the conviction or plea was sealed or expunged or the conviction was set aside or forgiven, within the last 12 months and any record of an arrest, investigation, indictment or uncompleted charge within the last 12 months.
  7. A statement attesting that the contract or any other form of agreement with the doctors of chiropractic has not changed, or if the contract or agreement has changed, a copy of any new or amended contract or agreement.
  8. Report any change in the status of the business entity's license or permit to own and operate a business in the State of Arizona.
  9. The renewal fee of \$200.00 plus a \$25.00 fee for each duplicate Board issued renewal certificate for the purpose of compliance with R4-7-1402. A business entity applying for renewal for the first time shall pay a prorated fee according to A.R.S. § 32-934(C).
  10. The name, address, phone number, fax number and email for a contact person.
  11. The original signature of the delegated contact person attesting to the truthfulness of the information provided

by the business entity. All owners, officers or directors also remain responsible for the accuracy and truthfulness of the application. A stamped signature will not be accepted for the purpose of a complete application.

- E.** A business entity registration shall automatically expire if the business entity does not submit a completed application for renewal, the renewal fee and the fee for duplicate renewal certificates for the purpose of complying with R4-71402 before June 1 of each registration period. The Board shall send written notice to the business entity that its registration has expired on or before June 20. A business entity shall not use the services of a licensed doctor of chiropractic according to R4-7-1401(A) if the business entity's registration has expired.
- F.** The Board shall reinstate an expired business entity registration if the business entity pays the annual renewal fee, the additional fee for duplicate certificates for the purpose of compliance with R4-7-1402, pays an additional non-refundable late fee of \$200.00 as required by A.R.S. § 32-934(C), and submits a completed renewal application between June 1 and June 30 of the registration period for which the business entity registration renewal is made.
- G.** On or after July 1 of the registration period for which a renewal application was to be made, a business entity that wishes to have an expired registration reinstated shall apply in accordance with subsection (L).
- H.** If the business entity fails to timely submit a complete business entity reinstatement application within 6 months of the date the registration expired, the business entity's registration shall lapse. "Lapse" means that the business entity is no longer registered and cannot offer services per this Chapter.
- I.** A business entity that has had a registration lapse and that later wishes to become registered must apply as a new candidate pursuant to R4-7-1401 and R4-7-1403.
- J.** An application for reinstatement of business entity registration may be obtained from the Board office on business days or by requesting that the Board send one to an address specified by the applicant.
- K.** A completed application for reinstatement of a business entity registration shall be submitted to the Board office on a business day. The Board shall deem an application for reinstatement of a business entity registration received on the date that the Board stamps on the application as the date it is delivered to the Board office.
- L.** To complete an application for reinstatement of a registration, a business entity shall provide the following information and documentation:
1. The business entity's name and expired registration number.
  2. The current addresses, phone numbers, and fax numbers for each facility requiring registration under this Chapter.
  3. The names, home addresses, office addresses and phone numbers for each owner, officer or director.
  4. The name and license number of each doctor of chiropractic employed with, contracted with or otherwise affiliated with the business entity according to R4-7-1401(A) and this Chapter, to include franchises.
  5. The record of any professional disciplinary investigation or action taken against an owner, officer or director in this or any other jurisdiction.
  6. Any record of an owner, officer or director being convicted of, pleading guilty to, or pleading nolo contendere to a misdemeanor or a felony, even if the record of the conviction or plea was sealed or expunged or the conviction was set aside or forgiven, within the last 12 months and any record of an arrest, investigation, indictment, or charge within the last 12 months.

## TITLE 4. PROFESSIONS AND OCCUPATIONS

### CHAPTER 7. BOARD OF CHIROPRACTIC EXAMINERS

#### A.R.S § 32-904. Powers and duties

A. The board may administer oaths, summon witnesses and take testimony on matters within its powers and duties.

B. The board shall:

1. Adopt a seal, which shall be affixed to licenses issued by the board.
2. Adopt rules that are necessary and proper for the enforcement of this chapter.
3. Adopt rules regarding chiropractic assistants who assist a doctor of chiropractic, and the board shall determine the qualifications and regulation of chiropractic assistants who are not otherwise licensed by law.
4. At least once each fiscal year and before establishing the amount of a fee for the subsequent fiscal year, review the amount of each fee authorized in this chapter in a public hearing.

C. A copy of the rules shall be filed with the secretary of state upon adoption as provided by law.

#### A.R.S § 32-907. Additional fees

In addition to charging the fees and making the refunds provided by this chapter, the board may charge fees for services requested but not required to be provided by this chapter and for applications, certifications, license issuances, renewals and reinstatements and preceptor filings.

