

## **NOTICES OF FINAL RULEMAKING**

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

### **NOTICE OF FINAL RULEMAKING**

#### **TITLE 4. PROFESSIONS AND OCCUPATIONS**

#### **CHAPTER 24. BOARD OF PHYSICAL THERAPY**

##### **PREAMBLE**

<b><u>1. Sections Affected</u></b>	<b><u>Rulemaking Action</u></b>
R4-24-101	Amend
R4-24-102	Renumber
R4-24-102	New Section
R4-24-103	Renumber
R4-24-103	Amend
R4-24-104	New Section
R4-24-105	Repeal
R4-24-105	New Section
R4-24-106	Repeal
R4-24-106	New Section
R4-24-107	Renumber
R4-24-109	Renumber
Article 2	Amend
R4-24-201	Amend
R4-24-202	Renumber
R4-24-202	New Section
R4-24-203	Repeal
R4-24-203	New Section
R4-24-204	Renumber
R4-24-204	Amend
R4-24-205	Renumber
R4-24-205	New Section
R4-24-206	Repeal
R4-24-206	Renumber
R4-24-206	Amend
R4-24-207	Renumber
R4-24-207	Amend
R4-24-208	New Section
R4-24-209	Renumber
R4-24-209	Amend
Table 1	Amend
Exhibit 1	New Exhibit
Article 3	Amend
R4-24-301	Repeal
R4-24-301	New Section
R4-24-302	Repeal
R4-24-302	New Section
R4-24-303	New Section
R4-24-304	New Section
R4-24-305	New Section
R4-24-306	Renumber
R4-24-306	Amend
R4-24-307	Renumber
R4-24-307	Amend

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R4-24-308	New Section
R4-24-309	New Section
R4-24-310	New Section
R4-24-311	New Section
Article 4	New Article
R4-24-401	New Section
R4-24-402	New Section
R4-24-403	New Section
Article 5	New Article
R4-24-501	New Section
R4-24-502	New Section
R4-24-503	New Section
R4-24-504	New Section
R4-24-505	New Section
R4-24-506	New Section

**2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 32-2003(5)

Implementing statutes: A.R.S. §§ 32-2003, 32-2022, 32-2024, 32-2025, 32-2026, 32-2027, 32-2028, 32-2029, 32-2041, 32-2042, 32-2043, 32-2051

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

June 9, 2000

**4. A list of all previous notices appearing in the Register, addressing the final rule:**

Notice of Rulemaking Docket Opening: 5 A.A.R. 4373, November 19, 1999

Notice of Proposed Rulemaking: 6 A.A.R. 504, February 4, 2000

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Dolores C. DeBaca, Executive Director

Address: 1400 West Washington, Room 230  
Phoenix, Arizona 85007

Telephone: (602) 542-3095

Fax: (602) 542-3093

**6. An explanation of the rule, including the agency's reasons for initiating the rule:**

The proposed rules will involve a substantial revision and expansion of the scope of the existing rules to conform to the new statutes that were passed during the 1998 legislative session to replace the Physical Therapy Practice Act that was established in 1952. The proposed rulemaking will entail repeal and amendment of existing rules, in whole or in part, and the promulgation of new rules. There are substantial changes to definitions and other general provisions as well as to licensing and regulatory provisions, including the new certification of physical therapist assistants. Additional Articles and rules addressing continuing competence and public participation procedures are being added.

**7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying the study, any analysis of the study, and other supporting material.**

Not applicable

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

Not applicable

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

Cost impacts for the Board will be moderate and include the cost of the rule consultant assisting with this rule adoption. There is also a remote possibility of additional cost to the Board in the event that it fails to meet the timeframes for approvals and must refund licensing or certification fees.

Cost impacts for applicants for license or certification, renewal, examination, duplicate license or certificate, or reinstatement are minimal, ranging from \$10 to \$285. However, fee increases in this package are very small, ranging from \$25 to \$60, and new fees being established for administering the new certification of physical therapist assistants range from \$10 to \$150. The fee increases are necessary for the Board to be able to continue to maintain sufficient revenue carry-over from year to year to meet annual expenses, particularly for the year following the non-license renewal year. Without the fee increases, in the next few years, revenues will decline to the point that they will be insufficient to support the operation of the Board.

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The 2-year, original application for license fee is being set at \$200, with a new, lower fee being established, \$150, for those individuals being initially licensed with less than 1 year left in the 2-year licensing cycle. While the original license fee appears to be a \$100 increase over the current fee, it really reflects only a \$25 increase because the new license fee is a combination of the original license application fee and original license fee, both of which it replaces. A new fee is also being established for the original application for certification of physical therapist assistants. The fee is \$150 for the 2-year certificate, with a reduced fee of \$100 when the certificate is to be for less than 1-year of the 2-year licensing cycle. The license examination fee is being raised from \$225 to \$285. However, this is due to the increased cost of the examination. None of the examination fee is kept by the Board. It goes directly to the testing entity, the Federation of State Board of Physical Therapy. The biennial renewal fee is being raised by \$25, to \$100, for physical therapists and a new renewal fee of \$50 is established for physical therapist assistants. Finally, the reinstatement fee for physical therapists is being raised by \$25 and a new reinstatement fee is being established for physical therapist assistants at \$50. It is not anticipated that there will be any increase in education costs for persons who wish to become licensed as physical therapists or certified as physical therapist assistants. A foreign-educated applicant will incur some additional minimal costs for English proficiency testing and credential evaluation, but these are statutory requirements.

Holders of licenses will now incur costs for maintaining continuing competence. A licensee shall obtain 20 hours of continuing competence activities during each 2-year license term. These may be formal classes, study groups, self study, in-service education, practice management course, subject matter meetings, teaching, publication, research, and others. It is anticipated that the cost for 20 hours of continuing competence activities will be minimal. Some activities may be available for free. But formal education programs could cost between \$100 to \$500.

Credential evaluation agencies for foreign applicants will incur minimal costs to apply to the Board for approval.

Rules which address the practice of physical therapy are not expected to cause increased costs, but rather codify existing standards of practice.

The cost of promulgating these rules will have a minimal impact on the Governor's Regulatory Review Council and the Office of the Secretary of State. Minimal or no impacts are expected for any other agencies or political subdivisions of the state. Similarly, little or no cost impacts would be expected for consumers.

The principal benefits of this rulemaking are the conforming of existing rules and making of new rules to implement the new physical therapy statutes, establishing clear and concise standards and processes for licensing and certification and renewal of licenses and certificates, and clarifying areas of the practice of physical therapy. This implementation promotes the protection of public health and safety through assurance of properly educated and trained practitioners. While the costs for such a system are ultimately passed to consumers of the services, the benefits outweigh such costs.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

A number of minor grammatical corrections were made, including punctuation, possession, and number were made by Board staff. Minor technical and grammatical changes were also made at the suggestion of GRRC staff.

In the Table of Contents, Article 2, insert "AND EXAMINATIONS" after "LICENSING".

In the Table of Contents, Article 3 title, strike "REGULATORY PROVISIONS" and insert "REGULATION OF PHYSICAL THERAPY".

In the Table of Contents, strike "R4-24-301. Professional Practice", and unstrike "R4-24-301. Lawful Practice".

At R4-24-101 replace "Post-Secondary" with "Higher Education" and insert "(CHEA)" after "Accreditation".

At R4-24-101, delete "7. "Contact hour" means 60 minutes." Renumber the subsequent subsection.

At R4-24-101(10), delete "who is".

At R4-24-101(14), correct to read: "14. 'National disciplinary database' means the disciplinary database of the Federation of State Boards of Physical Therapy or the U.S. Department of Health and Human Services' Health Integrity and Protection Data Base of previous or current disciplinary actions taken against a licensed physical therapist or certified physical therapist assistant by state licensing agencies."

At R4-24-102(C), replace "circumstances" by "misconduct or incompetence".

Reword R4-24-104 to read: Educational records and the social security number of a licensee shall not be made available to the public. The home address and telephone number of a licensee shall not be made available to the public unless the home address and telephone number are the only address and telephone number of record.

At R4-24-201(A)(2)(f), revise to read: "A statement of whether the applicant has ever ~~had a professional or occupational license, certificate, or registration, other than a driver's license, suspended or revoked by any state or foreign country, been convicted of, pled guilty or no contest to, or entered into diversion in lieu of prosecution for any criminal offense in any jurisdiction of the United States or foreign country and if so, an explanation;~~"

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At R4-24-201(A)(2)(i), insert a new subsection that reads: "A statement of whether the applicant has ever been the subject of disciplinary action by a professional association or post-secondary educational institution;" and reletter the subsequent subsections.

At relettered R4-24-201(A)(2)(m), insert ", within the past 10 years" after "applicant has", replace "or" before "any" by a comma, insert "illegal" before "chemical", replace "including" by ", or".

Delete the Section relettered as R4-24-201(A)(2)(n) and reletter the subsequent subsections.

At relettered R4-24-201(A)(2)(n), after "has" insert ", within the past 10 years," and after "psychotic disorder" insert "that in any way has impaired or limited the applicant's ability to practice physical therapy with skill and safety".

Delete relettered R4-24-201(A)(2)(p) and reletter subsequent subsection.

At R4-24-201(D)(1), replace "one" with "1".

At R4-24-201(D), correct reference to "(A)(5)" to "(A)(4)".

At R4-24-202, delete "has", "for" and "consecutive", and replace "prior to" with "before".

At R4-24-202(2), replace "prior to completion of" by "before the restricted licensee completes".

At R4-24-202(3), insert "restricted" before "licensee" and insert "by the supervising physical therapist" after "submission".

At R4-24-202(4), insert "restricted" before "licensee" throughout.

At R4-24-203(H), insert "for a foreign-educated applicant" after "period".

At R4-24-203(M), replace "may" by "shall".

At R4-24-204(A), corrected to read: "To be licensed by examination as a physical therapist, an applicant ~~for license by examination~~ shall obtain a score on the ~~licensee~~ national examination for physical therapists that equals or exceeds the criterion-referenced passing point. The criterion-referenced passing point ~~shall be set to~~ is equal to a scaled score of 600, based on a scale ranging from 200 to 800."

At R4-24-205(A), after the word "provide", insert "the following information for the license period immediately preceding the renewal application".

At R4-24-205(A)(1), (2), (3), and (4), delete the word "ever".

At R4-24-205(A)(1), revise to read: "A statement of whether the licensee has been convicted of, pled guilty or no contest to, or entered into diversion in lieu of prosecution for any criminal offense in any jurisdiction of the United States or foreign country and if so, an explanation;"

At R4-24-205(A), insert a new (4) to read: "A statement of whether the licensee has ever been the subject of disciplinary action by a professional association or post-secondary educational institution;" and renumber the subsequent subsections.

At R4-24-205(A)(8), replace "or" before "any" by a comma, insert "illegal" before "chemical", replace "including" by ", or".

Delete the Section renumbered as R4-24-205(A)(9) and renumber the subsequent subsections.

At renumbered R4-24-205(A)(9), delete "any psychiatric disorder which includes, but is not limited to," and after "paranoia," insert "or other psychotic disorder that in any way has impaired or limited the licensee's ability to practice physical therapy with skill and safety".

Delete renumbered R4-24-205(A)(11) and renumber the subsequent subsections.

At R4-24-206(5), inserted "in addition to the renewal fee" after "assistant".

At R4-24-207(A)(2)(d), revise to read: "A statement of whether the applicant has ~~any felony or misdemeanor charges currently pending or has ever been convicted of, a felony or misdemeanor in any state or foreign country pled guilty or no contest to, or entered into diversion in lieu of prosecution for any criminal offense in any jurisdiction of the United States or foreign country and if so, an explanation;~~"

At R4-24-207(A)(2), Add a new subsection (g) to read: "A statement of whether the applicant has ever been the subject of disciplinary action by a professional association or post-secondary educational institution;" and reletter the subsequent subsections.

At relettered R4-24-207(A)(2)(k), insert ", within the past 10 years" after "applicant has", replace "or" before "any" by a comma, insert "illegal" before "chemical", replace "including" by ", or".

Delete the Section relettered as R4-24-207(A)(2)(l) and reletter the subsequent subsections.

At relettered R4-24-207(A)(2)(l), after "has" insert ", within the past 10 years," and after "psychotic disorder" insert "that in any way has impaired or limited the applicant's ability to practice physical therapy with skill and safety".

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Delete relettered R4-24-207(A)(2)(n) and reletter subsequent subsection.

At R4-24-207(B)(2), amend to read: Verification of passing a national board examination for physical therapist assistants as evidenced by an original notice of examination results issued by the professional examination service that prepared the examination; and.

At R4-24-208(A), replace “a renewal” with “an” and after “provide” insert: “the following information for the license period immediately preceding the renewal application”.

At R4-24-208(A)(1), (2), (3) and (4), delete the word “ever”.

At R4-24-208(A)(1), revise to read: “A statement of whether the certificate-holder has been convicted of, pled guilty or no contest to, or entered into diversion in lieu of prosecution for any criminal offense in any jurisdiction of the United States or foreign country and if so, an explanation;”.

At R4-24-208(A), add a new subsection (4) to read: “A statement of whether the certificate-holder has ever been the subject of disciplinary action by a professional association or post-secondary educational institution;” and renumber the subsequent subsections.

At renumbered R4-24-208(A)(8), replace “or” before “any” by a comma, insert “illegal” before “chemical”, replace “including” by “, or”.

Delete the Section renumbered as R4-24-208(A)(9) and renumber the subsequent subsections.

At renumbered R4-24-208(A)(9), after “psychotic disorder” insert “that in any way has impaired or limited the certificate-holder’s ability to practice physical therapy with skill and safety”.

Delete renumbered R4-24-208(A)(11) and renumber subsequent subsection.

At R4-24-209(B)(1)(a) and (b), replace “therapy” by “therapist”.

At R4-24-209(B)(1)(b), replace “an applicant takes a national physical therapist examination or national physical therapist assistant examination” by “the Board receives notice of the results of a national physical therapist examination or national physical therapist assistant examination taken by an applicant”.

At Table 1, added timeframes for restricted license and approval of supervised clinical practice.

At the title for Article 3, replace “REGULATORY PROVISIONS” by “REGULATION OF PHYSICAL THERAPY”.

At R4-24-301(A), delete “or other health professional involved in the care of the patient.”.

At R4-24-301(C), after the word “shall” in the second sentence, insert “be in writing or documented in the chart and”.

At R4-24-302(A) and (B), delete the last sentence of each.

At R4-24-302, delete subsection (C).

At R4-24-303(B), after the word “determine”, insert “and document”.

At R4-24-303(D), replace “in handwriting” with “manually”.

At R4-24-303(E), first sentence, replace “not” by “no” and replace “2” by “3”. Then replace the second sentence with: “If 3 assistive personnel are supervised, at least 1 shall be a physical therapist assistant.”

At R4-24-304(A), insert “personal delivery,” before “mail”.

At R4-24-305(A), insert “, when investigating a complaint,” after “The Board shall” and insert “who is the subject of a complaint” after “certificate-holder”.

At R4-24-306, corrected to read:

A. All subpoenas issued in connection with Board disciplinary proceedings pursuant to Title 32, Chapter 19, Arizona Revised Statutes, shall be approved and issued by the ~~secretary of the Board~~ or the ~~administrative secretary~~ Executive Director of the Board.

B. A party requesting a subpoena to be issued shall serve the subpoena as provided by the Arizona Rules of Civil Procedure.

At R4-24-309, insert “Board-approved” before “substance” in the first line, strike subsection (B), and reformat the Section.

At R4-24-311(C) delete the colon in the second sentence, delete “1.”, make “State” lower case, delete: “You may choose to receive physical therapy here or, if you elect not to receive physical therapy here, I will provide you with the names, addresses and telephone numbers of two other physical therapists qualified to provide you with physical therapy”, and delete subsection (2).

At R4-24-401(A), insert “of continuing competence activities” after “hours”.

At R4-24-401(B), replace “an” by “the same”.

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At R4-24-401(K), delete the second sentence.

At R4-24-402(A), (B), and (C), replace “education” by “activities”.

At R4-24-402(A), delete “sponsored and”.

At R4-24-402 (A)(1), (2), and (3), insert “, health care,” after “medical”.

At R4-24-402(A)(1) replace “school” by “program”.

At R4-24-402(B)(1), replace “procedures, or treatment” by “administration, or education”.

At R4-24-402, replace the period after “time” with a semicolon.

At R4-24-402(B)(2), replace “Completion” by “Coursework towards granting”

At R4-24-402(B)(2), replace “This activity fulfills the 20 contact hours requirement for the compliance period within which it is completed or renewed.” by “Each 60 minutes of instruction equals one contact hour;”

At R4-24-402(B)(3), replace “A physical therapy clinical residency program. Participation” by “Coursework”, and replace “program constitutes 10 contact hours per year of participation, with a maximum of 2 years participation.” by “program. Each 60 minutes of instruction equals 1 contact hour; and”.

At R4-24-403(B)(4), replace “Completion of Post Graduate Physical Therapy Education” by “Coursework in a post graduate physical therapy education”, and replace “This activity fulfills the 20 contact hours requirement for the compliance period within which it is completed” by “Each 60 minutes of instruction equals 1 contact hour”.

At R4-24-402(C)(1), (2), and (3), after “Group”, “Self-Instruction.”, and “Inservice Education”, delete the period and insert “, maximum 5 contact hours”.

At R4-24-402(C)(1)(a), replace “shall be” by “is”.

At R4-24-402(C)(1)(b), delete “A maximum of 5 contact hours may be earned for study group activity per compliance period.”

At R4-24-402(C)(2)(a), replace “shall be” by “is”

At R4-24-402(C)(2)(b), replace “2 hours” by “Each 60 minutes”, replace “shall be required for each” by “equals”, and delete “A maximum of 5 contact hours may be earned by self-instruction per compliance period.”

At R4-24-402(C)(3)(a), replace “shall be” by “is”

At R4-24-402(C)(3)(a), insert “,” after the word “safety”.

At R4-24-402(C)(3)(b), replace “1 hour” by “Each 60 minutes” and delete “A maximum of 5 contact hours may be earned for inservice education per compliance period.”

At R4-24-402(D)(1), (2), and (3), after “coursework”, “lecturing”, and “Publication”, insert “, maximum of 5 contact hours”.

At R4-24-402(D)(1)(b), replace “A” by “If the course is graded, a”.

At R4-24-402(D)(1)(c), replace “1 hour” by “60 minutes”, replace “course work” by “coursework”, and delete “A maximum of 5 contact hours may be earned for practice management course work.”

At R4-24-402(D)(2)(b), replace “50” by “60” and replace “3” by “2.5”.

At R4-24-402(D)(2)(c), replace “No credit” by “Credit”, insert “only once” after the word “given”, delete “repeated”, and replace “the same” by “a”.

At R4-24-402(D)(3), insert “, maximum 5 contact hours” after “Publication”.

At R4-24-402(D)(3)(A), after “publication” in the first sentence insert “, platform, or poster presentation abstracts”, and replace “has” by “have”.

At R4-24-403(1), after “rounds” insert “or case conferences”.

At R4-24-403(4) replace “Teaching” by “Routine teaching”.

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**11. A summary of the principal comments and the agency response to them:**

<b>Rule #</b>	<b>Comment</b>	<b>Rationale</b>	<b>Board Response</b>
R4-24-101(1) “Accredited educational programs”	Delete reference to the Council on Post-Secondary Accreditation.	The Council on Post-Secondary Accreditation is defunct. The successor agency is the Council on Higher Education Accreditation (CHEA).	Accepts change.
R4-24-101(1) “Accredited educational program”	Opposed to language allowing agencies other than CAPTE to accredit PT/PTA programs.	Raises the possibility of non-PT organizations being able to accredit PT or PTA programs.	Reject. Use of the words “qualified to accredit” precludes this.
R4-24-101(5) “Campus”	Opposed to definition of campus as written.	Definition is misleading and confusing. The standard dictionary definition is “the grounds, sometimes including the buildings, that is the defined property. If the intent is to restrict supervision to an identified area, then state a measurable distance for example 100 yards.	Reject. This is too restrictive. Distances are open to question as well. No further clarification necessary.
R4-24-101(5) “Campus”	Concerned about lack of distance limitation on “immediately adjacent building”	If the next immediately adjacent building was 1/2 mile away, is this immediately adjacent?	Reject. Statutory and rule language sufficiently clear to preclude
R4-24-101(7) “Contact hour”	Change contact hour to equal 50 minutes.	50 minutes is the equivalent of an academic hour.	Reject. Eliminating definition to craft it in later rule to each type of setting.
R4-24-101(12) “Facility”	Question about definition of facility.	If a therapist works in a mall is that considered 1 building? Does this simple definition lead to possibly unethical practice?	Reject. Rules and statutes are sufficiently restrictive and protective of patient.
R4-24-101(14) “Functional limitation”	Concerned about broad definition which includes “physical action, activity or task . . .”	These activities are in the scope of practice of an occupational therapist.	Reject. Appropriately worded based on PT practice.
Suggested addition: Distinction of PTAs	Include definitions in rules which distinguishes the PTA from “other assistive personnel.”	The PTA is the recognized paraprofessional in PT and should be distinguished from others who assist. This difference should be clarified to protect the public from substandard care provided by persons without formal education in PT.	Reject. Rules and statutes address categories, scope of practice and supervision.
R4-24-101(18) Suggested addition	Define “Administration, consultation, education, and research”.	Suggest: “Administration, consultation, education, and research shall be defined as part of physical therapy practice when undertaken related to patient care management. Provisions of this act shall not restrict activities provided by persons licensed under A.R.S. § 32 which are unrelated to the provision of skilled physical therapy care.	Reject. These categories are broadly included in the law. Rule may not limit that.
R4-24-101(19) Suggested addition	Define “Lapsed”	Suggest: “Lapsed” shall be defined as a period of non-licensure under any board or agency authorized to license PTs or PTAs by any state or territory of the United States.	Reject. “Lapsed” is clear in its use and intent is what Board wants.

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R4-24-104(B) Board records	Section about confidential vs. public information needs to be stated more clearly.	Suggest: "B. Educational records and social security # of a licensee shall not be made available to the public. The home address & telephone # . . . shall not be made available unless . . ."	Accept. Will be worded as suggested to clarify.
R4-24-104(C) Board records	The Section about confidentiality of records to too limited.	Covers only patient records, not other business records, student records, research reports etc. used in a hearing covering the administrative, consultative, educational, or research activities of PTs.	Reject. As worded the rule is very broad in its coverage.
R4-24-105 Exemption	Suggest an addition to this language.	Add: "D. For the purpose of an exemption from licensing or certification under A.R.S. § 32-2021(D), persons otherwise licensed under this act engaged in activities unrelated to the provision of physical therapy patient care activities shall be exempted from provisions of this Act."	Reject. This defines everything else in the world that isn't PT. Goes without saying. Statute provides what is and this adds nothing.
R4-24-201(P) Application for PT license and PTA certification.	Delete this Section.	While it is reasonable to ask than any convictions or present investigations be reported, there is no reason to report on an investigation that found allegations to be unsubstantiated. Delete from § 205, 207, 208 also.	Accept. Replacement language has been put in 201, 205, 207, and 208.
R4-24-201 R4-24-205 R4-24-207 R4-24-208 Applications & renewals	Suggest an addition to all sections: "A statement of whether the applicant has ever been the subject of disciplinary action by a professional association or educational institution"	Disciplinary action taken by a professional association or educational institution on an applicant may be relevant to fitness to practice. In the case of new graduates, this may be the only source of behavior related information.	Accept. Will add this.
R4-24-205(A) (1) through (11) License renewal	Opposed as written: Only report information new or changed since last renewal and format as checklist.	Redundant and unnecessary; simplify process to eliminate time and paperwork. If the Board does not currently have this information on file because it was never asked for before there should be an addendum indicating that this information will only be required in the next renewal and thereafter only updates will be required.	Accept. Will make this change.
R4-24-207(B) (2) Application for PTA certificate	Change language that refers to the national examination for physical therapist assistants.	PTAs take an exam for physical therapist assistants, not an exam in physical therapy. Suggest: "2. Verification of passing a national examination for physical therapist assistants . . ."	Accept. Will make this change.
R4-24-301 Lawful practice	Concerned that language only addresses clinical practice.	As written this Section describes the context of patient care in the clinical setting but not research, education and administration as included in 32-2001 (9) description of practice.	Reject. Statutes and rules are generally applicable, not just in clinical setting. Being read too narrowly.
R4-24-301(A) Provision of information	Delete reference to providing information to "or other health professional involved in the care of the patient".	The patient may not want to release information to other professionals involved in care. It should be the decision of the patient to release information to other health professionals.	Accept. Will delete language.



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R4-24-301(A) Provision of information	Delete requirement to provide information to "other health professionals"	It would be cumbersome to have to provide verbal or written communication to all health professions involved with a patient, for example their primary care practitioner, pharmacist, oncologist, orthopedist, etc. Also, "After the patient is initially evaluated" should be deleted since it is inappropriate to state this without stipulating a timeframe when this information must be transmitted.	Accept.
R4-24-301(A) Provision of information	Add timeframe to providing information.	Would give better guidance and provide consistency if specified timeframe for providing information (for example within 3 working days).	Reject. Unnecessary as reasonableness and professional judgment implied.
R4-24-301(C) Informed consent	Opposed to informing patient about material risk of harm or complication; implies written informed consent.	Very few PT interventions have any material risk of hurting patients; this is burdensome and unrealistic as written.	Reject. This is good practice for protection of the public.
R4-24-301(C) Informed consent	Concerned about legalities for patients who are not competent.	Add language to allow medical management team to serve as an alternative for informed consent, or add language recognizing medical power of attorney.	Reject. No authority and contrary to laws regarding competency.
R4-24-301(C) Informed consent	Change wording to reflect following presentation of plan of care.	This implies the need to obtain informed consent before every treatment intervention. Suggest: "(C) A PT shall obtain a patient's informed consent before treatment is initiated following the initial assessment. The consent shall include, either verbally or in written form: . . . (continue with Section)"	Reject. Language does not mean each session in a course of treatment. Accept in that written or charted consent will be added.
R4-24-301(C) Informed consent	Informed consent is necessary but don't narrowly define.	Any deviation from this definition leaves licensee open to litigation if not all items are discussed with patient.	Reject. Minimum requirements desired and specified.
R4-24-302(A) Use of titles: PT	Opposed to language as written if prevents option for use of DPT designation.	Consider language that allows PTs, where appropriate and at their discretion, the ability to use earned academic nomenclature associated with their professional title OR remove 1st sentence so this Section only prohibits use of "RPT" and "LPT" but doesn't specify that "PT" must be used.	Reject. A.R.S. § 32-2042 addresses use of titles. Doesn't preclude this.
R4-24-302(A) Use of titles: PT	Concerned about precluding use of specialist certification.	Can PTs use certified specialist abbreviations in addition to "PT". Should be able to utilize in clinic and in documentation.	Reject. Law doesn't preclude this.
R4-24-302(A) and (B) Use of titles: PT, PTA	Opposed to first sentence of both subsections (A) and (B).	Suggest: "A licensed PT shall use the designation "PT" immediately following the licensee's name or signature in all written communication or documentation concerning patient care management. Additional titles indicating certification as a specialist in physical therapy shall be permitted. No indication of academic, degree, other licensing provisions, or certification by nonphysical therapy related organizations shall be designated.	Reject. Statute covers use of titles.

