

**2013 FIVE-YEAR-REVIEW REPORT
ARIZONA BOARD OF PODIATRY EXAMINERS
TITLE 4, CHAPTER 25, ARTICLES 1 THROUGH 6**

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Five-Year-Review Overview

The Board of Podiatry Examiners (Board) was created in 1941 as the Board of Chiropody and was renamed the Board of Podiatry Examiners in 1964. The Board consists of five members appointed by the Governor, three who are licensees and two who are public members. The Board states on its website that it “licenses and evaluates the professional competency of podiatrists seeking to be licensed in the State of Arizona and promotes continued competency and fitness by investigating complaints.” The Board’s statutory authority is in A.R.S. § 32-801 *et seq.* The Board has 20 rules and one table, which are contained in A.A.R. Title 4, Chapter 25, Articles 1 through 6 and were written to protect the health and safety of patients who receive treatment from podiatrists. Since the last five-year review the Board’s authority to issue provisional licenses was repealed, so the Board will not be reviewing rules for provisional licenses in Article 3 and will allow them to expire. Other provisions related to provisional licenses that are imbedded in other rules will be repealed when the Board conducts its next rulemaking.

Information that is identical for all of the rules

The following information is the same for all of the rules reviewed in this report:

1. Authorization of the rule by existing statutes

All of the rules have general authority in A.R.S. § 32-804. Specific authority is identified in each rule.

7. Written criticisms of the rules received in the last five years

The Board has not received any written criticisms of the rules in the last five years.

8. Comparison of the current economic, small business, and consumer impact statement

In this comparison, minimal means less than \$1,000, moderate means between and \$5,000 and substantial means greater than \$5,000.

The Board has attached economic impact statements for its 1999, 2003, and 2006 rulemakings.

1999 Rulemaking

The 1999 rulemaking set forth requirements for licenses and registration and established time-frames for Board action. Consistent with its prediction, the economic impact of this rulemaking fell on the Board and the primary beneficiaries were applicants and the public. Applicants bore minimum costs for applications and taking examinations, which are required by statute. The Board incurred the expense for writing the rules and processing applications.

2003 Rulemaking

In the 2003 rulemaking, the Board amended most of its rules and made new rules to be consistent with Board statutes, current standards, and Board policy. The Board licensed 315 podiatrists at the time of the rulemaking and as anticipated, the rules caused minimal economic impact to licensees and podiatrists who owned their own businesses. The cost for obtaining preapproval of continuing education is minimal and benefits a licensee by providing validity of the continuing education when renewing a license. The costs for the dispensing rules, including registering and record keeping, are also minimal for licensees.

2006 Rulemaking

In 2001, the Board's operating costs began to exceed the revenues it received from its fees, which caused the Board to increase its fees in the 2006 rulemaking. Although the fee increases resulted in a substantial benefit to the Board, the costs of the increases for an application for comity, examination, and renewal were minimal to a licensee. Additionally, these costs may have been transferred to consumers of podiatry services but consumers benefitted from continuing oversight of podiatrists by the Board.

9. Any analysis submitted to the agency by another person that compares the rule's impact on this state's business competitiveness to the impact on business in other states:

Such an analysis was not submitted to the Board.

10. If applicable, whether the agency completed the course of action indicated in the agency's previous five-year-review report

The last five-year-review report was approved by GRRC on September 9, 2008. In its report the Board had proposed to amend its rules by June 30, 2009. The Board was unable to make rules because of the 2009 rulemaking moratorium.

11. A determination that the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:

The Board has determined that the rules, with the changes proposed in the report will impose the least burden and costs to licensed podiatrists.

12. A determination that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:

There is no corresponding federal law, so this provision does not apply.

13. For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037 (relating to issuing general permits):

The rules were adopted before July 29, 2010, so this provision does not apply.

14. Proposed course of action

The Board has determined that it needs to amend its rules as discussed in the analysis for each individual rule. The Board expects to submit the rulemaking to GRRC by December 2014.