#### A.R.S § 32-921. Application for license; qualifications of applicant; fee; background investigations

A. A person who wishes to practice chiropractic in this state shall submit a complete application to the board at least forty-five days before the next scheduled examinations on a form and in the manner prescribed by the board.

B. To be eligible for an examination and licensure, the applicant shall:

1. Be a person of good character and reputation.
2. Be a graduate of a chiropractic college that both:

(a) Is accredited by or has status with the council on chiropractic education or is accredited by an accrediting agency recognized by the United States department of education or the council on postsecondary accreditation.

(b) Teaches a resident course of four years of not less than nine months each year, or the equivalent of thirty-six months of continuous study, and that comprises not less than four thousand credit hours of resident study required to receive a degree of doctor of chiropractic (D.C.).

3. Be physically and mentally able to practice chiropractic skillfully and safely.

4. Have a certificate of attainment for part I and part II and a score of three hundred seventy-five or more on part III or IV of the examination conducted by the national board of chiropractic examiners.

C. The board may refuse to give an examination or may deny licensure to an applicant who:

1. Fails to qualify for an examination or licensure under subsection B of this section.

2. Has had a license to practice chiropractic refused, revoked, suspended or restricted by a regulatory board in this or any other jurisdiction for any act that constitutes unprofessional conduct pursuant to this chapter.

3. Is currently under investigation by a regulatory board in this or any other jurisdiction for an act that constitutes unprofessional conduct pursuant to this chapter.

4. Has surrendered a license to practice chiropractic in lieu of disciplinary action by a regulatory board in this or any other jurisdiction for an act that constitutes unprofessional conduct pursuant to this chapter.

5. Has engaged in any conduct that constitutes grounds for disciplinary action pursuant to section 32-924 or board rules.

D. On making application, the applicant shall pay to the executive director of the board a nonrefundable fee of not more than three hundred twenty-five dollars as established by the board. The board shall keep a register of all applicants and the result of each examination.

E. In order to determine an applicant's eligibility for examination and licensure, the board may require the applicant to submit a full set of fingerprints to the board. The board shall submit the fingerprints to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation. The board shall charge each applicant a fee that is necessary to cover the cost of the investigation. The board shall forward this fee to the department of public safety.

A.R.S § 32-922. Examinations; licensure

A. The examination for a license to practice chiropractic required of applicants shall be conducted at a time and place designated by the board at least semiannually. Each applicant to be examined shall first file a completed application found to be true and correct and shall be given at least twenty days' written notice of the time and place of the examination.

B. The examination shall be in English, practical in character and designed to include subjects that are necessary to ascertain the applicant's knowledge of and fitness to practice chiropractic safely and skillfully as authorized in this state. Examinations shall include material relating to chiropractors and Arizona jurisprudence and the following subjects as taught by accredited chiropractic colleges:

1. Anatomy.
2. Physiology.
3. Pathology.
4. Bacteriology.
5. Symptomatology.
6. Diagnosis, including physical, clinical, x-ray and laboratory subjects.
7. Chiropractic orthopedics.
8. Principles of chiropractic and adjusting.
9. Neurology.
10. Chemistry, including biochemistry and nutrition.
11. Public health and hygiene.
12. Chiropractic spinal analysis.

C. The board may waive examination in those subjects that the applicant passed previously with the percentage of correct answers prescribed in subsection D of this section in an examination conducted by the national board of chiropractic examiners.

D. The board shall grant a license to an applicant who meets all of the following requirements:

1. Correctly answers at least seventy-five percent of all questions asked on the subjects identified in subsection B of this section or attains a board approved passing score on all questions asked on the subjects identified in subsection B of this section in an examination administered by a board approved testing facility.

2. Correctly answers at least seventy-five percent of the questions on jurisprudence.
  3. Meets all other licensing requirements of this chapter.
  4. Pays the original license fee of not more than one hundred twenty-five dollars as established by the board.
- E. An applicant who fails the examination for the first time may retake the examination within one year if the applicant submits an updated application that meets the requirements of section 32-921.
- F. An applicant shall reapply for licensure if the applicant does not pay the original license fee within one year after having been notified by the board that the applicant is eligible to receive a license.

A.R.S § 32-922.01. Reciprocity; requirements

A. The board shall issue a license to practice chiropractic under this section to an applicant who meets the following requirements:

1. Holds a current license to practice chiropractic issued after examination by a licensing board in another state or country in which, in the opinion of the board, the licensing requirements are at least substantially equivalent to those of this state and the other state or country grants similar reciprocal privileges to chiropractors licensed in this state.
2. Receives a grade of at least seventy-five per cent on the Arizona jurisprudence examination.
3. Pays the original license fee of one hundred dollars.