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R4-24-302(C) Student titles	Allow an abbreviation of S.P.T. or P.T. Student	This lengthy designation in medical records is cumbersome. This abbreviation is easily recognized and does not take up excessive space to write. APTA House of Delegates policy, APTA Standards of Practice and Criteria, APTA Guidelines for Physical Therapy Documentation and APTA Position on Authority for Physical Therapy Documentation all endorse use of S.P.T. These initials are only used by qualified individuals who are being supervised by a licensed PT.	Subsection (C) being deleted as law doesn't address setting designations for students.
R4-24-303 Patient care management	Concerned that this Section only addresses patient care and not the areas of research, education and administration.	As the rules are written I would be in violation of the law by having more than 2 students involved in research projects, especially since students work on their projects unsupervised, as well as in laboratory sections as part of my teaching activities. Consider statement that the rules only apply to patient care management and not research, education or administration. Consider further rules that will address these other areas.	Reject. Statutes and rules are generally applicable, not just to patient care.
R4-24-303 Patient care management	Support supervision language as written.	Best for public and profession; PTA treatments should be supervised by PT.	Okay
R4-24-303(A) Responsibility for scope	Exclude activities described in § 32-2001.9 (d) from the provisions of this Chapter	This Section does not address administrative, consultative, educational and research activities that do not involve patient care. As written this language would apply to supervision of teachers to students or research assistants collecting survey data.	Reject. This must apply to all settings. Can't be contrary to statute
R4-24-303(B) Determining education & training of assistive personnel	Opposed to this Section as written without clarifying language.	Statement is unclear and arbitrary as written in terms of what qualifications of assistive personnel are to be determined by the PT; there is no standard terminology so it invites inconsistency in making these determinations.	Definitions in A.R.S. § 32-1001 and terms of A.R.S. § 32-2043 addresses delegation. Will add "and document" to clarify PT responsibility.
R4-24-303(C) Determining use of assistive personnel	Opposed to language without further guidelines in use of physical therapy aides.	Public protection requires limitation on use of unproved, unregulated persons without the education of PTs and PTAs. PT aides should be utilized as support workers to facilitate the smooth running of the environment of care. Their supervision should be onsite, limited to in the facility and when involved in patient care they should be working directly with a PT or PTA.	Reject. As mentioned above, this is addressed in the statutes.
R4-24-303(C) Determining use of assistive personnel	Opposed to lack of consistency of rule language with statute 32-2001 (6) and (8) regarding PTAs and PT aides.	Per statute, PTAs perform "physical therapy procedures and related tasks" and PT aides perform "designated and supervised routine physical therapy tasks" whereas this rule refers to the "delivery of services" which is not defined.	Reject. Addressed in the law.
R4-24-303(D) Documentation	Opposed to allowing documentation by "others" except PTs and PTAs.	Patient chart is a legal document that can impact individual's health history including employment. It is inappropriate for those not educated in physical therapy to document patient response or assess patient progress in chart. Only exception would be student documentation during clinical rotations or filling out data on routine exercise logs.	Reject. There is no reference to "others", limited to PTs and PTAs.

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R4-24-303(D) Documentation	Limit what if any documentation unlicensed personnel can perform.	Other than recording on exercise logs, unlicensed aides/techs should not be doing documentation.	Reject. Rule is clear in its limitation.
R4-24-303(D) Documentation	Supports rule as written.	Signature by PT or PTA implies responsibility for care being documented, and allows for other electronic methods of documentation.	Okay
R4-24-303(E) Concurrent supervision	Opposed to reducing supervision ratio from 3 to 2 extenders per PT.	Unnecessary since quality of care with current ratio is excellent; potential to increase cost structure for providing PT. Need to differentiate between different personnel: PTA is certified and assured of competency, aides are not. Consider language: "A PT shall concurrently supervise not more than 2 assistive personnel, except for one additional PTA."	Accept. Ratio will be changed to allow up to 3. However, if there are 3, at least 1 must be a PTA.
R4-24-303(E) Concurrent supervision	Opposed to Section as written.	Appropriate supervision is dependent on complex factors relating to individual qualifications, environmental conditions, acuity of patients, etc. Professional judgment and evaluation of all extenuating circumstances should be the indicator of poor practice, not an arbitrary number that is inappropriate for all practice settings.	Reasonable limitation necessary to protect public. Ratio will be increased to 3:1. If 3, 1 must be a PTA.
R4-24-303(E) Concurrent supervision	Opposed to including students in supervision ratio.	Clinical education changing dramatically and shouldn't preclude future, flexible approaches to student placements in clinics. Schools self-regulate which protects the public. Sufficient to specify requirement for direct supervision of students.	Accept. Students not to be included.
R4-24-303(F) Awareness of fees	Opposed to awareness of fees requirement.	The requirement for knowledge of fees is unenforceable and has no basis in protection of the public. There are no accepted definitions or guidelines of "unreasonable or fraudulent" fees. Places an undue burden on staff therapists who might find it impossible to monitor fees charged by hospitals (entire departments work on fees).	Reject. This knowledge is required in the A.R.S. 32-2044.
R4-24-309 Substance Abuse Recovery Program	Supports the drug screening and other parameters of this Section as written.	No additional comments given	Okay
R4-24-311(B) Posting notice	Support posting notice requirement.	Board needs to serve as an advocate for public welfare, and from a public protection stand point posting notice is appropriate and necessary.	Okay
R4-24-311(B) Posting notice	Opposed to requirement to post notice and alarmed at possibilities this requirement can present.	Impossible to satisfy everyone, and people do funny things; posting will lead to barrage of frivolous complaints. Will lower standard of care by creating negative thoughts in patient's mind; would invite entanglements with "unreasonable" manipulative patients; no other medical professionals post notice. Might encourage public to file complaints; posting license provides public with avenue for accessing the Board of PT	Reject. Important for the protection of consumers and to inform of their rights.
R4-24-311(C) (1) Disclosure	Delete provision of providing names of 2 other PTs.	This provision will lead to greater confusion of the public; better to direct the patient to the yellow pages, their insurance provider, the professional association, or the Board as sources of alternative care.	Accept. Will delete this requirement.

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R4-24-401 Continuing competence	Include PTAs in requirements for continuing competence.	If the board that licenses/certifies the profession is not willing to require continuing competence for all of those regulated to practice PT then the public is not being fully protected. If not, the gap between the PT and the PTA will widen and split the profession to the detriment of the public.	Reject. This would require a substantive change to this rule package and delay implementation. Board will consider this and it may be subject of future rulemaking.
R4-24-401(A) Continuing competence hours	Increase requirement to 40 hours per 2 years; double hours per category accordingly.	The AzPTA membership has voted that the requirement should be 40 hours. This does not present an unreasonable burden since ample opportunities exist in State to meet this amount. 40 hours/2 years is very doable and can be done at reasonable cost; Professional's responsibility is to keep up to date.	Reject. Board has determined that 20 is adequate at this time. As this is new requirement for PTs, Board will see how implementation goes and may review number of hours in the future.
R4-24-401(A) Continuing competence hours	Applaud and support 20 hours continuing competence requirement for renewal	Necessary to establish minimum standards to practice; Upgrading of professional skills & knowledge is a licensee's obligation to the public and self.	Okay
R4-24-401(A) Continuing Competence	Agree with concept but increase to 25 hours per renewal cycle	Necessary to be on cutting edge of profession to keep up with public's access to literature & information.	Reject. Board has determined that 20 is adequate at this time. As this is new requirement for PTs, Board will see how implementation goes and may review number of hours in the future.
R4-24-401(A) (1) Continuing Competence Category A.	Disagree that only 5 contact hours can be obtained from nonclinical coursework	Imposes undue burden, financial and otherwise, on licensees who cannot find suitable and affordable clinical courses in their community; equal weight should be given to self-study courses	Reject. PT is clinically focused. Patient protection requires clinical experience.
R4-24-401(B) Continuing competence	Language needs to be clarified.	Repetition of the "same" activity rather than "an" activity clarifies that attendance at two different courses would not be a repetition of the "same" course.	Accept. Will add word.
R4-24-401(H) Continuing Competence; Retention of proof of partici- pation	Change retention of evidence of continuing competence activities to only the immediately preceding compliance period.	No additional comments given.	Reject. Retaining for two renewal periods is not excessive and permits more complete review if audited.
R4-24-401(J) Continuing competence; Compliance	Establish penalties for fraudulent statements concerning compliance with requirements.	There should be some penalty if the licensee is found not to be in compliance because of fraudulent statements of proof of continuing competence.	Reject. Already addressed in the law at A.R.S. § 32-2044.

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R4-24-401(K) Continuing Competence; penalties for failure to com- ply	Needs further delineation, with stiffer penalties (suspension or revocation of license & heavy fine) for purpose- ful (fraudulent) misrepresentation of hours, more leniency for honest mistakes.	Public safety requires harsher penalties for thera- pists who lie to the Board.	Reject. This is covered in the statutes, see A.R.S. § 32-2044.
R4-24-402 Continuing Competence	Broaden choices to be more inclusive of teaching; should include academic teaching, publish- ing journal reviews and credit for teaching allied health personnel.	Academic courses evolve and change from year to year, requiring preparation; writing journal reviews requires state-of-the-art understanding just as do clinical writings; teaching to allied health requires same preparation and knowledge as does teaching to physical therapy personnel.	Reject. 5 contact hours is sufficient for this. Important to get other types of continuing competence training.
R4-24-402(A) Continuing competence	Add mechanism for approval and define “medical”	A provision for securing approval of courses offered by other than medical or PT schools, asso- ciations needs to be provided to accommodate appropriate courses offered by colleges and uni- versities in their departments of exercise science, OT, special education. Replace “medical” with “health care”, to be more inclusive of alternative health care schools.	Reject. Board is not going to establish an approval process as both unnecessary and burdensome. Accept comment about medical and will add “health care”.
R4-24-402(A) Category A	Category doesn’t include state or national manage- ment or research organizations.	This omission is unreasonable and unacceptable to those involved in these areas of professional development. Add a #4. National or state manage- ment and/or research organizations or societies.	Accept. Will broaden to include health care related.
R4-24-402(A) Category A	Expand category to include approval by state or national health care professional associations or specialty societies.	Physical therapy administrators should get credit for attending appropriate courses sponsored by organizations such as the Arizona Hospital and Healthcare Association or American College of Healthcare Executives.	Accept. Will broaden to include health care related.
R4-24-402(A) Category A	Opposed to limited acceptable course approval agencies	Research coursework might be related to PT but be offered through programs other than medical or PT (for example Biomedical Engineering, Exercise Science, etc.)	Accept. Will broaden to include health related.
R4-24-402(A) Category A	Amend so only approval, and not also sponsorship, is required for Cat- egory A activities.	Education in this category need not be both spon- sored and approved by these groups. Approval of the course after review by the professional associ- ation should be sufficient.	Accept. Requirement of sponsorship will be deleted.

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R4-24-402(B) (4) Post-grad PT education	Opposed to this category as written.	Section makes no sense in the definition of courses and degree programs in accredited institutions. Ranges of contact hours for post grad masters degree is 384-640, and for a doctoral program 480-800. Completion of these programs is worth only 20 contact hours as written. Suggest: "Completion of a PT or clinically related course offered for graduate credit by an accredited institution of higher education. This activity fulfills 1 contact hour for each quarter credit hour or 15 contact hours for each semester credit hour . . ."	Accept. Broadened to allow credit while taking course rather than just upon completion of program. Eliminated completion or graduation requirement.
R4-24-402(C) (2)(a) Cate- gory B. Self-instruction	Concerned that self-instruction category is so loosely defined as to be subject to significant misunderstanding and even misuse.	The four activities listed are significantly different from each other in educational approach, scope and mode of delivery, and are not all self-instruction in the true sense. Suggest you divide this category into two areas, such as: 1) Self-paced, self-instructional learning (for example self-instructional CEU courses); and 2) Multimedia education (for example video courses, internet and web-based course or satellite programs)	Reject. These are all self-paced activities.
R4-24-402(C) (2)(a) Cate- gory B. Self- instruction	Current language does not include self-instruction through use of a manual/book.	Self-instruction through the use of manual/book may or may not have some type of post test. This is not included in this Section.	Reject. It is included. Doesn't restrict.
R4-24-402(C) (2)(b) Category B. Self- instruction	Successful completion of home study course should count for number of contact hours approved by the course.	Courses approved by APTA or NATA should be awarded appropriate contact hours and not limited to 5 hours maximum.	Accept. Will be given equal credit.
R4-24-402(C) (2)(b) Cate- gory B Self-instruction	Haven't addressed what form of documentation will be accepted for credit.	Add a statement such as: "Licensees will complete CEU courses with an exam. Grade of > 70% documented by providing a copy of a CEU certificate.	Reject. These have limited hours and are not approved programs. Unduly burdensome.
R4-24-402. (C)(2)(b) Cate- gory B Self- instruction	Retitle as "home study or technology-based courses and allow equal credit.	When properly designed and coordinated by a qualified organization, this type of educational activity is equivalent to Category A courses. If retitled, move to Category A section. Unstructured and unapproved "self-study" cannot be documented and should not be included.	Accept. Given equal credit. However, Board wants it to stay separate category.
R4-24-402. (C)(3)(b) Category C. In-service	Opposed to limiting in-service education to a maximum of 5 hours.	Through in-service education, internal and external resources can be used to provide ongoing education that is cost effective, reaches multiple staff members at the same time, is specific to the setting PTs work in, and can be scheduled to have minimal impact on patient care. Need to allow more hours.	Reject. Need to get other types of continuing competence activities, not just at work.
R4-24-402. (C)(3)(b) In-service	Opposed to unequal credit given to self-instruction vs. in-service education.	This disparity is unacceptable and inequitable. Develop parity between the amount of credit given for all types of activities included in Category B.	Accept. Given equal credit.

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R4-24-402(C) and (D) Categories B and C activities	Expand descriptions of these categories to include administrative aspects of care.	Physical therapy administrators direct the care that is rendered in their departments and their competency should not be measured in purely clinical (for example patient treatment) terms.	Accept. Added in Category A and can receive up to 10 hours.
R4-24-402(D)(1)(a) Practice management	The meaning of this term is unclear as written. Does this include only formal, academic courses?	Add more detail to this description, such as “This includes formal courses sponsored by institutions of higher education . . . Courses can be traditional, distance-based, etc. . . .”	Reject. Category is clear as written.
R4-24-402(D)(1)(b) Practice management	Concerned about lack of grading in practice management courses	Accommodation should be made for record of attendance as proof of hours at courses with applicable objectives.	Accept. However, grading not required. But if graded, must pass.
R4-24-402(D)(1) Practice Management	Delete this Section concerning practice management coursework.	How is this different from “nonclinical” coursework included in Category A. Why create a separate category?	Reject. It differs because it is professional education, including subjects like ethics and professionalism.
R4-24-402(D)(2)(a) Teaching and lecturing	Opposed to limited description of activities in this category.	Don’t limit to the health care professional audience. Licensees may teach/lecture on topics of interest to scientists, managers and policy makers. Further, some topics may be related to health care or management in general and not just to practice of PT. Suggest: “PT procedures, treatment or practice management; health care or general management and administration; education; health care of general research; or to health care in general.”	Reject. Teaching should be focused on peer education.
R4-24-402(D)(2)(a) Teaching and lecturing	Suggest more complete documentation for this activity.	Add requirement to submit information on audience (organization, association, college or university name and course number), dates, times, and location.	Reject. Teaching should be focused on peer education.
R4-24-402(D)(3)(a) Category C Publication	Concerned about narrow interpretation of what types of publications will be considered having “direct” application to physical therapy.	Should credit articles and discussions of new ideas related to practice even if not about current clinical practice.	Reject. Not what it says. Would get credit. Misunderstood.
R4-24-402(D)(3) Publication	Suggest addition of two additional publications	As written doesn’t include the abstracts which are written as part of poster or platform presentations. Should allow for abstracts of 500 words published in peer-reviewed journals for these presentations.	Accept. Both are now included.

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R4-24-402(D) (4) Suggested Addition	Expand category to include presentations at professional meetings.	Suggest: 4. Presentations at Professional Meetings a. Presentation of posters or oral reports of research or professional activities at professional meetings with direct application to the practice of PT. Credit may be earned for presentations of posters or oral reports when selected through a peer-reviewed process. b. Each poster presented shall be equal to 10 contact hours. Oral presentations shall be equal to three times the actual schedule presentation time.	Reject. This is included in other categories.
R4-24-403(1) Activities not eligible	Amend and add case conferences to ineligible list.	Add "case conference" to end of sentence so that it reads ". . . such as rounds or case conferences."	Accepted. Change will be made.
R4-24-403(3)A Activities not eligible	Opposed to disallowing presentations to certain lay or nonprofessional groups.	At times PT's lecture to groups of non-health care professionals, for example special education teachers, administrators in higher education regarding ADA, etc. Suggest including "Lectures to nonprofessional and lay groups on topics related to health care in general or physical therapy in particular, for example the ADA, rehabilitation issues related to children in educational settings would be included for credit."	Reject. Limited to health care professionals.
R4-24-403(4) Activities not eligible	Opposed to not including teaching as part of job requirement for continuing competence hours.	"Routine" teaching (that is orientation, ongoing education re: documentation, procedures, etc.) should not qualify BUT any PT (management/staff/contract) who take the time to plan and present a program supported by written materials, course objectives, program content, etc. should be able to use this for credit.	Accepted.
R4-24-403(4) Activities not eligible	Opposed to excluding teaching as part of a job requirement for credit.	This rule is unreasonable and burdensome. Higher education PT educators and researchers are required to read large quantities of professional literature to stay on top of professional development. Preparation for teaching and/or research in PT should be viewed similarly to credit given under R4-24-402(D)(2)(a) Teaching and lecturing.	Reject. Credit isn't given for just doing one's job. Continuing competence is more.
R4-24-403(4) Activities not eligible	Amend to clarify.	Add "routine" or "regular" to the phrase "Teaching of personnel, students" to eliminate these routine activities from eligibility for credit. Accept.	Accept.

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

Not applicable

**13. Incorporations by reference and their location in the rules:**

*Code of Ethics* (amended June 1991) and the accompanying *Guide for Professional Conduct* (amended January 1999) of the American Physical Therapy Association, 1111 North Fairfax Street, Alexandria, VA 22314-1488 in R4-24-101.

*Recommended Guidelines for Reviewing Credentialing Agencies* (amended February 1997) of The Federation of State Boards of Physical Therapy, 509 Wythe Street, Alexandria, VA, 22314 in R4-24-106.

*Course Work Evaluation Tool* (amended March 1999) of the Federation of State Boards of Physical Therapy, 509 Wythe Street, Alexandria, VA, 22314 in R4-24-106.

**14. Was this rule previously adopted as an emergency rule?**

No



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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 24. BOARD OF PHYSICAL THERAPY ~~EXAMINERS~~**

**ARTICLE 1. GENERAL PROVISIONS**

Section

- R4-24-101. Definitions
- R4-24-102. Board of Physical Therapy; Appointment; Qualifications
- ~~R4-24-102.~~ R4-24-103. Duties of officers Board Duties
- R4-24-104. Renumbered Board Records; Access
- ~~R4-24-105.~~ Filing and Investigation of Consumer Complaints
- R4-24-105. Exemption
- ~~R4-24-106.~~ Hearing Procedures
- R4-24-106. Approval of Credential Evaluation Agencies

**ARTICLE 2. LICENSING AND EXAMINATION PROVISIONS**

Section

- R4-24-201. Application for a Physical ~~Therapist's~~ Therapist License
- R4-24-202. Application for Reinstatement of License
- ~~R4-24-203.~~ Renewal of License and Address Changes
- R4-24-203. Foreign-Educated Applicants; Supervised Clinical Practice
- ~~R4-24-202.~~ R4-24-204. Examination Scores
- R4-24-205. Renewal of License and Address Changes
- ~~R4-24-206.~~ Interim Permits
- ~~R4-24-204.~~ R4-24-206. License, Certificate, and Examination Fees
- ~~R4-24-205.~~ R4-24-207. Application for a Physical Therapist ~~Assistant's~~ Assistant Certificate
- R4-24-208. Renewal of Certificate and Address Changes
- ~~R4-24-207.~~ R4-24-209. Timeframes for Board Approvals
  - Table 1. Timeframes (in days)
  - Exhibit 1. Interim Period Evaluation Form

**ARTICLE 3. ~~REGULATORY PROVISIONS~~ REGULATION OF PHYSICAL THERAPY**

Section

- ~~R4-24-301.~~ Professional Practice
- R4-24-301. Lawful Practice
- ~~R4-24-302.~~ Delegation of Tasks to Physical Therapist Assistants and Aides
- R4-24-302. Use of Titles
- R4-24-303. Repealed Patient Care Management
- R4-24-304. Complaints and Investigations
- R4-24-305. Informal Interviews
- ~~R4-24-107.~~ R4-24-306. Issuance of Subpoenas
- ~~R4-24-109.~~ R4-24-307. Rehearing or Review of Board Decisions
- R4-24-308. Disciplinary Actions; Penalties
- R4-24-309. Substance Abuse Recovery Program
- R4-24-310. Consumer Rights
- R4-24-311. Display of License; Posting Notice; Disclosure

**ARTICLE 4. CONTINUING COMPETENCE**

Section

- R4-24-401. Continuing Competence Requirements for Renewal
- R4-24-402. Continuing Competence Activities
- R4-24-403. Activities Not Eligible for Continuing Competence Credit

**ARTICLE 5. PUBLIC PARTICIPATION PROCEDURES**

Section

- R4-24-501. Agency Record; Directory of Substantive Policy Statements
- R4-24-502. Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to Rule Based Upon Economic, Small Business or Consumer Impact

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- R4-24-503. Public Comments
- R4-24-504. Oral Proceedings
- R4-24-505. Petition for Delayed Effective Date
- R4-24-506. Written Criticism of Rule

**ARTICLE 1. GENERAL PROVISIONS:**

**R4-24-101. Definitions**

In addition to the definitions in A.R.S. § 32-2001, in this Chapter:

- ~~1. “Accredited physical therapy education program” or “accredited physical therapy assistant education program” means a program that, at the time of the applicant’s graduation, was approved by an agency recognized as qualified to accredit physical therapy or physical therapy assistant programs by either the U.S. Department of Education or the Council for Higher Education Accreditation.~~
1. “Accredited educational program” means a physical therapist or physical therapist assistant educational program that is accredited by the Commission on Accreditation of Physical Therapy Education (CAPTE) or an agency qualified to accredit physical therapist or physical therapist assistant programs by either the U.S. Department of Education or the Council on Higher Education Accreditation (CHEA) at the time of the applicant’s graduation.
- ~~2. “Applicant” means an individual seeking a license, certificate, or permit from the Board.~~
- ~~3. “Application packet” means the forms and additional information the Board requires to be submitted by an applicant.~~
- ~~4. “Certificate” means the written authorization issued by the Board to practice as a physical therapist assistant.~~
- ~~4. “APTA” means the American Physical Therapy Association.~~
- ~~5. “Credentials evaluation report” means a written appraisal by a credentialing agency approved by the Board under A.R.S. § 32-2022(B), following review of documentary evidence of a foreign-educated applicant’s education to determine whether the applicant’s education is substantially equivalent to that of an applicant graduated from an accredited physical therapy education program.~~
5. “Campus” means a facility and immediately adjacent buildings.
- ~~6. “Criterion referenced passing point” means the minimum acceptable score, calculated using the method determined by the Professional Examination Service, that an applicant must obtain on the physical therapist licensure examination.~~
6. “Compliance period” means a 2-year license renewal cycle that ends August 31 of even-numbered years.
7. “Continuing competence” means maintaining the professional skill, knowledge, and ability of a physical therapist by successfully completing 20 contact hours of scholarly and professional activities during each compliance period.
- ~~9. “Initial evaluation” means an assessment of a patient’s physical condition, complaint, and objective findings regarding the patient’s diagnosis, if any, to ascertain the patient’s need for physical therapy and whether consultation with the referring practitioner or other health care practitioner is necessary before a physical therapy plan of treatment is devised and implemented.~~
8. “Credential evaluation” means a written appraisal by an agency approved by the Board of general and professional educational course work previously completed by an applicant.
- ~~10. “License” means the written authorization issued by the Board to practice as a physical therapist in Arizona.~~
- ~~79. “Day” means calendar day.~~
- ~~11. “Licensee” means an individual licensed by the Board as a physical therapist.~~
810. “Endorsement” means the a procedure for granting an Arizona license or certificate to an applicant who is licensed or certified as a physical therapist or physical therapist assistant in another jurisdiction of the United States.
- ~~12. “Professional examination service” means the organization that prepares and provides the national board examination for physical therapy or physical therapist assistants.~~
11. “Facility” means a building.
12. “Foreign-educated applicant” means a physical therapist who graduated from a physical therapist educational program outside the United States, Puerto Rico, District of Columbia, or a U.S. territory.
13. “Functional limitation” means restriction of the ability to perform a physical action, activity, or task in an efficient, typically expected or competent manner.
14. “National disciplinary database” means the disciplinary database of the Federation of State Boards of Physical Therapy or the U.S. Department of Health and Human Services’ Health Integrity and Protection Data Base of previous or current disciplinary actions taken against a licensed physical therapist or certified physical therapist assistant by state licensing agencies.
15. “National examination” means an examination produced by the Federation of State Boards of Physical Therapy and used by the Board to test an applicant for physical therapist licensing or physical therapist assistant certification.
16. “Recognized standards of ethics” means the Code of Ethics (amended June 1991) and the accompanying Guide for Professional Conduct (amended January 1999) of the American Physical Therapy Association, 1111 North Fairfax Street, Alexandria, VA 22314-1488, which is incorporated by reference and on file with the Secretary of State. This incorporation includes no later editions or amendments.

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**R4-24-102. Board of Physical Therapy; Appointment; Qualifications**

- A.** The Board may provide a list of qualified candidates to the Governor for appointment to the Board of Physical Therapy. The Board shall consider current Board geographic, gender, and practice setting distribution in making a recommendation.
- B.** A Board member shall attend meetings scheduled by the Board. The Board shall recommend to the Governor that a Board member who fails to attend 3 consecutive Board meetings be removed from the Board. A Board member may be excused from attending a Board meeting for any of the following reasons:
- 1.** Illness;
  - 2.** Death in the immediate family;
  - 3.** Military service;
  - 4.** Inclement weather; or
  - 5.** Any other reason as determined by the President of the Board.
- C.** The Board may recommend to the Governor that a Board member be removed for misconduct or incompetence only upon a unanimous vote of the Board following a documented effort to permit the Board member to remedy the misconduct or incompetence.