Information that is identical for a group of rules

The following information is the same for a group of rules:

3. Analysis of effectiveness in achieving the objective

The following rules are effective:

R4-25-102, R4-25-103, R4-25-401, R4-25-501, R4-25-502, R4-25-505, R4-25-602, R4-25-603, R4-25-604, R4-25-605

The following rules are mostly effective:

R4-25-101, R4-25-104, Table 1, R4-25-201, R4-25-203, R4-25-203, R4-25-301, R4-25-302, R4-25-306, R4-25-503

4. Analysis of consistency with state and federal rules and statutes

The following rules are consistent with state rules and statutes:

R4-25-103, R4-25-201, R4-25-203, R4-25-301, R4-25-302, R4-25-306, R4-25-401, R4-25-501, R4-25-502, R4-25-503, R4-25-505, R4-25-602, R4-25-603, R4-25-604, R4-25-605

There are no federal statutes and rules that apply.

5. Status of enforcement of the rule

The following rules are currently being enforced:

R4-25-102, R4-25-103, R4-25-201, R4-25-203, R4-25-301, R4-25-302, R4-25-306, R4-25-401, R4-25-501, R4-25-502, R4-25-505, R4-25-602, R4-25-603, R4-25-604, R4-25-605

6. Analysis of clarity, understandability, and conciseness

The following rules are clear, concise, and understandable:

R4-25-102, R4-25-103, R4-25-104, Table 1, R4-25-201, R4-25-301, R4-25-302, R4-25-306, R4-25-401, R4-25-501, R4-25-503, R4-25-505, R4-25-602, R4-25-603, R4-25-604, R4-25-605

ARTICLE 1. GENERAL PROVISIONS

R4-25-101. Definitions

2. Objective of the rule

The objective of the rule is to define terms used throughout the rules to afford consistent and understandable interpretation of the rules.

3. Analysis of effectiveness in achieving the objective

Most of the rule is effective. However, the Board no longer has the statutory authority to issue provisional licenses, so definition 32 (provisional license) should be repealed. In 2012, the name of the PM Lexis test was changed to NBPME Part III, so definition 27 (PMLexis) needs to be amended to reflect both examinations, depending on when an applicant took the examination. The definition of “directly supervise” is redundant because it is already contained in A.R.S. § 32-871 (D).

4. Analysis of consistency with state and federal rules and statutes

Except as stated in paragraph 3 and the following, the rule is consistent. Although the phrase “one-year internship program” is defined and used in A.R.S. § 32-826(A), the phrase does not appear to be consistent with R4-25-102. R4-25-101(23)(a) states the approval body is the American Podiatric Medical Association, while R4-25-102 states the approval body is the Council of Podiatric Medical Education.

5. Status of enforcement of the rule

Except as stated in paragraphs 3, 4, and 6, most of the rule is being enforced.

6. Analysis of clarity, understandability, and conciseness

Most of the rule is clear, concise, and understandable. The term “contested case” is defined but not used in the rules. The Board does not need the definition of “directly supervise” because that definition is already in A.R.S. § 32-871(D).

14. Proposed course of action

The Board will amend the rule to address the issues raised in paragraphs 3, 4, and 6.

R4-25-102. Postdoctoral, Internship, and Residency Training Program Approval

1. Authorization of the rule by existing statutes

The rule is authorized by A.R.S. §§ 32-821(5), 32-826(A)

2. Objective of the rule

The objective of the rule is to state that the Board recognizes a postdoctoral, internship, and residency training program (program) approved by the Council on Podiatric Medical Education (Council) and what happens when a program is provisionally approved or placed on probation by the Council.

4. Analysis of consistency with state and federal rules and statutes

The rule is inconsistent with the definition of “one-year internship program” in R4-25-101(23)(a). R4-25-101(23)(a) states the approval body is the American Podiatric Medical Association, while R4-25-102 states the approval body is the Council on Podiatric Medical Education, which is the correct approval body. The rest of the rule is consistent.

14. Proposed course of action

The Board will amend the rule to address the issues raised in paragraph 4.

R4-25-103. Fees

1. Authorization of the rule by existing statutes

The rule is authorized by A.R.S. § 32-830.

2. Objective of the rule

The objective of the rule is to state the fees the Board charges for licensing activities.

R4-25-104. Time-frames for Approval

1. Authorization of the rule by existing statutes

The rule is authorized by A.R.S. §§ 32-822, 32-826, 32-827 and 41-1072 *et seq.*

2. Objective of the rule

The objective of the rule is to set forth the process for time-frames for the Board to grant or deny an approval, license, or registration.