B. The applicant shall pay the application fee prescribed by section 32-921 and present proof satisfactory to the board that:

1. A license issued by any other state has not been sanctioned for any cause that is a basis of a sanction imposed by the board pursuant to this chapter, except for failure to pay fees.
2. The applicant has not previously failed to pass the examination in this state.
3. The applicant has been engaged in the practice of chiropractic continuously for not less than three of the five years immediately preceding the application.

A.R.S § 32-922.02. Specialties; certification; fees

A. In order to practice a chiropractic specialty a licensee shall be certified in that specialty by the board.

B. An applicant who wishes to be certified to perform acupuncture shall submit the following to the board:

1. Documentation of successful completion of a minimum of one hundred hours of study in acupuncture at an accredited chiropractic college or postgraduate study with an instructor on the active or postgraduate staff of an accredited chiropractic college.
2. A complete application as prescribed by the board.
3. Documentation of having passed a board-approved acupuncture examination.

C. An applicant who wishes to be certified to perform physical medicine modalities and therapeutic procedures shall submit the following to the board:

1. A complete application as prescribed by the board.
2. Documentation of successful completion of a minimum of one hundred twenty hours of study in physical medicine modalities and therapeutic procedures at an accredited chiropractic college or postgraduate study with an instructor on the active or postgraduate staff of an accredited chiropractic college.
3. Documentation of having passed an examination in physical medicine modalities and therapeutic procedures that is approved by the board.

D. The board shall issue a certificate to any applicant who meets the requirements of this section, who correctly answers at least seventy-five percent of all questions asked on the specialty examination and who pays a certificate fee of not more than one hundred twenty-five dollars as established by the board.

E. On making application, the applicant shall pay to the executive director of the board a nonrefundable fee of not more than one hundred twenty-five dollars as established by the board. The board shall keep a register of all applicants and the result of each examination.

F. A chiropractor who is certified to perform physiotherapy before July 29, 2010 is deemed to be certified in physical medicine modalities and therapeutic procedures.

A.R.S § 32-922.03. Licensure by endorsement; requirements

A. The board may issue a license to practice chiropractic pursuant to this chapter by endorsement to an applicant who meets all of the following requirements:

1. Has actively practiced chiropractic in another state or jurisdiction for at least five of the immediately preceding seven years.
2. Has not had an adverse disciplinary action taken against a professional license issued by another state or jurisdiction.

3. Receives a grade of at least seventy-five percent on the Arizona jurisprudence examination.
4. On making application, pays to the executive director of the board a nonrefundable fee of not more than five hundred dollars as established by the board.
5. Pays the original license fee as prescribed by section 32-922.

B. The applicant shall present proof satisfactory to the board that:

1. A professional license of the applicant issued by any other state or jurisdiction has not been sanctioned for any cause that may be a basis of a sanction imposed by the board pursuant to this chapter, except for failure to pay fees.
2. The applicant has not previously failed to pass the examination in this state.
3. The applicant qualifies for licensure as prescribed in section 32-921, except the applicant is not required to submit proof of obtaining a passing score on part III or IV of the examination conducted by the national board of chiropractic examiners.

C. An applicant under this section is not required to pay the fee prescribed in section 32-921, subsection D.

A.R.S § 32-923. Change of address; annual renewal fee; failure to renew; waivers; definition

A. Every person who is licensed pursuant to this chapter shall notify the board in writing of any change in residence or office address and telephone number within thirty days after that change. The board shall impose a penalty of fifty dollars on a licensee who does not notify the board as required by this subsection.

B. Except as provided in section 32-4301, every person who is licensed to practice chiropractic in this state shall annually make a renewal application to the board before January 1 after original issuance of a license and shall pay a renewal license fee of not more than two hundred twenty-five dollars as established by the board. The renewal application shall be made on a form and in a manner prescribed by the board. At least thirty days before the renewal application and renewal fee are due, the board shall send by first class mail a renewal application and notice requiring license renewal and payment of the renewal fee.

C. The board shall administratively suspend a license automatically if the licensee does not submit a complete application for renewal and pay the renewal license fee as required by this section.

D. The board may reinstate a license if the person completes an application for reinstatement as prescribed by the board, complies with the continuing education requirements for each year that the license was suspended, pays the annual renewal license fee for each year that the license was suspended and pays an additional fee of two hundred dollars. An applicant who does not request

reinstatement within two years of the date of suspension shall apply for a license as a new candidate pursuant to section 32-921 or 32-922.01.