**R4-24-102R4-24-103. Duties of Officers Board Duties**

Officers of the Board are a president, vice-president, and secretary. The officers shall be elected at the 1st regular meeting of the Board each year by majority vote of the Board. The president shall preside at all Board meetings; ~~but~~ if the president is disqualified or unable to attend, ~~another officer shall be selected to~~ the vice-president shall preside at the meeting. ~~The treasurer shall be responsible for the maintenance of records concerning the revenues and expenditures of the Board. The secretary shall be responsible for Board correspondence and records of proceedings. The officers may utilize the Board staff to assist with their functions.~~

**R4-24-104. Renumbered Board Records; Access**

- A.** The Board shall maintain a public file of all records that are not confidential by law for every licensee and certificate holder.
- B.** The Board shall not make a licensee's educational records or social security number available to the public. The home address and telephone number of a licensee shall not be made available to the public unless the home address and telephone number are the only address and telephone number of record.
- C.** The Board shall keep confidential and shall not make available to the public patient records, including clinical records, files, any other report or oral statement relating to diagnostic findings or treatment, and any information, records, or reports kept by the Board as a result of an investigation by the Board.
- D.** The Board shall make copies of the public record of the Board available to any person at a cost determined by the Board. Unless authorized by the Board, a person shall not remove Board records from the Board premises except for an official Board meeting held at another site or for archival purposes. A person shall request the permission of the Board's Executive Director prior to examining, inspecting, or obtaining copies of a public record. The Board may make a public record available electronically.

**R4-24-105. Filing and Investigation of Consumer Complaints**

- A.** Any individual who, in good faith, believes that a licensee is or may be guilty of unprofessional conduct or incompetence, may file a consumer complaint with the Board. Complaint forms may be obtained from the Board office. The complainant shall provide the following information:
- 1.** Name of the licensee who is the subject of the consumer complaint;
  - 2.** Name and address of the person filing the complaint, unless the complainant desires anonymity;
  - 3.** Nature of the consumer complaint;
  - 4.** Details of the consumer complaint with pertinent dates and copies of any relevant documents;
  - 5.** Whether the complainant has contacted another organization concerning the consumer complaint;
  - 6.** Whether the complainant has contacted the licensee concerning the consumer complaint and the licensee's response, if any; and
  - 7.** Whether the complainant is willing to testify at a hearing.
- B.** The president of the Board, or the president's designee, shall provide notice of the consumer complaint to the licensee, in writing, within 180 days of the Board receiving the complaint. The licensee shall submit a written response, including copies of records that are pertinent to the consumer complaint, to the Board within 10 days from the date that notice of the consumer complaint was mailed or hand delivered to the licensee. The Board may hire an investigator to conduct investigations relevant to the consumer complaint. The investigator shall submit a written report of all findings to the Board.

**R4-24-105. Exemption**

- A.** For the purpose of an exemption from licensing or certification under A.R.S. § 32-2021(C), the Board approves the National Athletic Trainers' Association as a national athletic trainers' association.

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- B.** An organization may receive approval as a national athletic trainers' association from the Board by submitting evidence to the Board that the organization is a nationally recognized national athletic trainers' association.
- C.** An organization that is denied approval under this Section may request a hearing in accordance with A.R.S. Title 41, Chapter 6, Article 10.

**R4-24-106. Hearing Procedures**

- A.** ~~The Board shall conduct informal interviews pursuant to A.R.S. § 32-2042, in the following manner:~~
  - 1. ~~The Board shall send a written notice of the informal interview to all parties, by personal service or certified mail, return receipt requested, at least 20 days before the informal interview, containing the following information:~~
    - a. ~~Time, date, and place of the interview;~~
    - b. ~~Explanation of the informal nature of the proceeding;~~
    - e. ~~Licensee's right to appear with or without legal counsel;~~
    - d. ~~Statement of the matters asserted and issues involved; and~~
    - e. ~~Licensee's right to a formal hearing, held pursuant to A.R.S. §§ 32-2042 and 32-2042.01, in lieu of the informal interview.~~
  - 2. ~~During an informal interview, the following procedure shall be used:~~
    - a. ~~Introduction of the Board members present;~~
    - b. ~~Swearing in of licensee and witnesses;~~
    - e. ~~Optional opening comment by Board or staff;~~
    - d. ~~Optional opening comment by licensee;~~
    - e. ~~Questioning of the licensee, and witnesses;~~
    - f. ~~Optional closing statement by licensee;~~
    - g. ~~Deliberations by the Board;~~
    - h. ~~Written findings of fact, conclusions of law, and order of the Board.~~
- B.** ~~Formal hearing~~
  - 1. ~~The Board shall send written notice of a formal hearing to all parties, by personal service or certified mail, return receipt requested, at least 30 days before the hearing.~~
  - 2. ~~The president of the Board may continue, reschedule, or extend a hearing for the performance of acts required by law or the Board.~~
- C.** ~~Records~~
  - 1. ~~The Board shall mechanically or stenographically record all hearings.~~
  - 2. ~~The Board or a party may request that a hearing transcript be prepared.~~
  - 3. ~~A party that requests a transcript be prepared shall pay transcription costs.~~

**R4-24-106. Approval of Credential Evaluation Agencies**

- A.** The Board shall approve an agency to perform a credential evaluation of a foreign-educated applicant based upon:
  - 1. The Recommended Guidelines for Reviewing Credentialing Agencies (amended February 1997) of The Federation of State Boards of Physical Therapy, 509 Wythe Street, Alexandria, VA, 22314, which is incorporated by reference and on file with the Secretary of State. This incorporation by reference contains no later editions or amendments;
  - 2. The agency agreement to use the Course Work Evaluation Tool (amended March 1999) of the Federation of State Boards of Physical Therapy, 509 Wythe Street, Alexandria, VA, 22314, which is incorporated by reference and on file with the Secretary of State. This incorporation by reference contains no later editions or amendments;
  - 3. The agency agreement to evaluate the areas of both general and professional education curriculum as determined by the Board requirements in R4-24-203(A).
- B.** A credential evaluation agency that is denied approval may request a hearing in accordance with A.R.S. Title 41, Chapter 6, Article 10.

**ARTICLE 2. LICENSING PROVISIONS**

**R4-24-201. Application for a Physical Therapist's Therapist License**

- A.** ~~Except as stated in subsections (C) and (D), an An applicant for a physical therapist's license shall submit to the Board an application packet that contains:~~
  - 1. ~~If requesting to take the A completed national physical therapist's examination, a national testing service therapist examination form for computerized testing available at the Board office that contains the: provided by the Board, if applicable;~~
    - a. ~~Applicant's name, address, birth date, social security number, and mother's maiden name;~~
    - b. ~~Date the applicant completed a physical therapy program;~~
    - e. ~~Type of examination for which applicant is applying;~~
    - d. ~~School code required by the national testing service; and~~
    - e. ~~Number of times the applicant has taken the same type of examination;~~

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2. An application form provided by the Board, signed, ~~and dated,~~ and verified by the applicant, ~~and notarized~~ that contains:
    - a. The applicant's name, business and residential ~~address~~ addresses, telephone number, birth date, and social security number;
    - b. The name and address of each university or college attended by the applicant, the dates of attendance, and if ~~applicable~~, the date of graduation and degree received, if applicable;
    - c. The name and address of the university or college ~~at which~~ where the applicant completed an accredited ~~physical therapy education~~ educational program, dates of attendance, and an official transcript with date of completion;
    - d. A statement of whether the applicant has ~~any felony or misdemeanor charges currently pending or ever been convicted of a felony or misdemeanor in any state~~ ever been licensed as a physical therapist in any other jurisdiction of the United States or foreign country;
    - e. Professional employment history for the past 5 years, including the name, address, and telephone number for each employer, job title, and description of the work done;
    - f. A statement of whether the applicant has ever ~~had a professional or occupational license, certificate, or registration, other than a driver's license, suspended or revoked by any state or foreign country; been convicted of, pled guilty or no contest to, or entered into diversion in lieu of prosecution for any criminal offense in any jurisdiction of the United States or foreign country and if so, an explanation~~;
    - e.g. A statement of whether an award has ever been issued against the applicant for malpractice or whether a lawsuit for malpractice is currently pending; A statement of whether the applicant has ever had an application for a professional or occupational license, certificate, or registration, other than a driver's license, denied, ~~or rejected, suspended, or revoked by any state~~ jurisdiction of the United States or foreign country and if so, an explanation;
    - h. A statement of whether the applicant has ever been found guilty of or has ~~charges a complaint, allegation, or charge~~ currently pending for immoral or unprofessional conduct any action by a professional licensing board in any state; jurisdiction of the United States or foreign country and if so, an explanation;
    - i. A statement of whether the applicant has ever been the subject of disciplinary action by a professional association or post-secondary educational institution;
    - i-j. A statement of whether the applicant has ever had a malpractice judgment or has a lawsuit currently pending for malpractice and if so, an explanation;
    - jk. A statement of whether the applicant is currently more than 30 days in arrears for payments payment required by a judgment and order for child support in Arizona or any other ~~state~~; and jurisdiction;
    - l. A statement of whether the applicant has any impairment to the applicant's cognitive, communicative, or physical ability to engage in the practice of physical therapy with skill and safety and if so, an explanation;
    - m. A statement of whether the applicant has, within the past 10 years, abused alcohol, any illegal chemical substance, or prescription medications, that in any way has impaired or limited the applicant's ability to practice physical therapy with skill and safety and if so, an explanation;
    - n. A statement of whether the applicant has, within the past 10 years, been diagnosed as having or is being treated for bipolar disorder, schizophrenia, paranoia, or other psychotic disorder that in any way has impaired or limited the applicant's ability to practice physical therapy with skill and safety and if so, an explanation;
    - o. A statement of whether the applicant has been diagnosed as having or is being treated for pedophilia, exhibitionism, voyeurism, or any other sexual behavior disorder and if so, an explanation;
    - jp. A sworn statement ~~by the applicant~~ verifying the truthfulness of the information provided by the applicant;
  3. A photograph of the applicant no larger than 1-1/2 x 2 inches and taken not more than 6 months before the date of application;
  4. A completed questionnaire covering Arizona statutes and rules pertaining to physical therapy ~~that has been~~ provided by the Board ~~and completed by the applicant~~; and
  5. ~~The A fee required in R4-24-204. R4-24-206.~~
- B.** In addition to the requirements in subsection (A), an applicant shall arrange to have ~~directly~~ submitted directly to the Board:
1. An official transcript or letter ~~stating showing~~ that the applicant has completed all requirements ~~for a physical therapy education of an accredited educational program that is signed by the registrar of the university or college at which~~ where the applicant completed the physical ~~therapy education~~ therapist educational program; and
  2. Verification of passing a national ~~board~~ examination in physical therapy as evidenced by an original notice of examination ~~results issued by the professional examination service that prepared the examination. results.~~
- C.** In addition to the requirements in subsections (A)(2) through (A)(5) and (B), an applicant for a physical ~~therapist's~~ therapist license by endorsement shall submit to the Board:
1. The name of the licensing or certifying agency of ~~the~~ any jurisdiction in which the applicant is currently or has been previously licensed;
  2. A verification of ~~license~~ license, signed and dated by an official of the agency licensing the applicant, that includes all of the following:

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- a. The name and address of the applicant;
  - b. The license number and date of issuance;
  - c. The current status of the license;
  - d. The expiration date of the license;
  - e. A statement of whether the applicant was ever denied a license by the agency and if so, an explanation; and
  - f. A statement of whether any disciplinary action is pending or has ever been taken against the applicant and if so, an explanation.
- D.** In addition to ~~the documents in A.R.S. § 32-2022 (B),~~ submitting the fee required by the Board and documents in subsection (A)(2) through (A)(5)(4), and (B), a foreign-educated applicant shall:
1. ~~Submit~~ submit to the Board:
    - a. ~~Documentation of completion of a supervised clinical practice;~~
    - b. ~~Proof~~ proof of legal authorization to reside and seek employment in the United States or ~~its territories;~~
    - c. ~~Proof of a passing score on the English proficiency examination, if applicable; and~~
    - d. ~~The fee required by the Board;~~
  2. ~~Arrange a U.S. territory, and arrange~~ to have directly submitted to the Board:
    - a1. ~~A credentials evaluation report; and prepared within 1 year before the date of application;~~
    - b2. ~~If applicable, verification~~ Verification of passing a national ~~board~~ examination in physical therapy as evidenced by an original notice of examination results ~~issued by the professional examination service that prepared the examination; and~~
  3. Written documentation of authorization to practice without limitation issued by the authorizing body in the country where the professional education as a physical therapist was received.
- E.** An applicant who has twice failed the national examination shall submit a written plan for remediation to the Board before Board approval for subsequent testing.
- F.** The Board shall deny a license to an applicant who fails to meet the requirements of this Section or A.R.S. Title 32, Chapter 19. An applicant denied a license may request a hearing under A.R.S. Title 41, Chapter 6, Article 10.

**R4-24-202. Application for Reinstatement of License**

The Board shall require an applicant whose license lapsed more than 3 years before applying to demonstrate competence by serving an internship. If the license application is not denied for other reasons, the licensee shall serve an internship under a restricted license.

1. The internship under restricted license shall be under the supervision of a physical therapist and for not less than 160 hours nor more than 960 hours.
2. The internship shall be in a clinical setting that provides broad exposure to general physical therapy. The site shall be capable of providing experience in the activities identified on the Interim Period Evaluation Form attached as Exhibit 1. The supervising physical therapist shall complete the Interim Period Evaluation Form and submit it to the Board before the restricted licensee completes the internship.
3. A restricted licensee shall be granted an unrestricted license by the Board upon submission by the supervising physical therapist to the Board of an Interim Period Evaluation Form that indicates that all skills have been completed with an evaluation rating of "approved".
4. If the restricted licensee does not receive an "approved" rating on all skills on the Interim Period Evaluation Form before the end of the internship, additional remedial activities shall be required. The Board may require the restricted licensee to complete additional time in a supervised internship, take additional course work, and pass an examination. An unrestricted license shall be granted following completion of the remedial activities. The Board shall deny an unrestricted license to any restricted licensee who fails to complete the remedial activities. The restricted licensee may appeal the denial of license under Title 41, Chapter 6, Article 10.

**R4-24-203. Renewal of License and Address Change**

- A.** ~~Licensees shall renew their licenses at or before the end of each 2-year period. Failure of the Board to inform a licensee of license expiration shall not justify or excuse a licensee's nonrenewal or untimely renewal.~~
- B.** ~~A licensee shall submit renewal payments to the Board by mail by cashier's check, money order, or personal check, or in person at the Board office by cashier's check, money order, personal check, or cash.~~
- C.** ~~The Board shall mail a receipt and registration card that signifies the named licensee has a current and valid license to each licensee who renews a license.~~
- D.** ~~Licensees shall notify the Board, in writing, within 10 days of a change of address to be used by the Board.~~

**R4-24-203. Foreign-educated Applicants: Supervised Clinical Practice**

- A.** For a credential evaluation agency to determine that a foreign-educated applicant's education is substantially equivalent to the education provided to a physical therapist in an accredited educational program, the foreign-educated applicant shall have:
  1. A minimum of a bachelor's degree in physical therapy;

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2. Completed at least 120 semester credit hours, including at least 58 semester credit hours in college level general education and at least 61 semester credit hours in professional education;
  3. A minimum grade of C or its equivalent in each professional education course; and
  4. Earned all semester credit hours at a university or college.
- B.** A foreign-educated applicant shall arrange to have original documentation, including an official transcript or letter signed by the registrar of the university or college stating that the applicant has completed all requirements of a physical therapist educational program, sent directly to the credential evaluation agency. All documentation shall be in English or accompanied by a verified English translation. Following review, the credential evaluation agency shall notify the Board of the results.
- C.** Following receipt of the educational credential evaluation by the Board, if an applicant has an educational deficiency, the applicant shall complete one of the following requirements as directed by the Board:
1. Application of college level examination program scores towards semester credit hours for a limited number of courses as determined by the Board; or
  2. Completion of college courses in the deficiency with a minimum grade average of C or its equivalent.
- D.** A foreign-educated applicant for whom English is not the native language shall pass the following English proficiency examinations and arrange for the scores to be sent directly to the Board:
1. Test of English as a Foreign Language with a minimum score of 560;
  2. Test of Spoken English with a minimum score of 50; and
  3. Test of Written English with a minimum score of 4.5 or better.
- E.** A foreign-educated applicant shall complete all educational or course work requirements set by the Board before receiving an interim permit to begin a period of supervised clinical practice.
- F.** A foreign-educated applicant for an interim permit shall submit the application required in R4-24-201.
- G.** Under A.R.S. § 32-2025, the Board shall issue an interim permit to each qualified foreign-educated applicant bearing the:
1. Name of the applicant;
  2. Date of issue; and
  3. Date of expiration.
- H.** The supervised clinical practice period for a foreign-educated applicant shall be in a clinical setting that provides learning experiences for an applicant that includes:
1. Examining, evaluating, and testing persons who have mechanical, physiological, and developmental impairments, functional limitations and disabilities, or other health and movement related conditions to determine a diagnosis, prognosis, and plan of therapeutic intervention; and
  2. Alleviating impairments and functional limitations by designing, implementing, and modifying therapeutic interventions.
- I.** The supervised clinical practice shall provide a minimum of 20 hours per week of supervised practice for 180 days, or 40 hours per week for 90 days.
- J.** To receive Board approval of the facility for clinical practice and of the supervisor for the supervised clinical practice period, an applicant shall submit to the Board:
1. A written request for approval of the facility and supervisor, including the name of the facility, the name and license number of the supervisor, and a description of the physical therapy services provided at the facility;
  2. Evidence that within the requested facility the supervisor can observe and report on the applicant's evaluative, diagnostic, and intervention planning skills, and the applicant's provision of therapeutic interventions listed on the Board's Interim Period Evaluation Form, and that the facility has no current restriction by a state or federal government agency; and
  3. Evidence that the supervisor holds an unrestricted license to practice physical therapy in this state for the previous 2-year period and previous experience as a clinical education instructor.
- K.** The Board shall consider the request for approval of a clinical practice facility at a regularly scheduled Board meeting and may request an interview with the supervisor. Upon approval, the proposed supervisor shall sign a statement agreeing to act as supervisor and to fulfill the required supervisory obligation, and shall submit the statement to the Board.
- L.** The clinical supervisor shall submit a report including the Board's Interim Period Evaluation Form before the end of the supervised practice.
- M.** If the Board determines from the report submitted by the supervisor that all clinical learning experiences have not been completed by the applicant or that the Interim Period Evaluation Form indicates that all skills have not been completed with an evaluation rating of "approved", the Board shall require an additional 90 days of supervised clinical practice, not to exceed a total supervised clinical practice period of 270 days.
- N.** The Board shall deny a license to an applicant who fails to meet the requirements of this Section or A.R.S. Title 32, Chapter 19. An applicant denied a license may request a hearing under A.R.S. Title 41, Chapter 6, Article 10.

**~~R4-24-202~~, R4-24-204. Examination Scores**

- A.** To be licensed by examination as a physical therapist, an applicant ~~for license by examination~~ shall obtain a score on the ~~license~~ national examination for physical therapists that equals or exceeds the criterion-referenced passing point. The

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criterion-referenced passing point ~~shall be set to~~ is equal to a scaled score of 600, based on a scale ranging from 200 to 800.

- B.** To be certified as a physical therapist assistant, an applicant for certification by examination shall obtain a score on the national examination for physical therapist assistants that equals or exceeds a criterion-referenced passing point of 600, based on a scale ranging from 200 to 800.

**R4-24-205. Renewal of License and Address Changes**

**A.** A licensee shall submit an application to renew a license to practice physical therapy on a form provided by the Board on or before August 31 of even-numbered years and shall provide the following information for the license period immediately preceding the renewal application:

1. A statement of whether the licensee has been convicted of, pled guilty or no contest to, or entered into diversion in lieu of prosecution for any criminal offense in any jurisdiction of the United States or foreign country and if so, an explanation;
2. A statement of whether the licensee has had an application for a professional or occupational license, certificate or registration, other than a driver's license denied, rejected, suspended, or revoked by any jurisdiction of the United States or foreign country and if so, an explanation;
3. A statement of whether the licensee has been found guilty of or has a complaint, allegation, or charge currently pending for any action by a professional licensing board in any jurisdiction of the United States or foreign country and if so, an explanation;
4. A statement of whether the licensee has been the subject of disciplinary action by a professional association or post-secondary educational institution;
5. A statement of whether the licensee has had a malpractice judgment against the licensee or has a lawsuit currently pending for malpractice and if so, an explanation;
6. A statement of whether the licensee is currently more than 30 days in arrears for payment required by a judgment and order for child support in Arizona or any other jurisdiction;
7. A statement of whether the licensee has any impairment to the licensee's cognitive, communicative, or physical ability to engage in the practice of physical therapy with skill and safety and if so, an explanation;
8. A statement of whether the licensee has abused alcohol, any illegal chemical substance, or prescription medications, that in any way has impaired or limited the licensee's ability to practice physical therapy with skill and safety and if so, an explanation;
9. A statement of whether the licensee has been diagnosed as having or is being treated for any psychiatric disorder which includes, but is not limited to, bipolar disorder, schizophrenia, or paranoia, or other psychotic disorder that in any way has impaired or limited the licensee's ability to practice physical therapy with skill and safety and if so, an explanation;
10. A statement of whether the licensee has been diagnosed as having or is being treated for pedophilia, exhibitionism, voyeurism, or any other sexual behavior disorder and if so, an explanation;
11. Beginning in the year 2002, a statement of whether the licensee has completed the 20 contact hours of continuing competence for the previous compliance period as required in R4-24-401, and
12. A sworn statement verifying the truthfulness of the information provided by the licensee.

**B.** Failure of the Board to inform a licensee of license expiration does not excuse a licensee's non-renewal or untimely renewal.

**C.** A licensee shall submit a license renewal fee to the Board by mail or in person. The fee shall be paid by cashier's check, money order, or personal check.

**D.** The Board shall deny a license renewal to a licensee who fails to comply with renewal requirements. A person denied renewal of license may request a hearing under A.R.S. Title 41, Chapter 6, Article 10.

**E.** The Board shall mail a receipt and registration card to each licensee who renews a license showing the named licensee has a current and valid license.

**F.** A licensee shall notify the Board, in writing, within 30 days of a change of address to be used by the Board.

**R4-24-206. Interim Permits**

**A.** A foreign educated applicant for licensure shall submit the application in R4-24-201(D).

**B.** Under A.R.S. § 32-2025, the Board shall issue an interim permit to each qualified foreign educated applicant bearing the:

1. Name of the applicant;
2. Date of issue, and
3. Date of expiration.

**R4-24-204, R4-24-206. License, Certificate, and Examination Fees**

**A.** The Board shall charge the following fees relating to licensure for licensing, certification, and examinations:

1. Original license application — \$100;
1. Original application for license or certificate:
  - a. Twelve months or more, \$200 for a physical therapist and \$150 for a physical therapist assistant;



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- b. Less than 12 months, \$150 for a physical therapist and \$100 for a physical therapist assistant;
- 2. Examination or each re-examination for a physical therapist or physical therapist assistant, ~~\$225~~ \$285;
- 3. Original license:
  - a. ~~Twelve months or more—\$75,~~
  - b. ~~Less than 12 months—\$50,~~
- 43. Biennial renewal—~~\$75,~~ \$100 for a physical therapist and \$50 for a physical therapist assistant;
- 54. Duplicate license or certificate, \$10 for both a physical therapist and a physical therapist assistant; and
- 65. Reinstatement—~~\$75,~~ \$100 for a physical therapist and \$50 for a physical therapist assistant, in addition to the renewal fee.

**B.** The Board shall charge the following fees for copies of public records

- 1. For commercial purposes: 25¢ per name and address and \$15 per hour of search time;
- 2. For noncommercial purposes: 25¢ per page.
- 3. Requests for copies of public records shall be accompanied by a notarized statement of the purpose for which the documents are requested and prepayment of fees. Official request forms shall be used and may be obtained from the Board office.

**R4-24-205. R4-24-207. Application for a Physical Therapist Assistant's Assistant Certificate**

**A.** An applicant for a physical therapist assistant's assistant certificate shall submit to the Board an application packet that contains:

- 1. If requesting to take the A completed national physical therapist's therapist assistant examination, a national testing service examination form for computerized testing available at provided by the Board office, if applicable;
  - a. Applicant's name, address, birth date, social security number, and mother's maiden name;
  - b. Date the applicant completed a physical therapist assistant program;
  - c. Type of examination for which applicant is applying;
  - d. School code required by the national testing service; and
  - e. Number of times the applicant has taken the same type of examination;
- 2. An application form provided by the Board, signed, and dated, and verified by the applicant, and notarized that contains:
  - a. The applicant's name, business and residential addresses, telephone number, birth date, and social security number;
  - b. The name and address of each university or college attended by the applicant, the dates of attendance, and if applicable, the date of graduation and degree received the school or college where the applicant completed a physical therapist assistant educational program, dates of attendance, and date of completion;
  - c. The name and address of the university or college at which the applicant completed an accredited a physical therapist assistant education program, dates of attendance, and date of completion;
  - d. A statement of whether the applicant has ever been licensed or certified as a physical therapist assistant in any other state jurisdiction of the United States or foreign country;
  - e. A statement of whether the applicant has any felony or misdemeanor charges currently pending or has ever been convicted of, a felony or misdemeanor in any state or foreign country pled guilty or no contest to, or entered into diversion in lieu of prosecution for any criminal offense in any jurisdiction of the United States or foreign country and if so, an explanation;
  - f. A statement of whether the applicant has ever had an application for a professional or occupational license, certificate, or registration, other than a driver's license, denied or rejected by any state or foreign country; driver's license, denied, rejected, suspended, or revoked by any jurisdiction of the United States or foreign country and if so, an explanation;
  - g. A statement of whether the applicant has ever been found guilty of or has a complaint, allegation, or charge currently pending for any action by a professional licensing board in any jurisdiction of the United States or foreign country and if so, an explanation;
  - h. A statement of whether the applicant has ever been the subject of disciplinary action by a professional association or post-secondary educational institution;
  - i. A statement of whether the applicant has ever had a professional or occupational license, certificate, or registration, other than a driver's license, suspended or revoked by any state or foreign country; malpractice judgment or has a lawsuit currently pending for malpractice and if so, an explanation;
  - j. A statement of whether an award has ever been issued against the applicant for malpractice or whether a lawsuit for malpractice is currently pending; the applicant is currently more than 30 days in arrears for payment required by a judgment and order for child support in Arizona or any other jurisdiction;
  - k. A statement of whether the applicant has been found guilty of or has charges currently pending for immoral or unprofessional conduct by a professional licensing board in any state; any impairment to the applicant's cognitive, communicative, or physical ability to participate in therapeutic interventions with skill and safety and if so, an explanation;

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- ~~k.~~ A statement of whether the applicant has, within the past 10 years, abused alcohol, any illegal chemical substance, or prescription medications, that in any way has impaired or limited the applicant's ability to participate in therapeutic interventions with skill and safety and if so, an explanation;
- ~~j.~~ A statement whether the applicant is currently more than 30 days in arrears for payments required by a judgment and order for child support in Arizona or any other state; and
- ~~l.~~ A statement of whether the applicant has, within the past 10 years, been diagnosed as having or is being treated for bipolar disorder, schizophrenia, paranoia, or other psychotic disorder that in any way has impaired or limited the applicant's ability to participate in therapeutic interventions with skill and safety and if so, an explanation;
- ~~m.~~ A statement of whether the applicant has been diagnosed as having or is being treated for pedophilia, exhibitionism, voyeurism, or any other sexual behavior disorder and if so, an explanation;
- ~~k.n.~~ A sworn statement by the applicant verifying the truthfulness of the information provided by the applicant;
- 3. A passport photograph of the applicant no larger than 1 = 1/2 x 2 inches and taken not more than 6 months before the date of application;
- 4. A completed questionnaire covering Arizona statutes and rules pertaining to physical therapist assistants therapy that has been provided by the Board and completed by the applicant; and Board; and
- 5. The fees A fee required in A.A.C. R4-24-204, R4-24-206.
- B.** In addition to the requirements in subsection (A), an applicant shall arrange to have directly submitted to the Board:
  - 1. An official transcript or letter stating showing that the applicant has completed all requirements for a physical therapist assistant education of an accredited educational program that is signed by the registrar of the university school or college at which where the applicant completed the physical therapist assistant education educational program; and
  - 2. Verification of passing a national board examination for physical therapist assistants as evidenced by an original notice of examination results issued by the professional examination service that prepared the examination; and
  - 3. If applicable, a verification of licensure or certification, signed and dated by an official of the agency licensing or certifying the applicant that includes all of the following:
    - a. The name and address of the applicant;
    - b. The license or certificate number and date of issuance;
    - e. The current status of the license or certificate;
    - d. The expiration date of the license or certificate;
    - e. A statement of whether the applicant was ever denied a license or certificate by the agency; and
    - f. A statement of whether any disciplinary action is pending or has ever been taken against the applicant.
- C.** The Board shall deny a certificate to an applicant who fails to meet the requirements of this Section or A.R.S. Title 32, Chapter 19. A person denied a certificate may request a hearing under A.R.S. Title 41, Chapter 6, Article 10.