3. Analysis of effectiveness in achieving the objective

Most of the rule is effective. However, the Board no longer has the statutory authority to issue provisional licenses, so subsection (B)(1)(b) needs to be repealed. Also, the Board no longer administers the written examination, so subsection (B)(1)(d) needs to be amended.

4. Analysis of consistency with state and federal rules and statutes

Except as stated in paragraph 3, the rule is consistent.

5. Status of enforcement of the rule

Except as stated in paragraph 3, the rule is enforced.

14. Proposed course of action

The Board will amend the rule to address the issues raised in paragraph 3.

Table 1. Time-frames (in days)

1. Authorization of the rule by existing statutes

The rule is authorized by A.R.S. §§ 32-822, 32-826, 32-827 and 41-1072 *et seq.*

2. Objective of the rule

The objective of the rule is to set forth the time-frames for the Board to grant or deny an approval, license, or registration.

3. **Analysis of effectiveness in achieving the objective**

Most of the rule is effective. However, the Board no longer has statutory authority for provisional licenses and would like to change the time-frames for license renewal to 30 days for administrative completeness and 30 days for substantive review. The Board needs more time for the administrative completeness review. Since the Board no longer administers the written examination, that part of the rule needs to be amended.

4. **Analysis of consistency with state and federal rules and statutes**

Except as stated in paragraph 3, the rule is consistent.

5. **Status of enforcement of the rule**

Except as stated in paragraph 3, the rule is enforced.

14. **Proposed course of action**

The Board will amend the rule to address the issues raised in paragraph 3.

ARTICLE 2. EXAMINATIONS

R4-25-201. Examination of Applicants

1. **Authorization of the rule by existing statutes**

The rule is authorized by A.R.S. §§ 32-825 and 32-827.

2. **Objective of the rule**

The objective of the rule is to inform an in-state applicant or applicant licensed in another state or country that he/she must pass both a written and oral examination and the passing score for each examination.

3. **Analysis of effectiveness in achieving the objective**

Most of the rule is effective. However, in 2012 the name of the examination was changed from PMLexis to NBPME Part III. The rule needs to be amended to reflect the name change and include both examinations to allow applicants who took either examination to qualify for licensure. Additionally, the Board no longer administers the written examination, but uses a national testing service to administer the written examination.

14. **Proposed course of action**

The Board will amend the rule to address the issues raised in paragraph 3.

R4-25-203. Oral Examination Procedures

1. **Authorization of the rule by existing statutes**

The rule is authorized by A.R.S. § 32-825.

2. **Objective of the rule**

The objective of the rule is to clarify the procedures for taking an oral examination.

3. **Analysis of effectiveness in achieving the objective**

Most of the rule is effective except as stated in paragraph 6.

6. Analysis of clarity, understandability, and conciseness

The rule needs to clarify in (C)(2) that the fee being forfeited is the application for examination fee. The rule also needs to explain what happens if the oral examination is not passed. The rest of the rule is clear, concise, and understandable.

14. Proposed course of action

The Board will amend the rule to address the issues raised in paragraph 6.

ARTICLE 3. LICENSES

R4-25-301. Application for a Regular Podiatry License

1. Authorization of the rule by existing statutes

The rule is authorized by A.R.S. §§ 32-822, 32-823, and 41-1030(B).

2. Objective of the rule

The objective of the rule is to state the application requirements that must be fulfilled by the applicant so that the Board may determine whether to grant or deny a regular license.

3. Analysis of effectiveness in achieving the objective

The rule is mostly effective. The Board's authorizing statutes in A.R.S. § 32-822(A) and A.R.S. § 32-822(E) are a little confusing in that subsection (A) addresses an application for examination while subsection (E) addresses an application for licensure. The Board has addressed this confusion by writing this rule that refers to a regular license. Additionally, there are some requirements that the Board would like to add to the application to make the rule more effective, such as the applicant's gender, citizenship, and professional associations or organizations.

14. Proposed course of action

The Board will amend the rule to address the issues raised in paragraph 3.

R4-25-302. Application for Podiatrist's License by Comity

1. Authorization of the rule by existing statutes

The rule is authorized by A.R.S. §§ 32-822, 32-823, 32-827, and 41-1030(B).