E. The board may waive the annual renewal license fee if a licensee presents evidence satisfactory to the board that the licensee has permanently retired from the practice of chiropractic and has paid all fees required by this chapter before the waiver.

F. During the period of waiver the retired licensee shall not engage in the practice of chiropractic. A violation of this subsection subjects the retired licensee to the same penalties as are imposed in this chapter on a person who practices chiropractic without a license.

G. The board may reinstate a retired licensee to active practice on payment of the annual renewal license fee and presentation of evidence satisfactory to the board that the retired licensee is professionally able to engage in the practice of chiropractic and still possesses the professional knowledge required. After a hearing, the board may refuse to reinstate a retired licensee to active practice under this subsection on any of the grounds prescribed in section 32-924.

H. For the purposes of this section, "administratively suspend" means a nondisciplinary action that is imposed for failure to renew a license and that requires the licensee to suspend practice until renewal requirements are met.

A.R.S § 32-931. Continuing education; requirements

A. The board by rule may require each licensee to complete up to twelve hours of continuing education each calendar year as a condition of licensure renewal.

B. Continuing education shall cover topics listed in section 32-922, subsection B and section 32-922.02 and shall be taught by a faculty member of a college or university that is accredited by or has status with the council on chiropractic education or is accredited by an accrediting agency recognized by the United States department of education or the council on postsecondary accreditation. Beginning July 1, 2012, the board shall adopt rules to prescribe the continuing education requirements.

C. Compliance with this section shall be documented at the times and in the manner as prescribed by the board in rule.

D. Failure of a person holding a license to practice chiropractic to comply with this section without adequate cause being shown is grounds for probation or suspension of the person's license.

A.R.S § 32-934. Business entities; registration; fees; medical records protocol; civil penalty; exemptions; violation; classification

A. A business entity may not offer chiropractic services pursuant to this chapter unless:

1. The entity is registered with the board pursuant to this section and rules adopted pursuant to this chapter.

2. The services are conducted by a doctor of chiropractic who is licensed pursuant to this chapter.

B. The business entity must file a registration application and pay a fee as prescribed by the board by rule.

C. Registration expires on June 1 of each year. A business entity that wishes to renew a registration must submit an application for renewal as prescribed by the board on an annual basis before the expiration date and pay a renewal fee as prescribed by the board by rule. The board shall prorate the renewal fee for the first year registration renewal based on the first day of the month that the business entity was registered with the board. An entity that fails to renew the registration before the expiration date is subject to a late fee as prescribed by the board by rule.

D. A business entity must notify the board in writing within thirty days after any change:

1. In the entity's name, address or telephone number.

2. In the entity's officers or directors.

3. In the name of any doctor of chiropractic who is authorized to provide and who is responsible for providing or supervising the provision of chiropractic services in any facility.

E. The board shall impose a civil penalty as prescribed by the board by rule on a business entity that does not notify the board as required by subsection D of this section.

F. A business entity must comply with this chapter and board rules.

G. A business entity must establish a written protocol for the secure storage, transfer and access of the medical records of the business entity's patients. This protocol must include, at a minimum, procedures for:

1. Notifying patients of the future locations of their records if the business entity terminates or sells the practice.

2. Disposing of unclaimed medical records.

3. The timely response to requests by patients or their representatives for copies of their records.

H. A business entity must notify the board within thirty days after the entity's dissolution or the closing or relocation of any facility and must disclose to the board the entity's procedure by which its patients may obtain their records.

I. The board may impose discipline consistent with this chapter if an entity violates any statute or board rule.

J. The board shall deposit, pursuant to sections 35-146 and 35-147, civil penalties collected pursuant to this section in the state general fund.

K. This section does not apply to:

1. A facility owned by a person who is licensed pursuant to this chapter.
2. A sole proprietorship or partnership that consists of persons who are licensed pursuant to this chapter.
3. A professional corporation or professional limited liability company, the shares of which are owned by persons who are licensed pursuant to this chapter.
4. An administrator or executor of the estate of a deceased doctor of chiropractic or a person who is legally authorized to act for a doctor of chiropractic who has been adjudicated to be mentally incompetent for not more than one year after the date of the doctor of chiropractic's death or incapacitation.
5. A health care institution that is licensed pursuant to title 36.
6. A health professional who is not licensed pursuant to this chapter but who acts within the scope of practice as prescribed by the health professional's regulatory board.

L. A business entity that offers chiropractic services pursuant to this chapter without complying with the registration requirements of this section is guilty of a class 6 felony.