**R4-24-208. Renewal of Certificate and Address Changes**

- A.** A certificate-holder shall submit a renewal application to renew a physical therapist assistant certificate on or before August 31 of even-numbered years and shall provide the following information for the license period immediately preceding the renewal application:
  - 1. A statement of whether the certificate-holder has been convicted of, pled guilty or no contest to, or entered into diversion in lieu of prosecution for any criminal offense in any jurisdiction of the United States or foreign country and if so, an explanation;
  - 2. A statement of whether the certificate-holder has had an application for a professional or occupational license, certificate, or registration, other than a driver's license, denied, rejected, suspended, or revoked by any jurisdiction of the United States or foreign country and if so, an explanation;
  - 3. A statement of whether the certificate-holder has been found guilty of or has a complaint, allegation, or charge currently pending for any action by a professional licensing board in any jurisdiction of the United States or foreign country and if so, an explanation;
  - 4. A statement of whether the certificate-holder has been the subject of disciplinary action by a professional association or post-secondary educational institution;
  - 5. A statement of whether the certificate-holder has had a malpractice judgment against the certificate-holder or has a lawsuit currently pending for malpractice and if so, an explanation;
  - 6. A statement of whether the certificate-holder is currently more than 30 days in arrears for payment required by a judgment and order for child support in Arizona or any other jurisdiction;
  - 7. A statement of whether the certificate-holder has any impairment to the certificate-holder's cognitive, communicative, or physical ability to participate in therapeutic interventions with skill and safety and if so, an explanation;
  - 8. A statement of whether the certificate-holder has abused alcohol, any illegal chemical substance, or prescription medications, that in any way has impaired or limited the certificate-holder's ability to participate in therapeutic interventions with skill and safety and if so, an explanation;
  - 9. A statement of whether the certificate-holder has been diagnosed as having or is being treated for bipolar disorder, schizophrenia, paranoia, or other psychotic disorder that in any way has impaired or limited the certificate-holder's ability to participate in therapeutic interventions with skill and safety and if so, an explanation;

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10. A statement of whether the certificate-holder has been diagnosed as having or is being treated for pedophilia, exhibitionism, voyeurism, or any other sexual behavior disorders and if so, an explanation;

11. A sworn statement verifying the truthfulness of the information provided by the certificate-holder.

**B.** Failure of the Board to inform a certificate-holder of certificate expiration does not excuse a certificate-holder's non-renewal or untimely renewal.

**C.** A certificate-holder shall submit a certificate renewal fee to the Board by mail or in person. The fee shall be paid by cashier's check, money order, or personal check.

**D.** The Board shall deny a certificate renewal to an applicant for renewal who fails to comply with a renewal requirement. A person denied renewal of certification may request a hearing under A.R.S. Title 41, Chapter 6, Article 10.

**E.** The Board shall mail a receipt and registration card to each certificate-holder who renews a certificate showing the named certificate-holder has a current and valid certificate.

**F.** A certificate-holder shall notify the Board, in writing, within 30 days of a change of address to be used by the Board.

**~~R4-24-207.~~ R4-24-209. Timeframes for Board Approvals**

**A.** The overall timeframe described in A.R.S. § 41-1072(2) for each type of approval granted by the Board is listed in Table 1. The applicant and the Executive Director of the Board may agree in writing to extend the overall timeframe. The overall timeframe and the substantive timeframe may not be extended by more than 25% of the overall timeframe.

**B.** The administrative completeness review timeframe described in A.R.S. § 41-1072(1) for each type of approval granted by the Board is listed in Table 1.

1. The administrative completeness review timeframe begins:

a. When the Board receives an application packet for ~~For~~ approval to take the national physical therapy therapist examination or national physical therapist assistant's examination as required in A.R.S. §§ 32-2022 and 32-2024, when the Board receives an application packet;

b. When the Board receives notice of the results of a national physical therapist examination or national physical therapist assistant examination taken by an applicant as required in A.R.S. §§ 32-2022 and 32-2024 for ~~For~~ approval or denial of a license or a certificate, when an applicant takes a national physical therapy examination or national physical therapist assistant's examination as required in A.R.S. §§ 32-2022 and 32-2024;

c. When the Board receives an application packet for ~~For~~ a license by endorsement under A.R.S. § 32-2023(A), when the Board receives an application packet; or

d. When the Board receives an application packet for ~~For~~ approval or denial of a license for a foreign-educated applicant, when the Board receives an application packet.

2. If the application packet is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information.

a. The administrative completeness review timeframe and the overall timeframe are suspended from the postmark date of the notice until the date the Board receives a complete application packet from the applicant.

b. An applicant who disagrees with the Board's statement of deficiencies may request a hearing as provided in A.R.S. § 32-2023.

3. If an application packet is complete, the Board shall send a written notice of administrative completeness to the applicant.

4. If the Board grants a license, certificate, or approval during the time provided to assess administrative completeness, the Board shall not issue a separate written notice of administrative completeness.

**C.** The substantive review timeframe described in A.R.S. § 41-1072(3) is listed in Table 1 and begins on the postmark date of the notice of administrative completeness.

1. During the substantive review timeframe, the Board may make one comprehensive written request for additional information or documentation. The timeframe for the Board to complete the substantive review is suspended from the postmark date of the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.

2. The Board shall send a written notice of approval to an applicant to take the national physical therapist's examination or national physical therapist assistant's examination or approval of a license or certificate to an applicant who meets the qualifications in A.R.S. §§ 32-2001 through 32-2027 and these rules.

3. The Board shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. §§ 32-2001 through 32-2027 and these rules.

**D.** The Board shall consider an application withdrawn if within 360 days from the application submission date the applicant fails to:

1. Supply the missing information requested under subsection (B)(2) or (C)(1); or

2. Take the national physical therapist's examination or national physical therapist assistant's examination.

**E.** An applicant who does not wish an application withdrawn may request a denial in writing within 360 days from the application submission date.

**F.** If a timeframe's last day falls on a Saturday, Sunday, or official state holiday, the Board shall consider the next business day the timeframe's last day.

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**G.** An applicant shall send written notice to the Board within 30 days from the date of any change of applicant’s address.

**Table 1. Timeframes (in days)**

Type of Applicant	Type of Approval	Statutory Authority	Overall Timeframe	Administrative Completeness Timeframe	Substantive Review Timeframe
<u>Regular</u> License; Foreign-educated Applicant; Physical Therapist Assistant Certificate (R4-24-201, R4-24-205)	Approval to take an examination	A.R.S. § 32-2024	90	30	60
<u>Regular and Restricted</u> License (R4-24-201 and R4-24-202)	License	A.R.S. §§ 32-2022; 32-2023	60	30	30
License by Endorsement (R4-24-201)	License by Endorsement	A.R.S. § 32-2026	60	15	45
Physical Therapist Assistant Certificate (R4-24-205)	Certificate	A.R.S. §§ 32-2022; 32-2023	60	30	30
<u>Foreign-educated</u> (R4-24-201)	<u>Interim Permit</u>	<u>A.R.S. § 32-2025</u>	<u>30</u>	<u>15</u>	<u>15</u>
Foreign-educated (R4-24-201)	License	A.R.S. §§ 32-2022; 32-2025	60	45	15
<u>Supervised clinical practice</u> (R4-24-203)	<u>Approval of facility and supervising physical therapist</u>	<u>A.R.S. § 32-2025(C)</u>	<u>30</u>	<u>15</u>	<u>15</u>

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**EXHIBIT 1**

**ARIZONA STATE BOARD OF PHYSICAL THERAPY  
 INTERIM PERIOD EVALUATION FORM**

**NAME:** \_\_\_\_\_ **PERIOD FROM:** \_\_\_\_\_ **TO:** \_\_\_\_\_

**SUPERVISOR:** \_\_\_\_\_ **FACILITY:** \_\_\_\_\_

**NOTE: ALL SKILL MUST BE APPROVED PRIOR TO END OF SUPERVISED PERIOD**

SKILL	APPROVED	OBSERVED NOT APPROVED	NOT OBSERVED	COMMENTS
<b>PROFESSIONAL BEHAVIOR</b>				
1. Demonstrates professional/ethical conduct				
2. Pursues professional development				
3. Manages time effectively				
4. Able to problem-solve				
<b>COMMUNICATION</b>				
5. Establishes therapeutic rapport with patient, families, etc.				
6. Communicates with patient and family				
7. Uses and interprets non-verbal communication with patients/family				
8. Responds appropriately to behavior/condition of patient				
9. Interacts with professionals/exchanges communication				
10. Uses supportive personnel effectively				
11. Makes appropriate documentation				
<b>EVALUATION</b>				
12. Performs comprehensive evaluation				
13. Interprets evaluation properly				
14. Sets appropriate goals				
15. Plans discharge				
16. Analyzes posture				
17. Evaluates sensory status				
18. Analyzes gait				
19. Evaluates functional activities				
20. Assesses neuromuscular status				
21. Evaluates ROM				
22. Performs MMT				
23. Assesses need for orthodic devices				
24. Assesses and responds to physiologic status of patient				

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**Exhibit 1 (continued)**

<b>SKILL</b>	<b>APPROVED</b>	<b>OBSERVED NOT APPROVED</b>	<b>NOT OBSERVED</b>	<b>COMMENTS</b>
<b>PROGRAM PLANNING &amp; TREATMENT</b>				
25. Plans and modifies treatment program				
26. Uses medical record				
27. Provides exercises without equipment				
28. Provides exercise with equipment				
29. Selects appropriate modalities				
30. Selects appropriate positioning/draping				
<b>APPLICATION OF TREATMENT SKILLS</b>				
31. Cerv/lumbar tx				
32. Electrical stimulation				
33. Hydrotherapy				
34. Ultra Sound				
35. Massage; soft tissue mobilization				
36. Cyrotherapy				
37. CPR				
38. Wound/Burn Care				
39. Infection control				
40. Safe body mechanics				
41. Manual therapy joint mobilization				
42. Neurological facilitation/inhibition				
43. Gait training				
44. Functional activity training				

I (agree) (disagree) with the above assessment of my clinical skills as a physical therapist.

\_\_\_\_\_  
Interim Permit Holder's Signature      Date

\*\*\*\*\*

- A. \_\_\_\_\_ I recommend that \_\_\_\_\_ be considered for licensure.  
 B. \_\_\_\_\_ I recommend that \_\_\_\_\_ be considered for the next scheduled licensing examination.  
 C. \_\_\_\_\_ I recommend extension of the Interim Permit for \_\_\_\_\_  
 D. \_\_\_\_\_ Other.

Please return this form to the:  
 Arizona State Board of Physical Therapy  
 1400 West Washington, Suite 230  
 Phoenix, Arizona 85007

\_\_\_\_\_  
Signature of Supervisor

\_\_\_\_\_  
Date

**ARTICLE 3. ~~REGULATORY PROVISIONS~~ REGULATION OF PHYSICAL THERAPY**

**~~R4-24-301. Professional Practice~~**

- ~~A.~~** A licensee shall provide the referring practitioner, if any, with information that may assist in the determination of an accurate diagnosis. A licensee shall provide this information, verbally or in writing, after a patient is initially evaluated by the licensee.  
**~~B.~~** A licensee shall not delegate the following responsibilities to an individual who is not a licensee:  
 1. ~~Initial written evaluation for each patient;~~  
 2. ~~Planning each patient's treatment program and determining which elements of the program may be delegated to a physical therapist assistant or aide;~~

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3. ~~Periodic written reevaluation, including observation, and written documentation of the treatment program and the patient's progress; and~~
4. ~~Written discharge summary of the patient and the patient's response to the treatment at the termination of the treatment program.~~

**R4-24-301. Lawful Practice**

- A.** A physical therapist shall provide the referring practitioner, if any, with information from the patient assessment, diagnosis, and plan of care. A physical therapist shall provide this information, verbally or in writing, after a patient is initially evaluated.
- B.** A physical therapist shall maintain the confidentiality of patient records in accordance with A.R.S. Title 12, Chapter 7.
- C.** A physical therapist shall obtain a patient's informed consent before treatment. The consent shall be in writing or documented in the patient chart and include:
  1. The nature of the proposed intervention,
  2. Material risk of harm or complication,
  3. A reasonable alternative to the proposed intervention, and
  4. The goal of treatment.

**R4-24-302. Delegation of Tasks to Physical Therapist Assistants and Aides**

- A.** A licensee shall not delegate to a less qualified person any service that requires the skill, knowledge, and judgment of a licensed physical therapist.
- B.** Adequate supervision by a licensee of physical therapist assistants or aides includes the following:
  1. Evaluation of the performance of delegated responsibilities and assigned tasks;
  2. Instruction and training in required skills;
  3. Maintenance of written documentation of instruction and training provided;
  4. Periodic re-evaluation of the performance of delegated tasks;
  5. On-site supervision of no more than a combination of 3 physical therapist assistants or aides engaged in direct patient care; and
  6. Verification that a physical therapist assistant graduated from a Board-approved, accredited, physical therapy education program.
- C.** Within 10 days of undertaking the supervision of a physical therapist assistant, a licensee shall provide written notice to the Board of the name, address, place of employment, and education verification for each physical therapist assistant.
- D.** A supervising physical therapist shall be responsible for all physical therapy care given by physical therapist assistants.

**R4-24-302. Use of Titles**

- A.** A licensed physical therapist shall use the designation "PT" immediately following the licensee's name or signature. A licensed physical therapist shall not use the designations "RPT" and "LPT" in connection with the physical therapist's name or place of business.
- B.** A certified physical therapist assistant shall use the designation "PTA" immediately following the physical therapist assistant's name.

**R4-24-303. Repealed Patient Care Management**

- A.** A physical therapist is responsible for the scope of patient management in the practice of physical therapy as defined by A.R.S. § 32-2001(9). The physical therapist shall:
  1. Perform and document the initial evaluation of each patient;
  2. Perform and document periodic reevaluation of each patient;
  3. Document a discharge summary of the patient and the patient's response to treatment at discharge; and
  4. Perform and document all therapeutic interventions that require the expertise of a physical therapist.
- B.** A physical therapist shall determine and document the assistive personnel's education and training before delegating in accordance with A.R.S. § 32-2043.
- C.** For each date of service, a physical therapist shall provide all therapeutic interventions that require the expertise of a physical therapist and shall determine whether the use of assistive personnel to deliver services is safe, effective, and efficient for each patient.
- D.** The documentation for each treatment session shall be signed manually or electronically by either the physical therapist or the physical therapist assistant.
- E.** A physical therapist shall concurrently supervise no more than 3 assistive personnel. If 3 assistive personnel are supervised, at least one shall be a physical therapist assistant.
- F.** A physical therapist shall provide oversight of all documentation for services rendered to each patient, including awareness of fees charged or reimbursement methodology used, and what constitutes an unreasonable or fraudulent fee.

**R4-24-304. Complaints and Investigations**

- A.** A complaint to the Board shall be made in writing and transmitted to the Board by personal delivery, mail, or facsimile on a form provided by the Board. A complainant shall provide the following information:

1. Name of licensee or certificate-holder who is the subject of complaint;
  2. Name and address of person filing complaint;
  3. Nature of the complaint;
  4. Details of the complaint with pertinent dates and activities;
  5. Whether the complainant has contacted any other organization regarding the complaint;
  6. Whether complainant has contacted the licensee or certificate-holder concerning the complaint, and the licensee's or certificate-holder's response, if any; and
  7. Whether the complainant is willing to testify at a hearing.
- B.** The Board shall notify a licensee or certificate-holder, in writing, within 90 days after receiving a complaint. The licensee or certificate-holder shall submit a written response, including records or documentation as requested by the Board, within 20 days from the date that notice of the complaint is mailed or delivered to the licensee or certificate-holder.

**R4-24-305. Informal Interviews**

- A.** The Board shall, when investigating a complaint, send written notice of an informal interview to a licensee or certificate-holder who is the subject of the complaint, by personal service or certified mail, return receipt requested, at least 20 days before the informal interview.
- B.** The written notice shall contain:
1. The time, date, place of the interview;
  2. An explanation of the informal nature of the proceedings;
  3. The licensee's or certificate-holder's right to appear with or without legal counsel;
  4. A statement of the allegations and issues involved;
  5. The licensee's or certificate-holder's right to a formal hearing instead of the informal interview; and
  6. Notice that the Board may take disciplinary action as a result of the deliberations of the informal interview;
- C.** An informal interview shall proceed as follows:
1. Introduction of the licensee or certificate-holder and, if applicable, legal counsel for the licensee or certificate-holder;
  2. Introduction of the Board members, staff, and Assistant Attorney General present;
  3. Swearing in of the licensee or certificate-holder and witnesses;
  4. Brief summary of the allegations and purpose of the informal interview;
  5. Optional opening comment by licensee or certificate-holder;
  6. Questioning of the licensee or certificate-holder and witnesses;
  7. Optional additional comments by licensee or certificate-holder;
  8. Deliberation and deciding the case by the Board.

**~~R4-24-107.~~ R4-24-306. Issuance of Subpoenas**

- A.** All subpoenas issued in connection with Board disciplinary proceedings pursuant to A.R.S. Title 32, Chapter 19, shall be approved and issued by the ~~secretary of the Board or the administrative secretary~~ Executive Director of the Board.
- B.** A party requesting a subpoena to be issued shall serve the subpoena as provided by the Arizona Rules of Civil Procedure.

**~~R4-24-109.~~ R4-24-307. Rehearing or Review of Board Decisions**

- A.** Except as provided in subsection (G), a party to a contested case who is aggrieved by the Board's decision in the ~~action~~ case may file with the Board a written motion for rehearing or review. The motion shall be filed within 30 days after service of the decision and shall particularly state the grounds for the motion. For purposes of this subsection, a decision is served when personally delivered or sent by certified mail to the party's last known residential or business address.
- B.** A motion for rehearing or review may be amended at any time before it is ruled upon by the Board. A response may be filed to a motion or amended motion by any other party, within 15 days of service of the motion or amended motion. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
- C.** The Board may grant a rehearing or review of a decision for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the administrative proceedings of the Board or the prevailing party, or any order or abuse of discretion ~~which that~~ deprived the moving party of a fair hearing;
  2. Misconduct of the Board or the prevailing party;
  3. Accident or surprise which could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence ~~which that~~ could not, with reasonable diligence, have been discovered and produced at the original hearing;
  5. Excessive or insufficient penalties or disciplinary action;
  6. Error in the admission or rejection of evidence or other errors of law in the original hearing; or
  7. A decision that is not justified by the evidence or is contrary to law.
- D.** The Board may grant a rehearing or review to any or all of the parties. The rehearing or review may cover all or part of the issues raised for any of the reasons stated in subsection (C). An order granting a rehearing or review shall particularly state the grounds for granting the rehearing or review, and the rehearing or review shall cover only the grounds stated.



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- E. No later than 15 days after making a decision, the Board may order a rehearing or review on its own initiative for any of the reasons stated in subsection (C). After giving notice to the parties or ~~their~~ the parties' counsel, the Board may grant a motion for rehearing or review on grounds not stated in the motion. In either case, the order granting a rehearing or review shall specifically state the grounds for the rehearing or review.
- F. When a motion for rehearing or review is based upon affidavits, the affidavits shall be served with the motion. An opposing party may serve opposing affidavits within 10 days of service of the original affidavits. This 10-day period may be extended for not more than 20 days by the Board for good cause shown or by written stipulation of the parties. The Board may permit reply affidavits.
- G. If the Board makes a specific finding that immediate effectiveness of a particular decision is necessary for the preservation of public health and that rehearing or review is impracticable, unnecessary, or contrary to public interest, the decision ~~may~~ shall be issued as final without opportunity for rehearing or review. If a decision is issued as final, the time limits for judicial review of the Board's final decisions, ~~which are set forth~~ at A.R.S. § 12-901 et seq., ~~are applicable~~ apply.

**R4-24-308. Disciplinary Actions; Penalties**

- A. All disciplinary actions including a decree of censure shall remain a part of a licensee's or certificate-holder's public record.
- B. The Board shall include corrective action specific to the grounds upon which the disciplinary action is based when restricting a license or certificate. Supervision of a restricted licensee or certificate-holder shall be by an unrestricted licensee approved by the Board.
- C. A physical therapist or physical therapist assistant who's license or certificate is suspended, revoked, or voluntarily surrendered shall return the license or certificate to the Board within 10 days of receipt of a final Board order.
- D. Following a period of restricted license or certificate, a licensee or certificate-holder shall appear before the Board and submit evidence of having completed all Board requirements and stipulations before termination of the restriction.
- E. Following revocation of a license or certificate in any jurisdiction, an individual may not reapply for a license or certificate for 2 years.
- F. An applicant whose license was previously revoked shall appear before the Board before a license is granted.

**R4-24-309. Substance Abuse Recovery Program**

In addition to the requirements of A.R.S. § 32-2050, to participate in a Board-approved substance abuse recovery program, a licensee or certificate-holder shall submit to the Board:

- 1. Evidence that the program is licensed by the Arizona Department of Health Services to provide substance abuse recovery services;
- 2. If ordered by the Board or its designee, results of body fluid examinations at any time;
- 3. An agreement, signed by an authorized representative of the program and the licensee or certificate-holder, that the program shall provide to the Board:
  - a. Periodic reports regarding treatment program activity;
  - b. All treatment records when requested by the Board;
  - c. Periodic reports regarding the licensee's or certificate-holder's diagnosis, prognosis, and the recommendations for continuing care, treatment, and supervision; and
  - d. An immediate report if the licensee or certificate-holder refuses to submit to treatment, is in noncompliance with the established program, or if the licensee's or certificate-holder's impairment is not substantially alleviated through treatment.

**R4-24-310. Consumer Rights**

Members of the public may contact the Board office to access public information on a licensee, a certificate-holder, official action of the Board, and open meetings.

**R4-24-311. Display of License; Posting Notice; Disclosure**

- A. A licensee shall display the licensee's license and current renewal certificate in a location accessible to public view at the licensee's place of practice.
- B. A licensee shall post notice at the licensee's place of practice in a location accessible to public view the name, address, and telephone number of the Board office, and a statement informing the public that a complaint against a licensee can be directed to the Board.
- C. Written disclosure to a patient shall be provided prior to evaluation and initiation of physical therapy when a referring practitioner is deriving direct or indirect compensation from the referral. The written disclosure shall state that "Under A.R.S. § 32-2051(C), I am required by law to inform you in writing that your referring physician [or specify if different than a physician] derives either direct or indirect compensation related to your physical therapy."

**ARTICLE 4. CONTINUING COMPETENCE**

**R4-24-401. Continuing Competence Requirements for Renewal**

- A.** Except as provided in subsection (F), beginning September 1, 2000, a licensed physical therapist shall earn 20 contact hours of continuing competence activities for each compliance period to be eligible for renewal of license.
- 1.** The licensee shall earn at least 10 contact hours from Category A continuing competence activities. No more than 5 of the required contact hours from Category A shall be obtained from nonclinical course work.
  - 2.** No more than 10 contact hours may be earned by the licensee during any compliance period from Categories B and C continuing competence activities. No more than 5 contact hours from categories B and C may be obtained from non-clinical course work.
  - 3.** If the licensee's initial license is for 1 year or less, the licensee shall earn 10 contact hours during the initial compliance period.
- B.** A licensee shall not receive contact hour credit for repetitions of the same activity.
- C.** The continuing competence compliance period for a licensee begins on September 1 following the issuance of an initial license or a license renewal and ends on August 31 of even-numbered years.
- D.** A licensee shall not carry over contact hours from 1 compliance period to another.
- E.** An applicant for license renewal shall submit a signed statement to the Board with the renewal application stating whether continuing competence requirements have been fulfilled for the current compliance period.
- F.** The Board may, at its discretion, waive continuing competence requirements on an individual basis for reasons of extreme hardship such as illness, disability, active service in the military, or other extraordinary circumstance as determined by the Board. A licensee who seeks a waiver of the continuing competence requirements shall provide to the Board, in writing, the specific reasons for requesting the waiver and additional information that the Board may request in support of the waiver.
- G.** A licensee is subject to Board auditing for continuing competence compliance.
- 1.** Selection for audit shall be random and notice of audit sent within 60 calendar days following the license renewal deadline.
  - 2.** Within 30 days of receipt of a notice of audit, a licensee shall submit evidence to the Board that shows compliance with the requirements of continuing competence. Documentation of a continuing competence activity shall include:
    - a.** The date, place, course title, sponsor, schedule, and presenter;
    - b.** The number of contact hours received for the activity; and
    - c.** Proof of completion, such as an abstract, certificate of attendance, sign-in log, or other certification of completion.
- H.** A licensee shall retain evidence of participation in a continuing competence activity for the 2 preceding compliance periods.
- I.** The Board shall notify a licensee who has been audited whether the licensee is in compliance with continuing competence requirements. A licensee shall be notified by the Board, by certified mail, within 30 working days following the determination by the Board.
- J.** A licensee found not in compliance with continuing competence requirements shall have 6 months from the notice of non-compliance to satisfy the continuing competence requirements. A licensee may request a hearing to contest the Board's decision under A.R.S. Title 41, Chapter 6, Article 10.
- K.** Penalties for failure to comply with continuing competence requirements may be imposed by the Board under A.R.S. § 32-2047 following a hearing conducted under A.R.S. Title 41, Chapter 6, Article 10.