2. Objective of the rule

The objective of the rule is to state the application requirements that must be fulfilled by applicants who are licensed to practice podiatry in another state or country so that the Board can determine whether to grant or deny a license.

3. Analysis of effectiveness in achieving the objective

Although the rule is mostly effective, there are some requirements that the Board would like to add to the application to make the rule more effective, such as the applicant's gender, citizenship, and professional associations or organizations.

14. Proposed course of action

The Board will amend the rule to address the issues raised in paragraph 3.

R4-25-306. License Renewal

1. Authorization of the rule by existing statutes

The rule is authorized by A.R.S. § 32-829.

2. Objective of the rule

The objective of the rule is to state the application requirements that must be fulfilled by an applicant so that the Board can determine whether to renew a license.

3. Analysis of effectiveness in achieving the objective

Although the rule is mostly effective, there are some requirements that the Board would like to add to the renewal application to make the rule more effective, such as the applicant's citizenship, and provisions related to drug registration.

14. Proposed course of action

The Board will amend the rule to address the issues raised in paragraph 3.

ARTICLE 4. REHEARING OR REVIEW

R4-25-401. Rehearing or Review

1. Authorization of the rule by existing statutes

The rule is authorized by A.R.S. § 41-1092.09.

2. Objective of the rule

The objective of the rule is to state the procedures for submitting a request for rehearing or review of a Board decision.

ARTICLE 5. CONTINUING EDUCATION

R4-25-501. Continuing Education Hours Required

1. Authorization of the rule by existing statutes

The rule is authorized by A.R.S. § 32-829.

2. Objective of the rule

The objective of the rule is to inform a licensee of the continuing education requirements and how to calculate the hours until the first renewal.

R4-25-502. Approval of Continuing Education

1. Authorization of the rule by existing statutes

The rule is authorized by A.R.S. § 32-829.

2. Objective of the rule

The objective of the rule is to state the procedures for an applicant to request Board approval of continuing education.

6. Analysis of clarity, understandability, and conciseness

Most of the rule is clear, concise, and understandable. Subsection (D) should clarify the 10 hours that may be requested are for a one year renewal period. Subsection (F) should clarify that the 60 days to meet continuing education requirements begin on the date of renewal.

14. Proposed course of action

The Board will amend the rule to address the issue raised in paragraph 6.

R4-25-503. Documentation

1. Authorization of the rule by existing statutes

The rule is authorized by A.R.S. § 32-829.

2. Objective of the rule

The objective of the rule is to describe the written report that must be submitted with a renewal application to prove that one obtained the required continuing education.

3. Analysis of effectiveness in achieving the objective

Most of the rule is effective except as stated in paragraph 5.

5. Status of enforcement of the rule

The rule is partially enforced. The Board no longer requires a licensee to submit a separate written report of completed continuing education. This information is included on the renewal form and includes the provisions in R4-25-503(A)(1) through (A)(5).

14. Proposed course of action

The Board will amend the rule to address the issue raised in paragraph 5.

R4-25-505. Waiver of Continuing Education

1. Authorization of the rule by existing statutes

The rule is authorized by A.R.S. § 32-829(C).

2. Objective of the rule

The objective of the rule is to establish the procedure for a licensee to request a waiver of continuing education requirements.

ARTICLE 6. DISPENSING DRUGS AND DEVICES

R4-25-602. Registration Requirements

1. Authorization of the rule by existing statutes

The rule is authorized by A.R.S. §§ 32-871 and 32-830(7).

2. Objective

The objective of the rule is to state the requirements for registering with the Board if the podiatrist intends to dispense drugs and devices.

R4-25-603. Prescribing and Dispensing Requirements

1. Authorization of the rule by existing statutes

The rule is authorized by A.R.S. § 32-871.

2. Objective

The objective of the rule is to implement A.R.S. § 32-871 by establishing health and safety standards for a licensee to prescribe and dispense drugs and devices.

R4-25-604. Recordkeeping and Reporting Shortages

1. Authorization of the rule by existing statutes

The rule is authorized by A.R.S. § 32-871.

2. Objective

The objective of the rule is to state standards for records and notification when a drug can not be accounted for.

R4-25-605. Registration Renewal

1. Authorization of the rule by existing statutes

The rule is authorized by A.R.S. §§ 32-871 and 32-830(8).

2. Objective

The objective of the rule is to state annual renewal registration requirements.