**R4-24-402. Continuing Competence Activities**

- A.** Category A continuing competence activities shall be approved by:
- 1.** An accredited medical, health care, or physical therapy program;
  - 2.** A state or national medical, health care, or physical therapy association, or a component of the association; or
  - 3.** A national medical, health care, or physical therapy specialty society.
- B.** Category A continuing competence activities include:
- 1.** A physical therapy continuing education course designed to provide necessary understanding of current research, clinical skills, administration, or education related to the practice of physical therapy. Calculation of contact hours shall be determined by dividing the total minutes of instruction by 60. Breaks shall not be included as part of instructional time;
  - 2.** Coursework towards granting or renewal of a physical therapy clinical specialty certification approved by the Board. Each 60 minutes of instruction equals 1 contact hour;
  - 3.** Coursework in a physical therapy clinical residency program. Each 60 minutes of instruction equals 1 contact hour; and
  - 4.** Coursework in a post-graduate physical therapy education from an accredited college or university. Each 60 minutes of instruction equals 1 contact hour.
- C.** Category B continuing competence activities include:

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1. Study Group, maximum 5 contact hours.
    - a. A study group is a structured meeting designed for the study of a clinical physical therapy topic dealing with current research, clinical skills, procedures or treatment related to the practice of physical therapy.
    - b. A study group shall have a minimum of 3 participants and 2 hours of participation to equal 1 contact hour.
  2. Self-Instruction, maximum 5 contact hours.
    - a. Self-instruction is a structured course of study relating to 1 clinical physical therapy topic dealing with current research, clinical skills, procedures, or treatment related to the practice of physical therapy. Self-instruction may be directed by a correspondence course, video, internet, or satellite program.
    - b. Each 60 minutes of self-instruction equals 1 contact hour.
  3. Inservice Education, maximum 5 contact hours.
    - a. Inservice education is attendance at a presentation pertaining to current research, clinical skills, procedures, or treatment related to the practice of physical therapy or relating to patient welfare or safety, including CPR certification.
    - b. Each 60 minutes of inservice education equals 1 contact hour.
- D. Category C modes of continuing competence include:**
1. Physical therapy practice management coursework, maximum of 5 contact hours.
    - a. Physical therapy practice management course work is course work concerning physical therapy administration, professional responsibility, ethical obligations, or legal requirements applicable to physical therapy practice settings.
    - b. If the course is graded, a licensee shall receive a "pass" in a pass/fail course or a minimum of a C in a graded course to receive credit.
    - c. 60 minutes of practice management coursework equals 1 contact hour.
  2. Teaching or lecturing, maximum 5 contact hours.
    - a. Teaching or lecturing is the presentation of an original educational program dealing with current research, clinical skills, procedures, treatment, or practice management related to the practice of physical therapy principally for health care professionals. Credit may be earned for teaching when the presentation is accompanied by written materials prepared, augmented, or updated by the presenter including course objectives and program content.
    - b. One 60 minute instructional period equals 2.5 contact hours.
    - c. Credit shall be given only once for a presentation within a compliance period.
  3. Publication, maximum 5 contact hours.
    - a. Publication includes writing for professional publication, platform, or poster presentation abstracts that have direct application to the practice of physical therapy. Credit may be earned for publication of material that is a minimum of 1500 words in length and published by a recognized 3rd-party publisher of physical therapy material.
    - b. Each article published in a refereed journal, book chapter or book equals 10 contact hours. Articles published in non-refereed journals, magazines, newsletters, or periodicals equal 5 contact hours.

**R4-24-403. Activities Not Eligible for Continuing Competence Credit**

A licensee shall not receive continuing competence credit for the following activities:

1. A regularly scheduled educational opportunity provided within an institution, such as rounds or case conferences;
2. A staff meeting;
3. A publication or presentation by a licensee to a lay or nonprofessional group; and
4. Routine teaching of personnel, students, or staff as part of a job requirement.

**ARTICLE 5. PUBLIC PARTICIPATION PROCEDURES**

**R4-24-501. Public Records; Rulemaking Record and Directory of Substantive Policy Statements**

The Board's official rulemaking record and directory of substantive policy statements is located in the office of the Board and may be reviewed any week day, 8:00 a.m. until 5:00 p.m., except state holidays.

**R4-24-502. Petition for Rulemaking; Review of Agency Practice or Substantive Policy Statement; Objection to Rule Based Upon Economic, Small Business, or Consumer Impact**

A petition to adopt, amend, or repeal a rule or to review an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule under A.R.S. § 41-1033 or to object to a rule in accordance with A.R.S. § 41-1056.01 shall be filed with the Board as prescribed in this Section. Each petition shall contain:

1. The name and current address of the petitioner;
2. The specific language of the proposed rule for the adoption of a new rule;
3. The citation for the applicable *Arizona Administrative Code* number and rule title for the amendment of a current rule. The request shall include the specific language of the current rule, any language to be deleted shall be stricken through but legible, and any new language shall be underlined;
4. For the repeal of a current rule, the citation for the applicable A.A.C. number and title of the rule proposed for repeal;

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5. The reasons a rule should be adopted, amended, or repealed, and if in reference to an existing rule, why the rule is inadequate, unreasonable, unduly burdensome, or otherwise not acceptable. The petitioner may provide additional supporting information, including:
  - a. Statistical data or other justification, with clear reference to an attached exhibit;
  - b. Identification of what person or segment of the public would be affected and how the person or segment would be affected; and
  - c. If the petitioner is a public agency, a summary of a relevant issue raised in any public hearing, or as a written comment offered by the public;
6. For a review of an existing Board practice or substantive policy statement alleged to constitute a rule, the reason the existing Board practice or substantive policy statement constitutes a rule and the proposed action requested of the Board.
7. For an objection to a rule based upon the economic, small business, or consumer impact, evidence that:
  - a. The actual economic, small business, or consumer impact significantly exceeded the impact estimated in the economic, small business, and consumer impact statement submitted during the making of the rule; or
  - b. The actual economic, small business, or consumer impact was not estimated in the economic, small business, and consumer impact statement submitted during the making of the rule and that actual impact imposes a significant burden on A person subject to the rule.
8. The signature of the person submitting the petition.

**R4-24-503. Public Comments**

- A.** On or before the date of the close of record, a person may comment upon a rule proposed by the Board by submitting written comments on the proposed rule or upon any other matter noticed for public comment in the *Arizona Administrative Register* to the Board.
- B.** The Board considers a written comment submitted on the date it is received by the Board, except if a comment is mailed the date of receipt shall be the postmarked date.
- C.** The Board shall consider all written comments that conform with A.R.S. § 41-1023.

**R4-24-504. Oral Proceedings**

- A.** A person requesting an oral proceeding, as prescribed in A.R.S. § 41-1023(C), shall:
  1. File the request with the Board;
  2. Include the name and current address of the person making the request; and
  3. Refer to the proposed rule and include the date and issue of the *Arizona Administrative Register* in which the notice was published, if known.
- B.** The Board shall record an oral proceeding either electronically or stenographically, and any cassette tape, transcript, register, or written comment received shall become part of the official record.
- C.** The presiding officer shall use the following guidelines to conduct an oral proceeding:
  1. Registration of attendees. Registration of attendees shall be voluntary;
  2. Registration of a person intending to speak. Registration information shall include the registrant's name, representative capacity, if applicable, a notation of the registrant's position with regard to the proposed rule, and the approximate length of time the registrant wishes to speak;
  3. Opening of the record. The presiding officer shall open the proceeding by identifying the rule to be considered, the location, date, time, and purpose of the proceeding, and present the agenda;
  4. A statement by a Board representative. The Board representative shall explain the background and general content of the proposed rule;
  5. A public oral comment period. The presiding officer may limit comments to a reasonable time, as determined by the presiding officer. An oral comment may be limited to prevent undue repetition; and
  6. Closing remarks. The presiding officer shall announce the location where written public comment is to be sent.

**R4-24-505. Petition for Delayed Effective Date**

- A.** A person wanting to delay the effective date of a rule under A.R.S. § 41-1032 shall file a petition with the Board. The petition shall contain:
  1. The name and current address of the person submitting the petition;
  2. Identification of the proposed rule;
  3. The need for the delay, specifying the undue hardship or other adverse impact that may result if the request for a delayed effective date is not granted, and the reasons why the public interest will not be harmed by the later date; and
  4. The signature of the person submitting the petition.
- B.** The Board shall make a decision and notify the petitioner of the decision within 60 days of receipt of the petition.

**R4-24-506. Written Criticism of Rule**

- A.** Any person may file a written criticism of an existing rule with the Board.



**7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**

Not applicable

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

Not applicable

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

The Administration proposes the changes primarily to conform rule to state statute and federal law, and the Administration anticipates no substantive impact. The Administration made other changes to expedite the eligibility referral process and this will benefit certain parties by making the language easier to use.

The small business community as a whole will not be impacted by the changes. AHCCCS providers that meet the definition of small business in A.R.S. § 41-1001(19) will benefit from the additional clarity and conciseness of the rule language.

The following entities will also benefit from the changes:

- a. The Administration;
- b. AHCCCS health plans and providers;
- c. County eligibility staff; and
- d. AHCCCS members.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Rule Citation	Change
General	The Administration made the rules more clear, concise, and understandable by making grammatical, verb tense, and punctuation changes throughout the proposed rules.
R9-22-116	The Administration amended the definition of "income" to clarify that money or a resource is considered income at the moment that its ownership or use is transferred to a person.
R9-22-711	The Administration incorporated 42 U.S.C. 1396o to comply with rule-making requirements regarding incorporated material.
R9-22-1611	The Administration defined the term "geographically available" to clarify that a person is eligible to enroll in a Medicare HMO based on the person's place of residence.
R9-22-1701	The Administration removed the proposed language that stated that an incarcerated member shall be disenrolled effective on the date of incarceration and covered on a fee-for-service basis from the date of incarceration to the date the Administration takes action to disenroll. The Health Care Financing Administration indicated that no Federal Financial Participation is available.

**11. A summary of the principal comments and the agency response to them:**

The Administration considered all oral and written comments received by the close of record, 5:00 p.m. on Monday, April 3, 2000. The Administration conducted a videoconference public hearing in Phoenix, Flagstaff, and Tucson, Arizona. Pima County eligibility staff asked questions regarding timeframes in R9-22-1611 for which the Administration provided an oral response. The Administration received written comments from Maricopa Managed Care Systems regarding the rules for eligibility for Medicare beneficiaries and undue hardship in R9-22-1611. In response to the comments, the Administration added clarity to the Section by defining the term "geographically available." The Administration also received written typographical corrections from the Department of Economic Security.

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

Not applicable

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**13. Incorporations by reference and their location in the rules:**

Incorporation	Date	Location
42 U.S.C. 1396o	July 16, 1998	R9-22-711(A)(6)

**14. Was this rule previously adopted as an emergency rule?**

No

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ADMINISTRATION**

**ARTICLE 1. DEFINITIONS**

Section

- R9-22-101. Location of Definitions
- R9-22-105. General Provisions and Standards Related Definitions
- R9-22-106. Request for Proposals (RFP) Related Definitions
- R9-22-110. 1st- and 3rd-Party Liability Related Definitions
- R9-22-114. Title IV-A Related Definitions
- R9-22-116. State-Only Eligibility Related Definitions

**ARTICLE 2. SCOPE OF SERVICES**

Section

- R9-22-204. Inpatient General Hospital Services
- R9-22-205. Physician and Primary Care Physician and Practitioner Services
- R9-22-206. Organ and Tissue ~~Transplantation~~ Transplant Services
- R9-22-209. Pharmaceutical Services
- R9-22-213. Early and Periodic Screening, ~~Diagnosis~~ Diagnosis, and Treatment Services (~~EPSDT~~) (E.P.S.D.T.)
- R9-22-216. ~~Nursing Facility Services-NF, Alternative HCBS Setting, or HCBS~~

**ARTICLE 4. CONTRACTS, ADMINISTRATION, AND STANDARDS**

Section

- R9-22-402. Contracts

**ARTICLE 7. STANDARDS FOR PAYMENTS**

Section

- R9-22-711. Copayments

**ARTICLE 16. STATE-ONLY ELIGIBILITY**

Section

- R9-22-1608. County Responsibility for Completion of MI/MN Eligibility Determination
- R9-22-1609. MI/MN Timeliness Requirements
- R9-22-1610. Forwarding Applications to Obtain Categorical or Title XIX Eligibility
- R9-22-1611. Eligibility for Medicare Beneficiaries
- R9-22-1616. Denial or Discontinuance of MI/MN Eligibility

**ARTICLE 17. ENROLLMENT**

Section

- R9-22-1701. Enrollment of a Member with an AHCCCS Contractor
- R9-22-1704. Categorical and EAC Guaranteed Enrollment Period

**ARTICLE 1. DEFINITIONS**

**R9-22-101. Location of Definitions**

**A.** Location of definitions. Definitions applicable to Chapter 22 are found in the following:

Definition	Section or Citation
<del>1.</del> "210"	R9-22-114
<del>2.</del> "1931"	R9-22-114

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3.	“1-time income”	R9-22-116
4.	“1st-party liability”	R9-22-110
5.	“3-month income period”	R9-22-116
6.	“3rd-party”	R9-22-110
7.	“3rd-party liability”	R9-22-110
8.	“Accommodation”	R9-22-107
9.	“Act”	R9-22-114
10.	“Acute mental health services”	R9-22-112
11.	“Adequate notice”	R9-22-114
12.	“ADHS”	R9-22-112
13.	“Administration”	<del>R9-22-106, R9-22-114,</del> and A.R.S. § 36-2901
14.	“Adverse action”	R9-22-114
15.	“AEC”	R9-22-117
16.	“Affiliated corporate organization”	R9-22-106
17.	“Aged”	<del>R9-22-115</del> <u>42 U.S.C. 1382c(a)(1)(A)</u>
18.	“Aggregate”	R9-22-107
19.	“AHCCCS”	R9-22-101
20.	“AHCCCS-disqualified dependent”	R9-22-101
21.	“AHCCCS-disqualified spouse”	R9-22-101
22.	“AHCCCS hearing officer”	R9-22-108
23.	“AHCCCS inpatient hospital day or days of care”	R9-22-107
24.	“Ambulance”	R9-22-102
25.	“Ancillary department”	R9-22-107
26.	“Annual enrollment choice”	R9-22-117
27.	“Appeal”	R9-22-108
28.	“Appellant”	R9-22-114
29.	“Applicant”	R9-22-101
30.	“Application”	R9-22-101
31.	“Assignment”	R9-22-101
32.	“Assistance unit”	R9-22-114
33.	“Authorized representative”	R9-22-114
34.	“Auto-assignment algorithm”	R9-22-117
35.	“Baby Arizona”	R9-22-114
36.	“Behavior management services”	R9-22-112
37.	“Behavioral health paraprofessional”	R9-22-112
38.	“Behavioral health professional”	R9-22-112
39.	“Behavioral health service”	R9-22-112
40.	“Behavioral health technician”	R9-22-112
41.	“BHS”	R9-22-114
42.	“Billed charges”	R9-22-107
43.	“Blind”	R9-22-115
44.	“Board-eligible for psychiatry”	R9-22-112
45.	“Bona fide funeral agreement”	R9-22-114
46.	“Burial plot”	R9-22-114
47.	“Capital costs”	R9-22-107
48.	“Capped fee-for-service”	R9-22-101
49.	“Caretaker relative”	R9-22-114
50.	“Case management services”	R9-22-112
51.	“Case record”	R9-22-101
52.	“Cash assistance”	R9-22-114
53.	“Categorically eligible”	A.R.S. § <del>36-2901(4)(b)</del> <u>A.R.S. §§ 36-2901</u> and 36-2934
54.	“Certification”	R9-22-109
55.	“Certification error”	R9-22-109
56.	“Certification period”	R9-22-115 and R9-22-116
57.	“Certified psychiatric nurse practitioner”	R9-22-112
58.	“ <del>Child welfare agency</del> ”	<del>R9-22-114</del>
59.	“Clean claim”	A.R.S. § 36-2904
60.	“Clinical supervision”	R9-22-112
61.	“CMDP”	R9-22-117



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<del>62.</del> “Continuous stay”	R9-22-101
<del>63.</del> “Contract”	R9-22-101
<del>64.</del> “Contractor”	R9-22-101
<del>65.</del> “Contractor of record”	R9-22-101
<del>66.</del> “Copayment”	R9-22-107
<del>67.</del> “Corrective action plan”	R9-22-109
<del>68.</del> “Cost-to-charge ratio”	R9-22-107
<del>69.</del> “Countable income”	R9-22-116
<del>70.</del> “County eligibility department”	R9-22-109
<del>71.</del> “County eligibility staff”	R9-22-116
<del>72.</del> “Covered charges”	R9-22-107
<del>73.</del> “Covered services”	R9-22-102
<del>74.</del> “CPT”	R9-22-107
<del>75.</del> “CRS”	R9-22-114
<del>76.</del> “Date of determination”	R9-22-116
<del>77.</del> “Date of discontinuance”	<del>R9-22-116</del>
<del>78.</del> “Date of enrollment action”	R9-22-117
<del>79.</del> “Day”	R9-22-101
<del>80.</del> “DCSE”	R9-22-114
<del>81.</del> “Deductible medical expense”	R9-22-116
<del>82.</del> “Deemed application date”	R9-22-116
<del>83.</del> “De novo hearing”	R9-22-112
<del>84.</del> “Dentures”	R9-22-102
<del>85.</del> “Department”	R9-22-114
<del>86.</del> “Dependent child”	R9-22-114 and R9-22-116
<del>87.</del> “DES”	R9-22-101
<del>88.</del> “Determination”	R9-22-116
<del>89.</del> “Diagnostic services”	R9-22-102
<del>90.</del> “Disabled”	R9-22-115
<del>91.</del> “Discontinuance”	R9-22-116
<del>92.</del> “Discussions”	R9-22-106
<del>93.</del> “Disenrollment”	R9-22-117
<del>94.</del> “District Medical Consultant”	R9-22-114
<del>95.</del> “DME”	R9-22-102
<del>96.</del> “DRI inflation factor”	R9-22-107
<del>97.</del> “E.P.S.D.T. services”	R9-22-102
<del>98.</del> “EAC”	R9-22-101
<del>99.</del> “Earned income”	R9-22-116
<del>100.</del> “Educational income”	R9-22-116
<del>101.</del> “ELIC”	R9-22-101
<del>102.</del> “Eligibility determination date”	<del>R9-22-114</del>
<del>103.</del> “Eligible assistance children”	A.R.S. § 36-2905.03(B)
<del>104.</del> “Eligible applicant person”	A.R.S. § 36-2901(4) A.R.S. § 36-2901
<del>105.</del> “Eligible low income children”	A.R.S. § 36-2905.03(C) and (D)
<del>106.</del> “Emancipated minor”	R9-22-116
<del>107.</del> “Emergency medical condition”	42 U.S.C. 1396b(v)
<del>108.</del> “Emergency medical services”	R9-22-102
<del>109.</del> “Encounter”	R9-22-107
<del>110.</del> “Enrollment”	R9-22-117
<del>111.</del> “Enumeration”	R9-22-101
<del>112.</del> “Equity”	R9-22-101
<del>113.</del> “Evaluation”	R9-22-112
<del>114.</del> “Expressly emancipated minor”	R9-22-116
<del>115.</del> “FAA” or “Family Assistance Administration”	R9-22-114
<del>116.</del> “Facility”	R9-22-101
<del>117.</del> “Factor”	R9-22-101
<del>118.</del> “FBR”	R9-22-101
<del>119.</del> “Federal Benefit Rate”	<del>R9-22-101</del>
<del>120.</del> “Federal emergency services program”	<del>R9-22-101</del>

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121. "FESP"	R9-22-101
122. "Foster care maintenance payment"	<del>R9-22-114</del> <u>41 U.S.C. 675(4)(A)</u>
123. "Foster child"	<del>R9-22-114</del>
124. "FPL"	R9-22-114
125. "FQHC"	R9-22-101
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140. "Income-in-kind"	R9-22-116
141. "Indigent"	A.R.S. § 11-297
142. "Inmate of a public institution"	42 CFR 435.1009
143. "Inpatient psychiatric facilities for <del>individuals</del> <u>persons</u> under age 21"	R9-22-112
144. "Interested party"	R9-22-106
145. "Interim change"	R9-22-116
146. "JTPA" or " <del>Job Training Partnership Act</del> "	R9-22-114
147. "License" or "licensure"	R9-22-101
148. "Liquid assets"	<del>R9-22-114</del> and R9-22-116
149. "Liquid resources"	R9-22-116
150. "Lump-sum income"	R9-22-116
151. "Mailing date"	R9-22-114
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153. "Medical record"	R9-22-101
154. "Medical review"	R9-22-107
155. "Medical services"	R9-22-101
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159. "Medicare claim"	R9-22-107
160. "Medicare HMO"	R9-22-101
"Member"	<u>R9-22-101</u>
161. "Mental disorder"	R9-22-112
162. "MI/MN"	A.R.S. § 36-2901(4)(a) and (c)
163. "Minor parent"	R9-22-114
164. "Month of determination"	R9-22-116
165. "New hospital"	R9-22-107
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166. "NICU"	R9-22-107
167. "Noncontracting provider"	A.R.S. § 36-2931
168. "Nonliquid resources"	R9-22-116
169. "Nonparent caretaker relative"	R9-22-114
170. "NF"	<del>42 U.S.C. 1396r(a)</del>
171. "Occupational therapy"	R9-22-102
172. "Offeror"	R9-22-106
173. "Operating costs"	R9-22-107
174. "Outlier"	R9-22-107
175. "Outpatient hospital service"	R9-22-107
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181: "Physician"	R9-22-102
182: "Post-stabilization services"	42 CFR 438.114
183: "Practitioner"	R9-22-102
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185: "Prescription"	R9-22-102
186: "Primary care provider"	R9-22-102
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194: "Prudent layperson standard"	42 U.S.C. 1396u-2
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212: "Responsible offeror"	R9-22-106
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- B.** General definitions. In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:
1. "AHCCCS" means the Arizona Health Care Cost Containment System, which is composed of the Administration, contractors, and other arrangements through which health care services are provided to ~~an eligible person~~ a member.
  2. "AHCCCS-disqualified dependent" means a dependent child of an AHCCCS-disqualified spouse who resides in the same household of an AHCCCS-disqualified spouse.
  3. "AHCCCS-disqualified spouse" means the spouse of an MI/MN applicant, who is ineligible for MI/MN benefits because the value of that spouse's separate property, when combined with the value of other resources owned by household members, exceeds the allowable resource limit.
  4. "Applicant" means a person who submits or whose representative submits, a written, signed, and dated application for AHCCCS benefits that has not been approved or denied.
  5. "Application" means an official request for medical assistance made under this Chapter.
  6. "Assignment" means enrollment of ~~an eligible person~~ a member with a contractor by the Administration.
  7. "Capped fee-for-service" means the payment mechanism by which a provider of care is reimbursed upon submission of a valid claim for a specific AHCCCS covered service and equipment provided to ~~an eligible applicant~~ a member. A payment is made in accordance with an upper, or capped, limit established by the Director.
  8. "Case record" means the file and all documents in the file that are used to establish eligibility.
  9. "Categorically eligible" means a person who is eligible as defined by ~~A.R.S. §§ 36-2901(4)(b)~~ A.R.S. §§ 36-2901 and 36-2934.
  10. "Continuous stay" means the period of time during which ~~an eligible person~~ a member receives inpatient hospital services without interruption beginning with the date of admission and ending with the date of discharge or date of death.
  11. "Contract" means a written agreement entered into between a person, an organization, or other entity and the Administration, to provide health care services to a member under A.R.S. Title 36, Chapter 29, and these rules.
  12. "Contractor" means a person, an organization, or an entity that agrees through a direct contracting relationship with the Administration, to provide goods and services specified by the contract under the requirements of the contract and these rules.
  13. "Contractor of record" means an organization or an entity in which a person is enrolled for the provision of AHCCCS services.
  14. "Day" means a calendar day unless otherwise specified in the text.
  15. "DES" means the Department of Economic Security.
  16. "EAC" means eligible assistance ~~children~~ children defined by A.R.S. § 36-2905.03.
  17. "ELIC" means eligible low-income ~~children~~ children defined by A.R.S. § 36-2905.03.
  18. "Eligible assistance children" means the ~~children defined by A.R.S. § 36-2905.03(B)~~.
  19. "Eligible low income children" means the ~~children defined by A.R.S. § 36-2905.03(C) and (D)~~.
  20. "Eligible applicant" person means the ~~applicant person~~ person defined in ~~A.R.S. § 36-2901(4)~~ A.R.S. § 36-2901.
  21. "Enumeration" means the assignment of a specific 9-digit identification number to a person by the Social Security Administration.
  22. "Equity" means the county assessor full cash or market value of a resource minus valid liens, encumbrances, or both.
  23. "Facility" means a building or portion of a building licensed or certified by the Arizona Department of Health Services as a health care institution, under A.R.S. Title 36, Chapter 4, to provide a medical service, a nursing service, or other health care or health-related services.
  24. "Factor" means an organization, a collection agency, a service bureau, or a person who advances money to a provider for accounts receivable that the provider assigns, sells, or otherwise transfers, including transfers through the use of a power of attorney, to the organization, the collection agency, the service bureau, or the person that receives an added

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- fee or a deduction of a portion of the face value of the accounts receivable in return for the advanced money. The term “factor” does not include a business representative, such as a billing agent or an accounting firm described within these rules, or a health care institution.
25. “FBR” means Federal Benefit Rate, ~~defined in R9-22-101(B)~~26. the maximum monthly Supplemental Security Income payment rate for a member or a married couple.
26. ~~“Federal Benefit Rate” means the maximum monthly Supplemental Security Income payment rate for an eligible person or a married couple.~~
27. ~~“Federal emergency services program” means a program designed to provide emergency medical services covered under 42 U.S.C. 1396b(v), to treat an emergency medical condition for a categorically eligible person who is determined eligible under A.R.S. § 36-2903.03.~~
28. ~~“FESP” means federal emergency services program.~~ program that is designed to provide emergency medical services covered under 42 U.S.C. 1396b(v), to treat an emergency medical condition for a categorically eligible member who is determined eligible under A.R.S. § 36-2903.03.
29. “FQHC” means federally qualified health center.
30. “GSA” means a geographical service area designated by the Administration within which a contractor of record provides, directly or through a subcontract, a covered health care service to a member enrolled with that contractor of record.
31. “Hospital” means a health care institution that is licensed as a hospital by the Arizona Department of Health Services under A.R.S. Title 36, Chapter 4, Article 2, and certified as a provider under Title XVIII of the Social Security Act, as amended, or is currently determined to meet the requirements of certification.
32. “Indigent” means meeting eligibility criteria under A.R.S. § 11-297.
33. “Inmate of a public institution” means a person defined by 42 CFR 435.1009.
34. “License” or “licensure” means a nontransferable authorization that is based on established standards in law, is issued by a state or a county regulatory agency or board, and allows a health care provider to render a health care service lawfully.
35. “Medical record” means all documents that relate to medical and behavioral health services provided to a member by a physician or other licensed practitioner of the healing arts and that are kept at the site of the provider.
36. “Medical services” means health care services provided to ~~an eligible person~~ a member by a physician, a practitioner, a dentist, or by a health professional and technical personnel under the direction of a physician, a practitioner, or a dentist.
37. “Medically necessary” means a covered service provided by a physician or other licensed practitioner of the healing arts and within the scope of practice under state law to:  
Prevent disease, disability, and other adverse health conditions or their progression; or  
Prolong life.
38. “Medicare HMO” means a health maintenance organization that has a current contract with the Health Care Financing Administration (HCFA) for participation in the Medicare program under 42 CFR 417(L).  
“Member” is defined in A.R.S. § 36-2901.
39. “MI/MN” means medically indigent and medically needy defined in A.R.S. § 36-2901(4)(a) and (c).
40. ~~“Nursing facility”~~ “NF” means a nursing facility defined in 42 U.S.C. 1396r(a).
41. “Noncontracting provider” means the provider defined in A.R.S. § 36-2931.
42. “Referral” means the process by which ~~an eligible person~~ a member is directed by a primary care provider or an attending physician to another appropriate provider or resource for diagnosis or treatment.
43. “Separate property” means property defined in A.R.S. § 25-213.
44. “Service location” means any location at which a member obtains any health care service provided by a contractor of record under the terms of a contract.
45. “Service site” means a location designated by a contractor of record as the location at which a person is to receive health care services.
46. “SESP” means state emergency services ~~program.~~ program that is designed to provide emergency medical services identified as covered under R9-22-217 to treat an emergency medical condition for a person who is determined eligible under A.R.S. § 36-2905.05.
47. “S.O.B.R.A.” means Section 9401 of the Sixth Omnibus Budget Reconciliation Act, 1986, amended by the Medicare Catastrophic Coverage Act of 1988, 42 U.S.C. 1396a(a)(10)(A)(ii)(IX), July 1, 1988.
48. “Spouse” means the husband or wife who has entered into a contract of marriage, recognized as valid by Arizona.
49. “SSA” means Social Security Administration defined in P.L. 103-296, Title I.
50. “SSI” means Supplemental Security Income under Title XVI of the Social Security Act, as amended.
51. “SSN” means social security number.
52. ~~“State alien” means an unqualified a nonqualified alien described in A.R.S. § 36-2903.03(C) under A.R.S. § 36-2903.03 who:~~  
Was residing in the United States under color of law on or before August 21, 1996;

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Was receiving AHCCCS services under SSI eligibility criteria; and would be eligible for coverage under 9 A.A.C. Article 15 except for United States citizenship or legal alienage requirements.

53. ~~“State emergency services program” means a program designed to provide emergency medical services identified as covered under R9-22-217 to treat an emergency medical condition for a person who is determined eligible under A.R.S. § 36-2905.05.~~
54. “Subcontract” means an agreement entered into by a contractor with any of the following:  
A provider of health care services who agrees to furnish covered services to a member;  
A marketing organization; or  
Any other organization or person who agrees to perform any administrative function or service for a contractor specifically related to securing or fulfilling the contractor’s obligation to the Administration under the terms of a contract.

**R9-22-105. General Provisions and Standards Related Definitions**

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

1. ~~“Quality management” means a methodology and activities activity used by professional health personnel through a formal program involving multiple organizational components and committees to:  
Assess the degree of conformance to desired medical standards and practices and;  
Improve or maintain quality service and care.~~
2. ~~“RFP” means a request for proposals which is a document prepared by the Administration that describes the services required and that instructs prospective offerors how to prepare a response (proposal).~~
3. “Utilization management” means a methodology used by professional health personnel that assesses the medical indications, appropriateness, and efficiency of care provided.

**R9-22-106. Request for Proposals (RFP) Related Definitions**

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

1. ~~“Administration” means the Arizona Health Care Cost Containment System Administration, its agents, employees, and designated representatives.~~
2. “Affiliated corporate organization” means any organization that has ownership or management interests as defined in 42 CFR 455.101, and includes a parent and subsidiary corporation relationships. 42 CFR 455.101, September 30, 1986, is incorporated by reference and on file with the Administration and the Secretary of State. This incorporation by reference contains no future editions or amendments.
3. “Discussions” means an oral or written exchange of information or any form of negotiation.
4. “Interested party” means an actual or prospective offeror whose economic interest may be directly affected by the issuance of an RFP, the award of a contract, or by the failure to award a contract.
5. “Offeror” means a person or ~~other~~ entity that submits a proposal to the Administration in response to an RFP.
6. “Proposal” means all documents, including best and final offers, submitted by an offeror in response to an RFP by the Administration.
7. “Responsible offeror” means a person or entity who has the capability to perform the contract requirements and ~~which that will ensure~~ ensures good faith performance.
8. “Responsive offeror” means a person or entity that submits a proposal that conforms in all material respects to an RFP.
9. “RFP” means Request for Proposals, including all documents, whether attached or incorporated by reference, ~~which that~~ are used by the Administration for soliciting a proposal under 9 A.A.C. 22, Article 6.

**R9-22-110. 1st- and 3rd-Party Liability Related Definitions**

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

1. “1st-party liability” means the resources available from any insurance or other coverage obtained directly or indirectly by a member ~~or eligible person~~ that provides benefits directly to the member ~~or eligible person~~ and is liable to pay all or part of the expenses for medical services incurred by the Administration, a contractor, ~~a member, or an eligible person.~~ a member.
2. ~~“3rd party”~~ “3rd-party” means ~~an individual, person,~~ an individual, person, entity, or program that is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an ~~applicant, eligible person, applicant~~ applicant or member.
3. “3rd-party liability” means the resources available from ~~an individual, a person,~~ an individual, a person, entity, or program that is or may be, by agreement, circumstance, or otherwise, liable to pay all or part of the medical expenses incurred by an ~~applicant, eligible person, applicant~~ applicant or member.

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**R9-22-114. Title IV-A Related Definitions**

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

1. "210" means 42 CFR 435.210.
2. "1931" means Section 1931 of the Social Security Act.
3. "Act" means the Social Security Act.
4. "Adequate notice" means a notice that explains the action the Department intends to take, the reason for the action, the specific authority for the action, the recipient's appeal rights, right to medical assistance pending appeal, and that is mailed before the effective date of the action.
5. ~~"Administration" means the AHCCCS Administration.~~
6. "Adverse action" means an action taken by the Department to deny, discontinue, or reduce medical assistance.
7. "Appellant" means an applicant or recipient of medical assistance who is appealing an adverse action by the Department.
8. "Assistance unit" means a group of persons whose needs, income, and resources are considered as a unit for purposes of determining eligibility for medical assistance.
9. "Authorized representative" means a person who is authorized by the applicant, recipient, or legally responsible person to act on behalf of the applicant or recipient.
10. "Baby Arizona" means the ~~public/private~~ public or private partnership program that provides a pregnant woman an opportunity to apply for medical assistance at a Baby Arizona provider's office through a streamlined eligibility process.
11. "BHS" means Behavioral Health Services, Arizona Department of Health Services.
12. "Bona fide funeral agreement" means a prepaid plan that specifically covers only funeral-related expenses as evidenced by a written contract.
13. "Burial plot" means a space reserved in a cemetery, crypt, vault, or mausoleum for the remains of a deceased person.
14. "Caretaker relative" means a parent or relative who maintains a family setting for a dependent child and who exercises responsibility for the day-to-day physical care, guidance, and support of that child.
15. "Cash assistance" means a program administered by the Department that provides assistance to needy families with dependent children under 42 U.S.C. 601 et seq.
16. ~~"Child welfare agency" means any agency or institution defined in A.R.S. § 8-501(A)(1).~~
17. "CRS" means ADHS Children's Rehabilitation Services.
18. "DCSE" means the Division of Child Support Enforcement, which is the division within the Department that administers the Title IV-D program and includes a contract agent operating a child support enforcement program on behalf of the Department.
19. "Department" means the Arizona Department of Economic Security.
20. "Dependent child" means a child defined ~~at A.R.S. § 46-101(7); in A.R.S. § 46-101.~~
21. "District Medical Consultant" means a licensed physician whom the Department employs to review medical records for the purpose of determining physical or mental incapacity.
22. ~~"Eligibility determination date" means the date the Department makes the decision described in R9-22-1414 and issues the eligibility decision notice.~~
23. "FAA" ~~or "Family Assistance Administration"~~ means the Family Assistance Administration, the administration within the Department's Division of Benefits and Medical Eligibility with responsibility for providing cash and food stamp assistance to ~~an eligible person~~ a member and for determining eligibility for medical assistance.
24. "Foster care maintenance payment" means a monetary amount defined in ~~Section 475(4)(A) of the Social Security Act; 42 U.S.C. 675(4)(A).~~
25. ~~"Foster child" means a child placed in a foster care setting.~~
26. "FPL" means the federal poverty level guidelines published annually by the United States Department of Health and Human Services.
27. "Homebound" means a person who is confined to ~~the~~ home because of physical or mental incapacity.
28. "Income" means combined earned and unearned ~~income combined; income.~~
29. "JTPA" ~~or "Job Training Partnership Act"~~ means the Job Training Partnership Act program authorized by 29 U.S.C. 1501 et seq. ~~which that~~ prepares youth and unskilled adults for entry into the labor force and ~~affords~~ provides special job training.
30. ~~"Liquid assets" means cash or another financial instrument that is readily convertible to cash.~~
31. "Mailing ~~date~~, date," when used in reference to a document sent 1st class, postage prepaid, through the United States mail, means the date:
  - a. Shown on the postmark;
  - b. Shown on the postage meter mark of the envelope, if ~~there is~~ no postmark; or
  - c. Entered on the document as the date of its completion, if ~~there is~~ no legible postmark or postage meter mark.

- 32. "Medical support" means an obligation of a natural or adoptive parent to provide health care coverage in the form of health insurance or court-ordered payment for medical care.
- 33. "Minor parent" means a person meeting the age ~~requirements~~ requirement of ~~R9-22-1401(B)(1)~~ R9-22-1401 who is also a parent.
- 34. "Nonparent caretaker relative" means a person, other than a parent, who is related by blood, marriage, or lawful adoption to the dependent child and ~~who~~ who:
  - a. ~~maintains~~ Maintains a family setting for the dependent ~~child~~ child; and
  - b. ~~exercises~~ Exercises responsibility for the ~~day-to-day~~ day-to-day care of the dependent child.
- 35. "Pre-enrollment process" means the process that provides an applicant the opportunity to choose an AHCCCS health plan before the determination of eligibility is completed.
- 36. "Recipient" means a person who is approved for and receiving medical assistance under ~~this Article~~. 9 A.A.C. 22, Article 14.
- 37. "Resources" means real and personal ~~property~~ property, including liquid assets.
- 38. "Review" means a review of all factors affecting an assistance unit's eligibility.
- 39. "Specified relative" means a person defined in ~~R9-22-1418(B)~~. R9-22-1418.
- 40. "Spendthrift restriction" means a legal restriction on the use of a resource that prevents a ~~payer~~ payee or beneficiary from alienating the resource.
- 41. "SVES" or "~~State Verification and Exchange System~~" means the State Verification and Exchange System, a system through which the Department exchanges income and benefit information with the Internal Revenue Service, Social Security Administration, State Wage, and Unemployment Insurance Benefit data files.
- 42. "Title IV-A" means the relevant provisions, specified in Section 1931 of the Social Security Act, of the Aid to Families With Dependent Children program ~~that was~~ in place in the state's Title IV-A State Plan as of July 1996.
- 43. "Title IV-D" of the Social Security Act means 42 U.S.C. 651-669, the statutes establishing the child support enforcement and establishment of paternity program.
- 44. "Title IV-E" of the Social Security Act means 42 U.S.C. 670-679, the statutes establishing the foster care and adoption assistance programs.
- 45. "TMA" means Transitional Medical Assistance.

**R9-22-116. State-Only Eligibility Related Definitions**

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

- 1. "1-time income" means income that a person may receive only once. Examples are:
  - a. The total of gifts received during the 3-month income period for a birthday, wedding, anniversary, graduation, religious event, or birth;
  - b. The total of single payment death benefits; or
  - c. The total of single payment insurance or a legal ~~settlements~~ settlement resulting from 1 accident.
- 2. "3-month income period" means the 91 or 92 days immediately preceding the application date. The 3-month income period is 92 days ~~only~~ if:
  - a. A household member regularly receives a monthly or 2-times-a-month payment, and
  - b. The household member received the 3rd of 3 monthly payments on the 92nd day preceding the application date, or
  - c. The household member received the 6th of 6 2-times-a-month payments on the 92nd day preceding the application date.
- 3. "Certification period" means the period of time for which a person is certified under A.R.S. § 36-2901(4)(a), (c), (h), and (j) as eligible for AHCCCS benefits.
- 4. "Countable income" means gross income, less amounts that are disregarded under ~~R9-22-1626(D)~~ R9-22-1626 and amounts that are deducted under ~~R9-22-1626(E)~~. R9-22-1626.
- 5. "County eligibility staff" means a county employee designated to conduct eligibility interviews and determinations for AHCCCS or conduct related business.
- 6. "Date of determination" means the date on which a decision of an applicant's eligibility or ineligibility as a ~~medically indigent, medically needy person, eligible low-income child, or state emergency services person~~ MI/MN, ELIC, or SESP is communicated by the county to the applicant by a Notice of Action and, for ~~eligible applicants~~, a member to the Administration as specified in R9-22-1618.
- 7. "~~Date of discontinuance~~" means ~~the last day of MI/MN, ELIC, SESP, or EAC coverage when there is a discontinuance.~~
- 8. "Deductible medical expense" means the cost of:
  - a. A medically necessary service or supply that would be covered if provided to an AHCCCS member of any age under 9 A.A.C. 22, Articles 2 and 12;
  - b. A medically necessary service or supply that would be covered if provided to an ALTCS member under 9 A.A.C. 28, Articles 2 and 11;



- c. Other medically necessary services that are provided by a licensed practitioner or physician;
  - d. Assistance with daily living provided under prescription by a licensed physician or practitioner except when provided by the spouse of a patient or the parent of a minor patient;
  - e. Care in a licensed nursing home, supervisory care facility, adult foster home, or in another residential care facility licensed by the Arizona Department of Health Services;
  - f. Purchasing and maintaining a dog guide or service dog for the assistance of the applicant or member; or
  - g. Health insurance premiums if the insured is a household member.
9. "Deemed application date" means the 30th day following either the original application date or a previously deemed application date, whichever is later.
10. "Dependent child" means an unborn child, an unemancipated minor, or an 18-year-old, if all of the following 3 conditions exist:
- a. The 18-year-old is a full-time student in a secondary school, or in a vocational, technical, or trade school that grant credits ~~to be applied~~ toward secondary school graduation;
  - b. The 18-year-old is reasonably expected to graduate before reaching age 19; and
  - c. The 18-year-old resides with 1 or both parents or a specified relative.
11. "Determination" means the process by which an applicant is approved or denied for coverage as ~~an indigent or medically needy person, an eligible low-income child, or a state emergency services~~ a MI/MN, ELIC, or SESP applicant.
12. "Discontinuance" means an action taken by county eligibility staff or the Administration to terminate a ~~person's member's~~ member's eligibility under MI/MN, ELIC, or SESP.
13. "Earned income" means money or its equivalent received by a household member in exchange for:
- a. Labor;
  - b. Professional service or entrepreneurship, including income from the rental of real or personal property;
  - c. Vacation pay;
  - d. Sick pay;
  - e. Tips; and
  - f. Gratuities.
14. "Educational income" means income received as a scholarship or grant by a student for the purpose of paying tuition, fees, and related expenses, excluding room and board expenses.
15. "Emancipated minor" means a minor who is married or divorced, in military service, or the subject of a court order declaring the minor ~~to be~~ emancipated.
16. "Expressly emancipated minor" means a minor whose parent has or parents ~~have~~ have:
- a. ~~signed~~ Signed a notarized affidavit indicating that the minor is no longer under parental support and ~~control, and that the parent has or parents have control; and~~
  - b. ~~surrendered~~ Surrendered claim to the state and federal tax dependency deductions provided ~~that that:~~
    - i. ~~the~~ The minor is not living with a parent or a specified relative who is the legal guardian or acting as guardian, and
    - ii. ~~a~~ A court has not ordered custody with another person or agency.
17. "Guardian" means a guardian, conservator, executor, or public fiduciary appointed by a court or other protective order to manage the affairs of a minor or incapacitated person.
18. "Head-of-household" means ~~the family household member~~ a member of the household under R9-22-1624 who assumes the responsibility for providing AHCCCS eligibility information for ~~the family all household members under Article 16: members.~~
19. "Hospitalized" means in a hospital as an inpatient at the time of application or at any time from the application date through the date of determination.
20. "Income" means money or other liquid resource ~~that:~~ at the moment it:
- a. Is received or deemed received by a person under ~~R9-22-1626(C);~~ R9-22-1626;
  - b. Becomes available for ~~a~~ the person's legal unrestricted use;
  - c. ~~Is used by a person;~~ Is drawn by a person from a source not owned by the person for the person's separate use, benefit, or disposal; or
  - d. Is due to ~~a~~ the person but paid to someone else on the person's behalf, including monies paid from a trust to which the person is a ~~beneficiary~~ beneficiary, if the trust is excluded as a resource.
21. "Income-in-kind" means any noncash item or service received that is not deducted from other income to which the recipient ~~of that noncash item or service~~ is entitled.
22. "Interim change" means either a change occurring after the application date and before the eligibility decision or a change occurring during the certification period.
23. "Liquid assets" means all property and resources readily convertible to cash.
24. "Liquid resources" means ~~liquid assets;~~ all property and resources readily convertible to cash.

- 25. "Lump-sum income" means income received in a single payment instead of regularly occurring installments over a period of time.
- 26. "Month of determination" means the calendar month ~~during which~~ the date of determination occurs.
- 27. "Nonliquid resources" means all resources that are not readily convertible to cash.
- 28. ~~"Proposal of discontinuance" means a notice sent to a person informing the person that AHCCCS benefits will terminate on a specified date unless the person provides proof of eligibility within 15 days following the date of the notice.~~
- 29. "Public assistance" means benefits provided to a person, either directly or indirectly by a city, county, state, federal, or governmental agency, based on financial ~~needs~~; need.
- 30. "Redetermination" means the process by which ~~an eligible person~~ a member under A.R.S. §§ ~~36-2901.4(a), 36-2901(4)(a), (c), or (h)~~ applies for a new eligibility certification period before expiration of the current certification period.
- 31. "Resources" means property of any kind, real or personal, that can be ~~converted to~~ used to obtain food, clothing, shelter, medical care, or money.
- 32. "Specified relative" means a nonparent caretaker of a dependent child who is a grandmother, grandfather, sister, brother, stepmother, stepfather, stepbrother, stepsister, aunt, uncle, 1st cousin, niece, nephew, or person ~~of preceding generations~~ whose relationship to the child is described by any of these terms preceded by a single "great" or "grand". A specified relative shall be at least 18 years old to apply on behalf of a dependent child, unless a court has awarded custody of the dependent child to the ~~specified relative~~; person.
- 33. "Unearned income" means all income defined in ~~subsection (11)~~; this Section except income ~~which that~~ is defined as earned ~~income in subsection (11)~~; income.

ARTICLE 2. SCOPE OF SERVICES

**R9-22-204. Inpatient General Hospital Services**

- A. Inpatient services provided in a general hospital shall be covered by contractors or provided by fee-for-service providers or noncontracting providers and shall include:
  - 1. Hospital accommodations and appropriate staffing, supplies, equipment, and services for:
    - a. ~~Maternity care;~~ care, including labor, delivery, and recovery room, birthing center, and newborn nursery;
    - b. Neonatal intensive care unit (NICU);
    - c. Intensive care unit (ICU);
    - d. ~~Surgery;~~ Surgery, including surgery room and recovery room;
    - e. Nursery and related services;
    - f. Routine care; and
    - g. Behavioral health (psychiatric) care.
      - i. ~~Emergency Behavioral health emergency~~ crisis behavioral health stabilization services may be provided for up to 3 days per acute episode and a maximum of 12 days per AHCCCS contract year for each member ~~or eligible person~~ unless services are provided under 9 A.A.C. 22, Article 12.
      - ii. For purposes of this Section, the AHCCCS contract year shall be October 1 through September 30.
  - 2. Ancillary services as specified by the Director and included in contract:
    - a. ~~Labor, delivery and recovery rooms, and birthing centers;~~
    - b. ~~Surgery and recovery rooms;~~
    - e a. Laboratory services;
    - ~~d b.~~ Radiological and medical imaging services;
    - e c. Anesthesiology services;
    - f d. Rehabilitation services;
    - g e. Pharmaceutical services and prescribed drugs;
    - h f. Respiratory therapy;
    - i g. Blood and blood derivatives; and
    - j h. Central supply items, appliances, and equipment not ordinarily furnished to all patients and which are customarily reimbursed as ancillary ~~services;~~ services.
    - k. ~~Maternity services; and~~
    - l. ~~Nursery and related services.~~
- B. The following limitations apply to general inpatient hospital services that are provided by fee-for-service providers and for which the Administration is financially responsible:
  - 1. The cost of inpatient hospital accommodation for ~~an eligible person~~ a member shall be incorporated into the rate paid for the level of care as specified in subsection (A)(1).
  - 2. Prior authorization shall be obtained from the Administration for the following inpatient hospital services provided to ~~an eligible person;~~ a member:

- a. Nonemergency and elective admission, including psychiatric hospitalization, shall be authorized prior to the scheduled admission;
- b. Elective surgery, with the exception of voluntary sterilization procedures, shall be authorized prior to the surgery;
- c. An emergency hospitalization that exceeds 3 days or an intensive care unit admission that exceeds 1 day;
- d. Hospitalization beyond the number of days initially authorized shall be covered only if determined medically necessary through AHCCCS Administration concurrent team review;
- e. Services or items furnished to cosmetically reconstruct appearance after the onset of trauma or serious injury shall be authorized prior to service delivery; and
- f. Behavioral health services for ~~an eligible person~~ a member who is 18, 19, or 20 years of age that are provided on an emergency basis for crisis stabilization, and exceed 3 days per episode, or 12 days per contract year.

**R9-22-205. Physician and Primary Care Physician and Practitioner Services**

- A. Primary care provider services shall be furnished by a physician or practitioner and shall be covered for members when rendered within the provider's scope of practice under A.R.S. Title 32. ~~An eligible person~~ A member may receive these services through an attending physician or practitioner. Primary care provider services may be provided in an inpatient or outpatient setting and shall include at a minimum:
1. Periodic health ~~examinations and assessments;~~ examination and assessment;
  2. ~~Evaluations~~ Evaluation and diagnostic ~~workups;~~ workup;
  3. Medically necessary treatment;
  4. Prescriptions for ~~medications~~ medication and medically necessary supplies and equipment;
  5. ~~Referrals to specialists~~ Referral to a specialist or other health care ~~professionals~~ professional when medically necessary;
  6. Patient education;
  7. Home visits when ~~determined~~ medically necessary;
  8. Covered immunizations; and
  9. Covered preventive health services.
- B. The following limitations and exclusions apply to physician and practitioner services and primary care provider services:
1. Specialty care and other services provided to a member upon referral from a primary care provider or to ~~an eligible person~~ a member upon referral from the attending physician or practitioner shall be limited to the ~~services~~ service or ~~conditions~~ condition for which the referral is made, or for which authorization is given, unless referral is waived by the Administration;
  2. If a physical examination is performed with the primary intent to accomplish 1 or more of the objectives listed in subsection (A), ~~if the physical examination~~ shall be covered by the member's contractor, or the Administration, except if ~~there is~~ an additional or alternative objective to satisfy the ~~demands~~ requirement of an outside public or private agency. Alternative objectives may include physical ~~examinations~~ examination and resulting documentation for:
    - a. Qualification for insurance;
    - b. Pre-employment physical evaluation;
    - c. Qualification for sports or physical exercise activities;
    - d. Pilot's examination (FAA);
    - e. Disability certification for establishing any kind of periodic payments;
    - f. Evaluation for establishing 3rd-party liabilities; or
    - g. Physical ability to perform functions that have no relationship to primary objectives listed in subsection (A).
  43. Orthognathic surgery shall be covered only for members ~~and eligible persons~~ who are less than 21 years of age;
  54. The following services shall be excluded from AHCCCS coverage:
    - a. Infertility services, reversal of surgically induced infertility (sterilization), and ~~sex-change~~ sex-change operations;
    - b. Abortion counseling services;
    - c. Abortions, unless authorized under federal or state law;
    - d. Services or items furnished solely for cosmetic purposes; and
    - e. Hysterectomies unless determined ~~to be~~ medically necessary.
  65. Prior authorization from the Administration shall be required for fee-for-service providers to render the following services to ~~eligible persons;~~ members:
    - a. Elective or scheduled surgeries with the exception of voluntary sterilization procedures;
    - b. Services or items provided to reconstruct or improve personal appearance after an illness or injury.

**R9-22-206. Organ and Tissue ~~Transplantation~~ Transplant Services**

- A. ~~The following organ~~ As specified in A.R.S. § 36-2907, organ and tissue ~~transplantation~~ transplant services shall be covered for a member or ~~eligible person as specified in A.R.S. § 36-2907~~ if prior authorized and coordinated with the member's contractor, or the ~~Administration for eligible persons;~~ Administration.
1. ~~Kidney transplantation;~~

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2. ~~Cornea transplantation;~~
  3. ~~Heart transplantation;~~
  4. ~~Liver transplantation;~~
  5. ~~Autologous and allogeneic bone marrow transplantation;~~
  6. ~~Lung transplantation;~~
  7. ~~Heart-lung transplantation;~~
  8. ~~Other organ transplantation if the transplantation is required by federal law for a categorically eligible person or member less than the age of 21 years and if other statutory criteria are met; and~~
  9. ~~Immunosuppressant medications, chemotherapy, and other related services.~~
- B.** ~~The following limitations shall apply to organ and tissue transplantation services:~~
1. ~~Artificial or mechanical hearts and xenografts are not covered services.~~
  2. ~~Organ or tissue transplantation services specified in subsection (A) are covered for a member or eligible person who is medically indigent or medically needy or for eligible assistance children and eligible low-income children only if funding is available as specified in A.R.S. § 36-2907;~~
  3. ~~Organ and tissue transplantation services are not covered during the fee-for-service emergency services only period for a member or eligible person who is medically indigent or medically needy or for eligible assistance children and eligible low-income children, except for persons eligible for services under Laws 1995, 3rd Special Session, Ch. 1, § 5; and~~
  4. ~~Organ and tissue transplantation services are not covered under the state and federal emergency services programs.~~
- B.** Organ and tissue transplant services are not covered during the fee-for-service emergency-services-only-period for an MI/ MN or ELIC member except for persons under A.R.S. §§ 36-2907.10 and 36-2907.11. There is no fee-for-service emergency-services-only-period for an EAC member under A.R.S. § 36-2905.03.
- C.** Organ and tissue transplant services are not covered for members of SESP under A.R.S. § 36-2905.05 or FESP under A.R.S. § 36-2903.03.

**R9-22-209. Pharmaceutical Services**

- A.** Pharmaceutical services may be provided by an inpatient or outpatient provider including hospitals, clinics, or appropriately licensed health care facilities and pharmacies.
- B.** The Administration or its contractor shall make pharmaceutical services available during customary business hours and shall be located within reasonable travel distance of a member's residence.
- C.** Pharmaceutical services shall be covered if prescribed for a member by the member's primary care provider or dentist, or if prescribed by a specialist upon referral from the primary care provider unless referral is waived by the Administration or upon authorization by the contractor or its designee. Pharmaceutical services provided for an eligible person shall be covered if prescribed by the attending physician, practitioner, or dentist.
- D.** The following limitations apply to pharmaceutical services:
1. A medication personally dispensed by a physician or dentist is not covered, except in geographically remote areas where there is no participating pharmacy or when accessible pharmacies are closed.
  2. A prescription in excess of a ~~30-day~~ 30-day supply or a 100-unit dose is not covered unless:
    - a. The medication is prescribed for chronic illness and the prescription is limited to no more than a 100-day supply or 100-unit dose, whichever is ~~more~~ greater.
    - b. The member or eligible person will be out of the provider's service area for an extended period of time and the prescription is limited to the extended time period, not to exceed 100 days or 100-unit dose, whichever is ~~more~~ greater.
    - c. The medication is prescribed for birth control and the prescription is limited to no more than a 100-day supply.
  3. ~~A nonprescription medication is not covered unless an appropriate, alternative An over-the-counter medication may be covered as an alternative to prescription medication only if it is available and less costly than a prescription medication.~~
  4. A prescription is not covered if filled or refilled in excess of the number specified, or if ~~at~~ at the initial prescription or refill ~~as is~~ is dispensed ~~after~~ after ~~more than~~ more than 1 year from the original prescribed order.
  5. Approval by the authorized prescriber is required for all changes in, or additions to, an original prescription. The date of a prescription change ~~is to~~ shall be clearly indicated and initialed by the dispensing pharmacist.
- E.** A contractor shall monitor and ~~take necessary actions to~~ ensure that a member who requires a continuing or complex regimen of pharmaceutical treatment to restore, improve, or maintain physical well-being, is provided sufficient services to eliminate any gap in the required pharmaceutical regimen.

**R9-22-213. Early and Periodic Screening, ~~Diagnosis~~ Diagnosis, and Treatment Services (EPSDT) (E.P.S.D.T)**

- A.** The following ~~EPSDT~~ E.P.S.D.T services shall be covered for a member or ~~eligible person~~ less than 21 years of age:
1. Screening services including:
    - a. Comprehensive health and developmental history;
    - b. Comprehensive unclothed physical examination;

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- c. Appropriate immunizations according to age and health history;
  - d. Laboratory tests; and
  - e. Health education, including anticipatory guidance;
  2. Vision services including:
    - a. Diagnosis and treatment for defects in vision;
    - b. Eye examinations for the provision of prescriptive lenses; and
    - c. Provision of prescriptive lenses;
  3. Hearing services including:
    - a. Diagnosis and treatment for defects in hearing;
    - b. Testing to determine hearing impairment; and
    - c. Provision of hearing aids;
  4. Dental services including:
    - a. Emergency dental services as specified in R9-22-207;
    - b. Preventive services including screening, diagnosis, and treatment of dental disease; and
    - c. Therapeutic dental services including fillings, crowns, dentures, and other prosthetic devices;
  5. Orthognathic surgery;
  6. Nutritional assessment and nutritional therapy as specified in contract to provide complete daily dietary requirements or supplement a member's daily nutritional and caloric intake;
  - ~~6.7.~~ Behavioral health services under 9 A.A.C. 22, Article 12;
  - ~~7.8.~~ Other necessary health care, diagnostic services, ~~treatment treatment~~, and measures required by 42 U.S.C. § 1396d(r)(5), April 1, 1990, incorporated by reference and on file with the Administration and the Office of Secretary of State. This incorporation by reference contains no future editions or amendments.
- B.** All providers of ~~EPSDT~~ E.P.S.D.T. services shall meet the following standards:
1. Provide services by or under the direction of, the member's primary care ~~provider or dentist, or the eligible person's attending physician, provider,~~ practitioner, or dentist.
  2. Perform tests and examinations in accordance with the AHCCCS Administration Periodicity Schedule.
    - a. Refer members ~~and eligible persons~~ as necessary for dental diagnosis and treatment, and necessary specialty care.
    - b. Refer members ~~and eligible persons~~ as necessary for behavioral health evaluation and treatment services.
- C.** Contractors shall meet the following additional conditions for ~~EPSDT~~ E.P.S.D.T. members:
1. Provide information to ~~members and their parents or guardians~~ a member, parent, or guardian concerning ~~EPSDT~~ E.P.S.D.T. services;
  2. Notify ~~members and their parents or guardians~~ a member, parent, or guardian regarding the initiation of ~~EPSDT~~ E.P.S.D.T. screening and subsequent appointments according to the AHCCCS Administration Periodicity Schedule; and
  3. ~~Offer and provide, if~~ If requested, offer and provide necessary assistance with scheduling appointments for services and transportation to and from providers, in accordance with R9-22-211, and with scheduling appointments for services under R9-22-211.
- D.** Members ~~and eligible persons~~ with special health care needs ~~may~~ shall be referred to ~~the Children's Rehabilitative Service program.~~ CRS.

**R9-22-216. Nursing Facility Services NF, Alternative HCBS Setting, or HCBS**

- A.** ~~Nursing facility services including room and board~~ NF, alternative HCBS setting, or HCBS as defined in 9 A.A.C. 28, Article 2 shall be covered for a maximum of 90 days per contract year if the a medical condition of a member or eligible person is such that, if nursing facility services are not provided, requires hospitalization of the individual would result member.
- B.** Except as otherwise provided in 9 A.A.C. 28, the following services shall be excluded for purpose of separate billing if provided in a ~~nursing facility:~~ NF, alternative HCBS setting, or HCBS:
1. Nursing services ~~including but not limited to:~~ including:
    - a. Administration of ~~medication;~~ medication,
    - b. Tube ~~feedings;~~ feedings,
    - c. Personal care services (assistance with bathing and ~~grooming);~~ grooming).
    - d. Routine testing of vital ~~signs;~~ signs, and
    - e. Maintenance of catheters;
  2. Basic patient care equipment and sickroom ~~supplies, including, but not limited to:~~ supplies including:
    - a. First aid supplies such as bandages, tape, ointments, peroxide, alcohol, and over-the-counter remedies;
    - b. Bathing and grooming supplies;
    - c. Identification devices;
    - d. Skin lotions;
    - e. Medication cups;

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- f. Alcohol wipes, cotton balls, and cotton rolls;
  - g. Rubber gloves (~~non-sterile~~); (nonsterile);
  - h. Laxatives;
  - i. Beds and accessories;
  - j. Thermometers;
  - k. Ice bags;
  - l. Rubber sheeting;
  - m. Passive restraints;
  - n. Glycerin swabs;
  - o. Facial tissue;
  - p. Enemas;
  - q. Heating pads;
  - r. Diapers; and
  - s. Alcoholic beverages;
- 3. Dietary services ~~including, but not limited to,~~ including preparation and administration of special diets, and adaptive tools for eating;
  - 4. ~~Any services~~ Services that are included in a nursing facility's room and board charge or services that are required of the nursing facility to meet federal mandates, state licensure standards, or county certification requirements;
  - 5. Administrative physician visits made solely for the purpose of meeting state licensure standards or county certification requirements;
  - 6. Physical therapy prescribed only as a maintenance ~~regimen,~~ regimen; and
  - 7. Assistive devices and durable medical equipment.
- C. Each admission shall be prior authorized by the ~~Administration for eligible persons.~~ Administration.

**ARTICLE 4. CONTRACTS, ADMINISTRATION, AND STANDARDS**

**R9-22-402. Contracts**

- A. Each contract between the Administration and a contractor shall be in writing and contain at least the following information:
- 1. The method and amount of compensation or other consideration to be received by the contractor.
  - 2. The name and address of the contractor.
  - 3. The population to be covered by the contract.
  - 4. The amount, duration, and scope of medical services to be provided, or for which compensation will be paid.
  - 5. The term of the contract, including the beginning and ending dates, as well as methods of extension, renegotiation, and termination.
  - 6. A provision that the Director or the Secretary of the U.S. Department of Health and Human Services may evaluate, through inspection or other means, the quality, appropriateness, or timeliness of services performed under the contract.
  - 7. A description of patient, medical, and cost recordkeeping systems and a provision that the Director or the Secretary of the U.S. Department of Health and Human Services may audit and inspect any of the contractor's records that pertain to services performed and determinations of amounts payable under the contract. These records shall be maintained by the contractor for 5 years from the date of final payment or, for records relating to costs and expenses to which the Administration has taken exception, 5 years after the date of final disposition or resolution of the exception.
  - 8. A provision to retain ~~of~~ a specified percentage of periodic payments to ~~contractors,~~ the contractor, provide a reserve fund, or use another means to adjust the payments made to ~~contractors,~~ the contractor, based on utilization efficiency, including incentives for maintaining quality care and minimizing unnecessary inpatient services. This provision applies only to capped fee-for-service and AHCCCS-assembled network contractors and providers ~~that participate~~ participating in a risk retention fund ~~in accordance with~~ under R9-22-714.
  - 9. A provision that ~~contractors~~ the contractor maintain all forms, records, and statistical information required by the Director for purposes of audit and program management. This material, including files, correspondence, and related information pertaining to services rendered or claims for payments ~~shall be~~ is subject to inspection and copying by the Administration and the U.S. Department of Health and Human Services during normal business hours at the place of business of the person or organization maintaining the ~~records,~~ materials.
  - 10. A provision that the contractor safeguard information.
  - 11. Any activities to be performed by the contractor affecting ~~categoryically eligible persons and~~ categoryically eligible members that are related to ~~third-party~~ 3rd-party liability requirements prescribed in 42 CFR 433, Subpart D, as of October 1, 1995, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.

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12. Functions that may be subcontracted, including a provision that any subcontract meets the requirements of 42 CFR 434.6(b), as of October 1, 1995, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.
  13. A provision that the contractor arrange for the collection of any required co-payment.
  14. A provision that the contractor will not bill or attempt to collect from a member for any covered service except as may be authorized by statute or these rules.
  15. A provision that the contract will not be assigned or transferred without the prior written approval of the Director.
  16. Procedures for enrollment or re-enrollment of the covered population.
  17. Procedures and criteria for terminating the contract.
  18. A provision that any ~~cost-sharing~~ cost-sharing requirements imposed for services furnished to members ~~are in accordance with~~ comply with 42 CFR 447.50 through 447.58, as of October 1, 1995, which are incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.
  19. A provision that specifies the actuarial basis for computation of capitation fees.
  20. Procedures for terminating enrollment and choice of health professional.
  21. A provision that a contractor provide ~~for~~ an internal grievance procedure that:
    - a. Is approved in writing by the Administration;
    - b. Provides ~~for~~ prompt resolution; and
    - c. Ensures the participation of ~~individuals~~ persons with authority to ~~require corrective action~~. provide prompt resolution.
  22. A provision that the contractor maintain an internal ~~quality management system~~ quality management system consistent with ~~AHCCCS rules~~. A.R.S. § 36-2903 and R9-22-522.
  23. A provision that the contractor submit marketing plans, procedures, and materials to the Administration for approval ~~in accordance with~~ under R9-22-505 before implementation.
  24. A statement that all representations made by ~~contractors~~ a contractor or authorized ~~representatives~~ representative are truthful and complete to the best of their knowledge.
  25. A provision that the contractor is responsible for all tax obligations, Worker's Compensation ~~insurance~~, insurance, and all other applicable insurance coverage, for itself and its employees, and that the Administration has no responsibility or liability for any of the taxes or insurance coverage.
  26. A provision that the contractor agrees to comply with all applicable statutes and rules.
  27. A provision that the contractor agrees to comply with the requirements regarding laboratory tests as specified in A.R.S. § 36-2903.
- B.** Each contract shall include all provisions necessary to ensure compliance with the applicable requirements of 42 CFR 434, Subpart C, as of October 1, 1995, which is incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.

**ARTICLE 7. STANDARDS FOR PAYMENTS**

**R9-22-711. Copayments**

- A.** Contractors ~~shall be~~ are responsible for collecting copayments from members. The following are excluded from copayment requirements:
1. Prenatal care including all obstetrical visits;
  2. ~~Well baby, EPSDT Well-baby and E.P.S.D.T.~~ care;
  3. Care in nursing facilities and intermediate care facilities for the mentally retarded;
  4. Visits scheduled by a primary care physician or practitioner, and not at the request of a member; ~~and~~
  5. Drugs and medications beginning ~~October 1, 1985~~. October 1, 1985; and
  6. Family planning services as specified in 42 U.S.C. 1396o, July 16, 1998, incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.
- B.** Except as provided in subsection (A), contractors and members shall comply with the following copayment schedules:
1. Categorically eligible members:

Covered Services	Copayment
Doctor's office or home visit and all diagnostic and rehabilitative x-ray and laboratory services associated with the visit.	\$1.00 per visit
Nonemergency surgery	\$5.00 per procedure
Nonemergency use of the emergency room	\$5.00 per visit

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2. ~~Indigent, medically needy, eligible assistance children, and eligible low income children~~ MI/MN, EAC, and ELIC members:
- |   |                      |
|---|----------------------|
| Covered Services  | Copayment            |
| Doctor's office or home visit and all diagnostic and laboratory services associated with the visit. | \$5.00 per visit     |
| Nonemergency surgery  | \$5.00 per procedure |
| Nonemergency use of the emergency room  | \$5.00 per visit     |

C. A contractor shall ensure that a member is not denied services because of the member's inability to pay a copayment.

ARTICLE 16. STATE-ONLY ELIGIBILITY

**R9-22-1608. County Responsibility for Completion of MI/MN Eligibility Determination**

- A. Provision of space. The county eligibility staff shall provide sufficient space and materials for the head-of-household to complete the application forms.
- B. Provision of assistance. The county eligibility staff or a person authorized by the eligibility staff shall assist the head-of-household in completing the application forms if assistance is requested.
1. The person providing the assistance shall indicate on the form that assistance was provided.
  2. The person providing assistance may provide assistance before or during the face-to-face interview.
- C. Face-to-face interview. The county eligibility staff shall complete ~~the a~~ a face-to-face interview when the head-of-household is present at the scheduled appointment time. During ~~a the~~ a face-to-face interview, the county eligibility staff shall:
1. Inform the head-of-household of:
    - a. The MI/MN eligibility requirements defined in this Article;
    - b. The responsibilities of the head-of-household specified in R9-22-1605;
    - c. ~~The confidential nature of information received;~~ information received is confidential;
    - d. The timeframes for completion of the application specified in R9-22-1609;
    - e. The date coverage begins for approved applicants and the enrollment process;
    - f. The length of certification period, under R9-22-1615, that may apply to approved household members;
    - g. The E.P.S.D.T. benefits specified in R9-22-102, if there are children in the household; and
    - h. The right to appeal specified in R9-22-802;
  2. Present the Statement of Truth and obtain the head-of-household's signature under R9-22-1606;
  3. Explain the requirement to screen for S.O.B.R.A. and other categorical eligibility under R9-22-1610 and provide each applicant with the appropriate screening form;
  4. Obtain the head-of-household's signature on the Intent to Cooperate form and assist the head-of-household in the completion of ~~additional other~~ forms for required applications under R9-22-1610;
  5. Review each question on the application forms and supplements with the head-of-household and ensure that answers are recorded on the forms. Unless the applicant requests assistance in the completion of the application forms or supplements as provided in subsection (B), the county eligibility staff shall add information in the designated areas only; and
  6. Request verification of information required under this Article.
- D. Telephone interviews. The county eligibility staff may conduct a telephone interview if:
1. ~~The person on whose behalf the application was initiated is a patient who is hospitalized;~~ The applicant is hospitalized;
    - a. Outside of the ~~patient's~~ applicant's county of residence, or
    - b. In the county of residence in medical isolation and there is no head-of-household in the county of residence who may apply on the ~~patient's~~ applicant's behalf; or
  2. The head-of-household lives in a geographically isolated area identified by the Director; or
  3. The person is an applicant with a disability and requests a reasonable accommodation, such as a sign language interpreter.
- E. Eligibility worker responsibility during telephone interview. During the telephone interview, the eligibility worker shall:
1. Read the Statement of Truth to the head-of-household at the beginning of the telephone interview and determine the head-of-household's ~~understanding;~~ understanding of the information and requirements in the Statement of Truth.
  2. Obtain demographic information about all household members and enter the information on the application forms;
  3. Ask all questions on the application forms and obtain and record the answers;
  4. Request the information and complete the screening form to identify potential S.O.B.R.A. and categorical eligibility under R9-22-1610;
  5. Inform the head-of-household that verification of all information received during the telephone interview is required ~~prior to~~ before the eligibility determination;



6. Inform the head-of-household of all factors listed in subsections (C)(1)(a) through (C)(1)(h);
  7. Obtain confirmation of the household's mailing address and inform the head-of-household that all forms requiring signatures will be sent to that address and, except as provided in subsection (F), shall be signed and returned to the county eligibility staff within 30 days following the date of the application; and
  8. Establish, by mutual agreement, follow-up arrangements to obtain verifications of all factors of eligibility and to obtain the required signatures.
- F.** Extension of 30-day timeframe. The county eligibility staff may extend the 30-day timeframe in subsection (E)(7) if the head-of-household remains incapacitated and unable to complete the application process. The extension ends when the conditions of either subsection (D)(1)(a) or (b) no longer apply.
- G.** Requirement to complete face-to-face interview. Except as permitted in subsection (D), the county eligibility staff shall complete an interview with the head-of-household before making an eligibility determination. After the interview, the county eligibility staff shall:
1. Complete any appropriate worksheets and other necessary forms to justify eligibility decisions;
  2. Obtain the head-of-household's signature and date for any additional entries on the application;
  3. Compare information received during and after the interview with existing case information to identify differences and to determine their effect on the eligibility determination;
  4. Notify the Administration under R9-22-1618 if a household member is eligible;
  5. Issue a Notice of Action under R9-22-1617;
  6. Refer the head-of-household to apply for categorical or Title XXI eligibility if screened as potentially eligible and concurrent application is not required under R9-22-1610.
  - 6.7. Discontinue eligibility under R9-22-1617 and R9-22-1618 if a telephonic interview has been approved and after 30 days there have been no extensions or the end of the extension as specified in subsection (F); and:
    - a. The county eligibility staff has not received the required verification, or
    - b. The head-of-household has not signed and returned the required forms.
- H.** Statement of Completion. The Administration shall publish a Statement of Completion to be signed by the eligibility staff certifying completion of the application process.
1. The statement shall include the eligibility staff's confirmation that the eligibility worker has:
    - a. Advised the person of:
      - i. The right to appeal any eligibility decision;
      - ii. The obligation to report all changes affecting eligibility; and
      - iii. The penalties for fraud, misrepresentation, and intentional omissions.
    - b. Requested and received confirmation that the person fully understands these rights, obligations, and penalties; and
    - c. Completed the investigation of the AHCCCS eligibility required by law.
  2. The county eligibility staff shall sign the Statement of Completion at the time of the eligibility decision except when the application is denied because an interview is not completed.

**R9-22-1609. MI/MN Timeliness Requirements**

- A.** Requirement for counties. Except for determinations for an applicant whose complete MI/MN-S.O.B.R.A. dual application has been forwarded to DES under R9-22-1610, the county eligibility staff shall make the eligibility determination within the 30 days following the application date. This 30-day limit may be extended under subsection (C).
- B.** Requirement for the head-of-household. The head-of-household shall provide the county eligibility staff with verification ~~of or~~ information requested by the county eligibility staff under this Article by the ~~30th day following the application date~~ 10th day following the date the county eligibility staff provides the head-of-household a written request for the information. The county eligibility staff shall, upon request by the head-of-household, extend the 10-day timeframe. The county eligibility staff shall not extend the timeframe beyond the 30th day following the date of application, except as specified in subsection (C).
- C.** Extension of an allotted time. The county eligibility staff shall extend the ~~time period allotted~~ 30-day timeframe in subsections (A) and (B) 1 time, by 30 days, if the head-of-household requests additional time to obtain or provide the requested verification ~~and complies with subsection (D):~~ or information required by the county eligibility staff to determine MI/MN eligibility.
- D.** Informed consent. The county eligibility staff shall inform the head-of-household in writing that the requested extension may result in a delay or lapse in AHCCCS coverage. The county eligibility staff shall not extend the 30-day timeframe in subsections (A) and (B) unless the head-of-household shall agree agrees in writing to the extension and ~~acknowledge~~ acknowledges the potential delay or lapse in AHCCCS coverage.
- E.** Extending time period. The county eligibility staff shall not extend the time period unless the county eligibility staff receives the signed agreement within the initial 30-day period.
- F.** Processing an untimely application. When processing an untimely application, for the purpose of counting income under R9-22-1626, the county eligibility staff shall base the 3-month income period on a deemed application date instead of the original application date.

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**R9-22-1610. Forwarding Applications to Obtain Categorical or Title XXI Eligibility**

- A. Screening requirement. During or before the face-to-face interview, the county eligibility staff shall use the screening form required by A.R.S. §§ 36-2905, 36-2905.03, and 11-297 to screen all applications to ~~determine~~ identify each household member's potential for categorical and Title XXI eligibility as defined in R9-31-101.
- B. ~~A concurrent application~~ Application for categorical eligibility. ~~The head-of-household of a~~ If a household that includes one or more of the following shall also apply at the same time for following, who the county identified under subsection (A) as being potentially categorically eligible or Title XXI-eligible, the county shall forward the application to DES or the Administration for determination of categorical coverage or Title XXI eligibility for the household member, unless the household member is already ~~categorically eligible~~: categorically eligible or Title XXI-eligible.
1. A pregnant woman;
  2. A dependent child born on or after October 1, 1983;
  3. A nonpregnant hospitalized applicant ~~applicant, not listed in subsections (B)(1) or (2), who is:~~
    - a. A dependent child born before October 1, 1983;
    - b. The parent or specified relative of a dependent child if:
      - i. The child resides with a parent or specified relative; and
      - ii. Deprivation exists under R9-22-1424; ~~or~~
  4. A ~~nonhospitalized person not listed in subsections (B)(1) or (2) applying for SESP under R9-22-1613 who:~~ R9-22-1613.
    - a. ~~Is listed in subsection (B)(3)(a);~~
    - b. ~~Is age 65 or older, or~~
    - e. ~~Claims blindness or disability as defined by 42 U.S.C. 1382e(a)(2) and (3).~~
5. Any person who is determined eligible for MI/MN under this Article.
- C. Required cooperation. The head-of-household and household members listed in subsection (B) shall cooperate with the application process for categorical eligibility and shall sign a statement of Intent to Cooperate. The statement shall be on a form prescribed by the Administration and shall explain:
1. The requirement to concurrently apply for categorical eligibility; and
  2. That failure to cooperate shall result in denial or discontinuance of eligibility.
- D. Application forwarding requirements. ~~If the household includes 1 or more persons who are listed in subsection (B), the county eligibility staff and the head of household shall complete the following:~~
1. The county eligibility staff shall forward an application to DES or to the Administration under subsection (B) with all available documentation and verification by:
    - a. The 30th day after the date the county eligibility staff receives the signed application; or
    - b. The 3rd day after the county completes the determination of eligibility, whichever date occurs 1st.
  1. ~~The county eligibility staff shall assist the head of household for an applicant listed in subsections (B)(1) or (2) in completing an application for S.O.B.R.A. at the same time as completing the MI/MN application unless a pending S.O.B.R.A. application exists with DES. The county eligibility staff shall send the S.O.B.R.A. application to DES within 30 days following the date the county eligibility staff receives the signed application.~~
  2. ~~The county eligibility staff shall assist the head of household for an applicant listed in subsections (B)(3), or (B)(4)(a) to complete an application for medical assistance under R9-22-1407(D). The county eligibility staff shall forward the application and all available documentation and verification to DES under subsection (D)(4).~~
  3. ~~The head of a household that includes an applicant listed in subsection (B)(4)(b) or (c) shall apply for SSI-linked FESP for that person. The county eligibility staff shall forward the application forms, available documentation, and verification to the Administration under subsection (D)(4).~~
  4. ~~The county eligibility staff shall forward documents in subsections (D)(2) and (3) by:~~
    - a. ~~The 30th day after the date the county eligibility staff receives the signed application; or~~
    - b. ~~The 3rd day after the county completes the determination of eligibility, whichever date occurs 1st.~~
5. After the county eligibility staff forwards an application to DES or the Administration, the county eligibility staff shall not request additional verification from the household if that verification is necessary solely for determination of Title XXI eligibility or categorical eligibility other than S.O.B.R.A. The county eligibility staff shall continue to receive and forward forward, to DES or the Administration Administration, any verification that was requested prior to before forwarding the application or that was requested for the MI/MN determination. the county eligibility staff receives after forwarding the application.
6. Application forwarding requirements are waived if:
- a. The the applicant listed in subsection (B) has an application for medical assistance pending determination by DES, or DES or the Administration.
  - b. The applicant listed in subsection (B)(4) has an application for medical assistance pending determination by the Administration.
4. Waiver of application-forwarding requirements under subsection (D)(3) does not waive the applicant's requirement to cooperate.

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- E.** Conditions for approval. If the county eligibility staff forwards an application for an applicant listed in subsection ~~(B)~~ (B)(1) through (B)(4) to DES or the Administration under subsection (D), the county eligibility staff shall not approve that applicant for coverage unless the applicant meets the requirements for eligibility under this Article and:
1. The applicant is hospitalized;
  2. DES or the Administration denies the applicant's application for categorical eligibility for a reason other than refusal to cooperate; or
  3. The applicant is ~~listed in subsection (B)(1) or (2);~~ pregnant or born on or after October 1, 1983, and:
    - a. The applicant meets the citizenship or alien status requirement for MI/MN eligibility under R9-22-1624;
    - b. The county eligibility staff forwards a complete application with all required documentation and verification to DES under subsection (D)(1); and
    - c. DES has not, within 10 working days following DES' receipt of the forwarded application, completed a determination of the applicant's eligibility for categorical eligibility.
- F.** County requirement to inform. Whenever the county eligibility staff is required to forward an application to another agency under this Article, the county eligibility worker shall explain to the head-of-household during the face-to-face interview:
1. That the application will be forwarded to another agency and the name of the agency;
  2. What additional actions the head-of-household shall be required to take in order to establish eligibility;
  3. The penalties for refusal to cooperate; and
  4. The potential for delay in a determination of eligibility.
- G.** Other referrals. If an applicant is potentially categorically eligible or Title XXI-eligible under the screening requirements in subsection (A), and the county eligibility staff is not required to forward the application to DES or the Administration under subsection (B), the county eligibility staff shall refer the person to DES for categorical eligibility or to the Administration for Title XXI eligibility.

**R9-22-1611. Eligibility for Medicare Beneficiaries**

**A. General.**

1. Definition. In this Section, "geographically available" means a person is eligible to enroll in a Medicare HMO based on the person's place of residence.
2. Exceptions. This Section does not apply to a person who:
  - ~~1. a.~~ Has had an organ a transplant requiring prescribed immunosuppressant drugs; as specified in A.R.S § 36-2905; or
  - ~~2. b.~~ May not be enrolled in a Medicare HMO because:
    - ~~a. i.~~ The person resides in a county location where no Medicare HMO operates is geographically available; or
    - ~~b. ii.~~ The person has a preexisting medical condition or receives Medicare hospice services.

**B.** Eligibility restriction. A recipient of Medicare benefits is ineligible for MI/MN coverage if:

1. The person is enrolled in a Medicare HMO; or
2. The person voluntarily discontinued Part B Medicare benefits after being ~~found~~ determined ineligible for MI/MN under this Section.

**C.** Eligibility limitation. An applicant who is not enrolled in a Medicare HMO but is eligible or may be eligible to be enrolled in a Medicare HMO may receive MI/MN coverage, if eligible, with the following restrictions:

1. ~~An A~~ A person who has Medicare Parts A and B may receive MI/MN coverage for no longer than the month of certification plus the 2 following calendar months.
2. ~~An A~~ A person who ~~receives~~ meets the requirements for Medicare Part A benefits, but who does not receive Medicare Part B benefits, may receive MI/MN coverage only:
  - a. Until the date that Medicare Part B benefits are available; or
  - b. Until the date Medicare Part B would be available if the person had applied for Medicare Part B benefits during the 1st Medicare general enrollment period following approval for MI/MN coverage.
    - i. Medicare general enrollment periods and resulting dates of Medicare Part B coverage are specified in 42 CFR 406 and 407.
    - ii. For this subsection, the Medicare general enrollment period ends if less than 1 month of the Medicare general enrollment period remains.
3. If ~~an a~~ a person becomes eligible for Medicare while ~~MI/MN-eligible,~~ MI/MN-eligible, the county eligibility staff shall:
  - a. At the time of approval of MI/MN, advise the person to apply for those benefits during the initial Medicare enrollment period as specified in 42 CFR 406 and 407; and
  - b. Not approve a person for MI/MN coverage again, after the Medicare Part A and Part B benefits are effective, or would be effective if the person had applied for Medicare Part B benefits during the initial enrollment period.
4. The county eligibility staff shall provide the person a minimum of 2 months from the last day of the initial enrollment period to enroll in a Medicare HMO.

**D.** Undue Hardship. The Administration shall determine that a person has undue hardship if the applicant:

1. Meets all requirements for MI/MN benefits under this Article; and

2. Is determined ineligible for the Qualified Medicare Beneficiary, ~~and~~ Specified Low Income Medicare ~~Beneficiary~~ program, as Beneficiary, and Qualifying Individuals 1 programs defined in A.R.S. § 36-2971 et seq., due solely to excess income and either:
  - a. Received Medicare Part A benefits as specified in 42 CFR 406 and 407 ~~prior to~~ before July 1, 1996, and did not have Medicare Part B coverage as of July 1, 1996, or has applied to receive Medicare Part B; or
  - b. Received Medicare Part A and B or Medicare Part A benefits only and all geographically available Medicare HMOs operating ~~in the applicant's county of residence~~ charge a monthly premium.
- E. Undue hardship payment:
  1. The Administration shall reimburse the Medicare Part B premiums paid by the person who is subject to undue hardship under subsection (D)(2)(a).
  2. The Administration shall pay Medicare HMO premiums directly to the Medicare HMO or reimburse Medicare premiums paid by the person who is subject to undue hardship under subsection (D)(2)(b). The Administration shall not pay:
    - a. More than the lowest Medicare HMO monthly premium available if there is more than 1 geographically available Medicare ~~HMO in the applicant's county of residence~~, HMO, or
    - b. If coverage from a premium-free Medicare HMO becomes ~~available in the applicant's county of residence~~. available.
  3. Once every 6 months, the Administration shall review the status of each person who receives payments or on whose behalf payments are made for undue hardship under this Section. The Administration may approve an additional 6-month extension of the payments, provided the person continues to meet the requirements in subsection (D).

**R9-22-1616. Denial or Discontinuance of MI/MN Eligibility**

- A. Ineligibility of households. The county eligibility staff shall send a denial or discontinuance notice for all household members under any of the following circumstances:
  1. The household's annual income, determined under R9-22-1626, exceeds the ~~limits~~ limit specified in A.R.S. §§ ~~11-297 and 36-2905~~. The county eligibility staff shall not deny or discontinue eligibility if:
    - a. A household member is incurring medical expenses that are eligible for deduction under ~~R9-22-1626(F)~~, R9-22-1626, and
    - b. The household is expected to reach the allowable income limit within the 30 days following the application date.
  2. The household's total countable liquid resources determined under R9-22-1627 exceed the \$5,000 limit specified in A.R.S. §§ 11-297 and 36-2905.
  3. The household's total countable resources determined under R9-22-1627 exceed the \$50,000 limit specified in A.R.S. §§ 11-297 and 36-2905.
  4. A household member transfers resources under R9-22-1628 for the purpose of meeting the resource limits specified in A.R.S. §§ 11-297 and 36-2905.
  5. The head-of-household fails, within the timeframes as specified in R9-22-1609 or R9-22-1630, to provide information or verification required to determine eligibility. The county eligibility staff shall not deny or discontinue eligibility for this reason unless the required information or verification has been requested in writing by the county eligibility staff and the head-of-household has been given a minimum of 10 days from the date of a written request to provide the information or verification.
  6. The head-of-household refuses to cooperate in providing information or verification ~~that is~~ required under this Article.
  7. The head-of-household does not sign the application forms when required under this Article.
  8. The head-of-household fails to participate in the face-to-face ~~interview~~, interview under R9-22-1602, R9-22-1603, or R9-22-1631.
  9. The head-of-household fails or refuses to cooperate with the application process under R9-22-1605.
  10. The head-of-household requests a withdrawal of an application or discontinuance of all household members' eligibility for the program.
  11. The head-of-household fails or refuses to cooperate with the Administration's eligibility quality control sample review or quality control case analysis under 9 A.A.C. 22, Article 9.
  12. The head-of-household refuses to assign health or accident benefits to the Administration as specified in R9-22-1605.
  13. The applicant applying for the household is a dependent child, except as permitted under ~~R9-22-1601(D)~~. R9-22-1601.
- B. Ineligibility of an individual household member. The county eligibility staff shall send a denial or discontinuance notice for an applicant under any of the following circumstances:
  1. The person's whereabouts are ~~unknown~~. unknown;
  2. The person is not a resident of Arizona as defined in A.R.S. § 36-2903.01 and ~~R9-22-1623~~. R9-22-1623;
  3. The person is a dependent child whose application is not filed by a qualified ~~applicant~~. applicant;
  4. The person an inmate in a public ~~institution~~. institution;
  5. The person is a patient of a public mental ~~hospital~~. hospital;

6. The person is deceased. If the applicant dies and, within 2 days following the date of death, the county eligibility staff determines the applicant met all other eligibility requirements, the county eligibility staff shall approve the deceased applicant for MI/MN, ELIC, or SESP. The county eligibility staff shall then immediately discontinue the deceased applicant's MI/MN eligibility. This action will result in the availability of coverage under R9-22-1620, beginning 2 days before the date of determination and ending on the date of ~~death.~~ death.
7. The person is not a citizen of the United States or an alien under ~~R9-22-1624.~~ R9-22-1624;
8. The person is ineligible for coverage as specified in ~~R9-22-1611.~~ R9-22-1611;
9. The person is not a household member as specified ~~R9-22-1625.~~ R9-22-1625;
10. The person is eligible for medical assistance under Title XIX or Title XXI of the Social Security ~~Act.~~ Act;
11. The person is an AHCCCS-disqualified spouse or an AHCCCS-disqualified ~~dependent.~~ dependent;
12. The person is ineligible for MI/MN, ELIC, or SESP coverage due to a refusal to cooperate with the Title XIX or Title XXI eligibility process ~~as required by state law.~~ under A.R.S. § 36-2905(H);
13. The head-of-household requests a withdrawal of an application or a discontinuance of the applicant's coverage. a household member's coverage; and
14. The person is an adult and requests a withdrawal of an application or a discontinuance of the applicant's that person's own coverage.

#### ARTICLE 17. ENROLLMENT

##### **R9-22-1701. Enrollment of a Member with an AHCCCS Contractor**

###### **A. General Enrollment ~~Requirements~~ Requirements.**

1. The Administration shall not enroll an applicant with a contractor if an applicant:
  - a. Resides in an area not served by a contractor;
  - b. Is eligible for the ~~Federal Emergency Services (FES) program~~ FESP as defined in R9-22-101 or the ~~State Emergency Services Program~~ SESP defined in R9-22-1613;
  - c. Is eligible for a period less than 30 days from the date the Administration receives notification of a member's eligibility, except for a member who is enrolled with CMDP or IHS as specified in this Section;
  - d. Is eligible only for a prior quarter period as defined in R9-22-1432, except for a member who is enrolled with IHS as specified in this Section; or
  - e. Is eligible only for a retroactive period of eligibility, except for a member who is enrolled with IHS as specified in this Section.
2. The Administration shall enroll a member with:
  - a. A contractor serving the member's geographical service area (GSA) except as provided in subsection (C); or
  - b. The member's most recent contractor of record, if available, if the member's period of ineligibility and disenrollment from the contractor of record is for a period of less than 90 days except if:
    - i. The member no longer resides in the contractor's GSA;
    - ii. The contractor's contract is suspended or terminated;
    - iii. The member was previously enrolled with CMDP but at the time of re-enrollment the member is not a foster care child;
    - iv. The member chooses another contractor during the annual enrollment choice period; or
    - v. The member was previously enrolled with a contractor but at the time of re-enrollment the member is a foster care child.

**B. Fee-for-service coverage.** A member not enrolled with a contractor under subsection (A)(1) shall obtain covered medical services from an ~~AHCCCS-registered~~ AHCCCS-registered provider on a fee-for-service basis as provided in ~~9 A.A.C. 7. 9 A.A.C. 22, Article 7.~~

**C. Foster care child.** The Administration shall enroll a member with CMDP if the member is a foster care child under A.R.S. § 8-512.

###### **D. Categorical, EAC, ELIC, and state alien member.**

1. Except as provided in subsections (A)(1), ~~(2)(b),~~ (A)(2)(b), and (C), a categorical, EAC, ELIC, or state alien member residing in an area served by more than 1 contractor shall have freedom of choice in the selection of ~~an~~ a contractor.
2. A Native American member may select IHS or another available contractor.
3. If the member does not make a choice, the Administration shall auto-assign the member to:
  - a. A contractor based ~~on;~~ on:
    - i. Family continuity; or
    - ii. The auto-assignment algorithm; or
  - b. IHS, if the member is a Native American living on reservation.

###### **E. MI/MN member.**

1. A MI/MN member, including a Native ~~Americans,~~ American, shall not ~~receive~~ have freedom of choice in the selection of an AHCCCS contractor, except as specified in subsection (G).

2. Except as provided in subsection (A)(2)(b), the Administration shall auto-assign a member as specified in subsection (D)(3).
- F. Family Planning Services Extension Program. A member eligible under the Family Planning Services Extension Program, as defined in R9-22-1435, shall remain enrolled with the member's contractor of record.
- G. Enrollment changes for a member.
  1. A member may change contractors during the annual enrollment choice period.
  2. The Administration may approve the transfer for an enrolled member from 1 contractor to another as specified in ~~9 A.A.C. 5, 9 A.A.C. 22, Article 5,~~ or as determined by the Director.
  3. The Administration shall approve a change in contractor for any member if the change is a result of a grievance, resolved through the grievance process specified in ~~9 A.A.C. 8, 9 A.A.C. 22, Article 8.~~
  4. A categorical, EAC, ELIC, or state alien member may choose a different contractor if the member moves into a GSA not served by the current contractor or if the contractor is no longer available. If the member does not select a contractor, the Administration shall auto-assign the member as provided in subsection (D)(3).
  5. The Administration shall auto-assign an MI/MN member to a different contractor as specified in subsection (E)(2), if the member moves into a GSA not served by the member's current contractor.
- H. Newborn enrollment. A newborn shall be initially enrolled with a contractor as specified in R9-22-1703.
- I. IHS. The provisions of subsections (A)(1)(a), ~~(2)(a), and (b)(iv);~~ (A)(2)(a), (A)(2)(b)(iv), (D), (E), (F), (G), and (H) apply if IHS is the contractor.
- J. CMDP. The provisions of subsections ~~(A)(1)(d) and (e)~~ (A)(1)(d), (A)(1)(e), and (H) apply if CMDP is the contractor.

**R9-22-1704. Categorical and EAC Guaranteed Enrollment Period**

- A. General.
  1. The Administration shall grant a guaranteed enrollment period ~~as provided in this Section~~ to a categorical or EAC member as provided in this Section if the member meets the following conditions:
    - a. ~~Becomes ineligible before receiving 5 full calendar months of enrollment with a contractor as specified in 42 U.S.C. 1396a(e)(2);~~
    - b. ~~If the date of ineligibility does not precede or equal the date of initial enrollment;~~
    - c. ~~Did not receive 5 full calendar months of categorical enrollment during a previous categorically eligible period;~~
    - d. ~~Did not receive 5 full calendar months of EAC enrollment during a previous EAC-eligible ~~EAC-eligible~~ period;~~ and
    - e. ~~Does not meet any of the conditions listed in subsection (B).~~
  2. The member may receive a separate guaranteed enrollment:
    - a. For a maximum of 1 time if the member is a categorical member, and
    - b. For a maximum of 1 time if the member is an ~~EAC~~ EAC member.
  3. The guaranteed enrollment period shall begin on the effective date of the member's initial enrollment with the contractor and shall continue for not less than 5 full calendar months.
- B. Exceptions to guaranteed period. The Administration shall not grant a guaranteed enrollment period or shall terminate a guaranteed enrollment period as provided in subsection (C), if the member:
  1. ~~Is Except as provided in 9 A.A.C. 22, Article 12, is~~ an inmate of a public institution as defined in ~~42 CFR 435.1009~~ except as provided in 9 A.A.C. 12, 42 CFR 435.1009;
  2. Dies;
  3. Moves out-of-state;
  4. Voluntarily withdraws from the AHCCCS program;
  5. Is adopted;
  6. Is an ~~EAC-eligible~~ EAC-eligible member and age 14; or
  7. Is an ~~EAC~~ EAC-eligible member and fails or refuses to cooperate with the Title XIX eligibility process.
- C. Disenrollment effective date. The Administration shall terminate any guaranteed enrollment period for which the member is not entitled effective on:
  1. ~~The date the member is admitted to a public institution specified in subsection (B); (B); if known, or the date the Administration receives notification from the eligibility agency of the member's admission to a public institution;~~
  2. The member's date of death;
  3. The last day of the month in which the Administration receives notification from the eligibility agency that a member ~~has~~ moved out-of-state;
  4. The date the Administration receives written notification of the member's voluntary withdrawal from the AHCCCS program;
  5. The date adoption proceedings are initiated through a private party, if known, or on the last day of the month in which the Administration receives notification of the proceedings;
  6. The last day of the month in which an EAC member becomes age 14; or
  7. The date the Administration receives notification from the eligibility agency that EAC eligibility will terminate because the responsible member fails or refuses to cooperate with the Title XIX eligibility process.

- D. Retroactive adjustments. The Administration shall adjust the member's eligibility and enrollment retroactively as specified in subsection (C).

**NOTICE OF FINAL RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ARIZONA LONG-TERM CARE SYSTEM**

**PREAMBLE**

- | <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
|------------------------------------|---------------------------------|
| R9-28-101                          | Amend                           |
| R9-28-102                          | Amend                           |
| R9-28-103                          | Amend                           |
| R9-28-104                          | Amend                           |
| R9-28-107                          | Amend                           |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 36-2932(M)  
Implementing statutes: A.R.S. §§ 36-2901 and 36-2931 establish statutory definitions; this Section adds to those definitions.
- 3. The effective date of the rules:**  
June 9, 2000
- 4. A list of all previous notices appearing in the Register addressing the final rule:**  
Notice of Rulemaking Docket Opening: 6 A.A.R. 608, February 4, 2000  
Notice of Proposed Rulemaking: 6 A.A.R. 887-894, March 3, 2000
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Cheri Tomlinson, Federal and State Policy Administrator  
Address: AHCCCS, Office of Policy Analysis and Coordination  
801 East Jefferson, Mail Drop 4200  
Phoenix, Arizona 85034  
Telephone: (602) 417-4198  
Fax: (602) 256-6756
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**  
The Administration made changes to provide additional clarity and conciseness to existing definitions.
- 7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**  
Not applicable
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
- 9. The summary of the economic, small business, and consumer impact:**  
The changes will not directly impact the small business community. The Administration anticipates that the changes will benefit all parties that use rules, including:
- The Administration;
  - ALTCS contractors;
  - ALTCS providers; and
  - ALTCS members.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Rule Citation	Change
General	The Administration made the rules more clear, concise, and understandable by making grammatical, verb tense, and punctuation changes throughout the rules.

**11. A summary of the principal comments and the agency response to them:**

The Administration conducted a videoconference public hearing on Monday, April 3, 2000, in Phoenix, Flagstaff, and Tucson, Arizona. The Administration received no written or oral public comments regarding the proposed rule.

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

Not applicable

**13. Incorporations by reference and their location in the rules:**

None

**14. Was this rule previously adopted as an emergency rule?**

No

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ARIZONA LONG-TERM CARE SYSTEM**

**ARTICLE 1. DEFINITIONS**

Section

- R9-28-101. General Definitions
- R9-28-102. Covered Services Related Definitions
- R9-28-103. Preadmission Screening Related Definitions
- R9-28-104. Eligibility and Enrollment Related Definitions
- R9-28-107. Standards for Payments Related Definitions

**ARTICLE 1. DEFINITIONS**

**R9-28-101. General Definitions**

**A. Location of definitions. Definitions applicable to Chapter 28 are found in the following:**

Definition	Section or Citation
1. "211"	<del>R9-28-104</del> 42 CFR 435.211
2. "217"	<del>R9-28-104</del> 42 CFR 435.217
3. "236"	<del>R9-28-104</del> 42 CFR 435.236
4. "Administration"	A.R.S. § 36-2931
5. "ADHS"	R9-28-111
6. "AFDC"	<del>R9-22-101</del>
7. "Aggregate"	R9-22-107
8. "AHCCCS"	R9-22-101
9. "AHCCCS hearing officer"	R9-22-108
10. "Algorithm"	R9-28-104
11. "ALTCS"	A.R.S. § 36-2932
12. "ALTCS acute care services"	R9-28-104
13. "Alternative HCBS setting"	R9-28-101
14. "Ambulance"	R9-22-102
15. "Appeal"	R9-22-108
16. "Bed hold"	R9-28-102
17. "Behavior intervention"	R9-28-102
18. "Behavior management services"	R9-28-111
19. "Behavioral health paraprofessional"	R9-28-111
20. "Behavioral health professional"	R9-28-111



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21. "Behavioral health service"	R9-28-111
22. "Behavioral health technician"	R9-28-111
23. "Billed charges"	R9-22-107
24. <del>"Board-eligible"</del> <u>"Board-eligible for psychiatry"</u>	R9-28-111
25. "Capped fee-for-service"	R9-22-101
26. "Case management plan"	R9-28-101
27. "Case management services"	R9-28-111
28. "Case manager"	R9-28-101
29. "Case record"	R9-22-101
30. "Categorically eligible"	A.R.S. § 36-2934
31. "Certification"	R9-28-105
32. "Certified psychiatric nurse practitioner"	R9-28-111
33. "CFR"	R9-28-101
34. "Clean claim"	A.R.S. § 36-2904
35. "Clinical supervision"	R9-28-111
36. "Community Spouse"	R9-28-104
37. <del>"Community Spouse Resource Deduction"</del>	<del>R9-28-104</del>
38. "Contract"	R9-22-101
39. "Contractor"	R9-22-101
40. "County of fiscal responsibility"	R9-28-107
41. "Covered services"	R9-22-102
42. "CPT"	R9-22-107
43. "CSR D"	R9-28-104
44. "Day"	R9-22-101
45. "DES Division of Developmental Disabilities"	A.R.S. § 36-551
46. "De novo hearing"	R9-28-111
47. "Developmental disability"	A.R.S. § 36-551
48. "Diagnostic services"	R9-22-102
49. "Disenrollment"	R9-22-117
50. "DME"	R9-22-102
51. "Eligible person"	A.R.S. § 36-2931
52. "Emergency medical services"	R9-22-102
53. "Encounter"	R9-22-107
54. "Enrollment"	R9-22-117
55. "Estate"	A.R.S. § 14-1201
56. "Evaluation"	R9-28-111
57. "Facility"	R9-22-101
58. "Factor"	R9-22-101
59. "Fair consideration"	R9-28-104
60. "FBR"	R9-22-101
61. "Grievance"	R9-22-108
62. "GSA"	R9-22-101
63. "Guardian"	R9-22-116
64. "HCBS"	A.R.S. §§ 36-2931 and 36-2939
65. "Home"	R9-28-101
66. "Home health services"	R9-22-102
67. "Hospital"	R9-22-101
68. "ICF-MR"	<del>R9-28-101</del> <u>42 CFR 435.1009 and 440.150</u>
69. "IHS"	R9-28-101
70. "IMD"	42 CFR 435.1009
71. "Indian"	P.L. 94-437
72. "Inpatient psychiatric facilities for individuals under age 21"	R9-28-111
73. "Institutionalized"	R9-28-104
74. "Interested Party"	R9-28-106
75. "JCAHO"	R9-28-101
76. "License" or "licensure"	R9-22-101
77. "Medical record"	R9-22-101
78. "Medical services"	R9-22-101
79. "Medical supplies"	R9-22-102

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80. "Medically eligible"	R9-28-104
81. "Medically necessary"	R9-22-101
82. "Member"	A.R.S. § 36-2931
83. "Mental disorder"	R9-28-111
84. "MMMNA"	R9-28-104
85. "NF"	42 U.S.C. 1396r(a)
86. "Noncontracting provider"	A.R.S. § 36-2931
87. "Occupational therapy"	R9-22-102
88. "Partial care"	R9-28-111
89. "PAS"	R9-28-103
90. "PASARR"	R9-28-103
91. "Pharmaceutical service"	R9-22-102
92. "Physical therapy"	R9-22-102
93. "Physician"	R9-22-102
94. "Post-stabilization services"	42 CFR 438.114
95. "Practitioner"	R9-22-102
96. "Primary care provider"	R9-22-102
97. "Primary care provider services"	R9-22-102
98. "Prior authorization"	R9-22-102
99. "Prior period coverage"	R9-28-101
100. "Prior-quarter period"	R9-28-101
101. "Private duty nursing services"	R9-22-102
102. "Program contractor"	A.R.S. § 36-2931
103. "Provider"	A.R.S. § 36-2931
104. "Prudent layperson standard"	42 U.S.C. 1396u-2
105. "Psychiatrist"	R9-28-111
106. "Psychologist"	R9-28-111
107. "Psychosocial rehabilitation"	R9-28-111
108. "Quality management"	R9-22-105
109. "RBHA"	R9-28-111
110. "Radiology"	R9-22-102
111. "Reassessment"	R9-28-103
112. "Redetermination"	R9-28-104
113. "Referral"	R9-22-101
114. "Reinsurance"	<del>R9-22-107</del> <u>R9-22-101</u>
115. "Representative"	R9-28-104
116. "Respiratory therapy"	R9-22-102
117. "Respite care"	R9-28-102
118. "RFP"	<del>R9-22-105</del> <u>R9-22-106</u>
119. "Room and board"	R9-28-102
120. "Scope of services"	R9-22-102
121. "Screening"	R9-28-111
122. "Speech therapy"	R9-22-102
123. "Spouse"	R9-28-104
124. "SSA"	P.L. 103-296, Title I
125. "SSI"	R9-22-101
126. "Subcontract"	R9-22-101
127. "Substance abuse"	R9-28-111
128. "Treatment"	R9-28-111
129. "Utilization management"	R9-22-105
130. "Ventilator dependent"	R9-28-102

**B. General definitions.** The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:

1. "AHCCCS" is defined in 9 A.A.C. 22, Article 1.
2. "ALTCS" means the Arizona Long-Term Care System as authorized by A.R.S. § 36-2932.
3. "Alternative HCBS setting" means a living arrangement approved by the Director and licensed or certified by a regulatory agency of the state, where a member may reside and receive HCBS including:  
For a person with a developmental disability (DD) specified in A.R.S. § 36-551:

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Community residential setting defined in A.R.S. § 36-551;

Group home defined in A.R.S. § 36-551;

State-operated group home defined in A.R.S. § 36-591;

Family foster home defined in 6 A.A.C. 5, Article 58;

Group foster home defined in 6 A.A.C. 5, Article 59;

Licensed residential facility for a person with traumatic brain injury specified in ~~A.R.S. § 36-2939(C)~~; A.R.S. § 36-2939; and

Behavioral health service agency specified in A.R.S. § 36-2939(B)(2) and 9 A.A.C. 20, Articles 6, 7, and 8 for Levels I, II, or III;

For a person who is elderly or physically disabled (EPD), and the facility, setting, or institution is registered with AHCCCS:

Adult foster care homes defined in ~~A.R.S. § 36-401~~; A.R.S. § 36-401 and as authorized in A.R.S. § 36-2939; and an assisted living home or residential unit, as defined in A.R.S. § 36-401, and as authorized in A.R.S. § 36-2939.

Licensed residential facility for a person with a traumatic brain injury specified in ~~A.R.S. § 36-2939(C)~~; A.R.S. § 36-2939; and

Behavioral health service agency specified in A.R.S. § 36-2939(C) and 9 A.A.C. 20, Articles 6, 7, and 8 for Levels I and II.

Alzheimer's treatment assistive living facility demonstration pilot project as specified in Laws 1999, Ch. 313, § 35.

"Capped fee-for-service" is defined in 9 A.A.C. 22, Article 1.

4- "Case management plan" means a service plan developed by a case manager that involves the overall management of a member's ~~or an eligible person's~~ care, and the continued monitoring and reassessment of the member's ~~or the eligible person's~~ need for services.

5- "Case manager" means a person who is either a degreed social worker, a licensed registered nurse, or a person with a minimum of 2 years of experience in providing case management services to a person who is elderly and physically disabled or has developmental disabilities.

"Case record" is defined in 9 A.A.C. 22, Article 1.

6- "CFR" means Code of Federal Regulations, unless otherwise specified in this Chapter.

7- "Contract" is defined in 9 A.A.C. 22, Article 1.

8- "Day" is defined in 9 A.A.C. 22, Article 1.

9- "DES Division of Developmental Disabilities" is defined in A.R.S. § 36-551.

10- "Disenrollment" is defined in 9 A.A.C. 22, Article 1.

11- "Eligible person" is defined in A.R.S. § 36-2931.

12- "Enrollment" is defined in 9 A.A.C. 22, Article 1.

13- "Facility" is defined in 9 A.A.C. 22, Article 1.

14- "Factor" is defined in 9 A.A.C. 22, Article 1.

"FBR" means Federal Benefit Rate and is defined in 9 A.A.C. 22, Article 1.

15- "HCBS" means home and community based services defined in A.R.S. §§ 36-2931 and 36-2939.

16- "Home" means a residential dwelling that is owned, rented, leased, or occupied at no cost to a member, including a house, a mobile home, an apartment, or other similar shelter. A home is not a facility, a setting, or an institution, or a portion and any of these, licensed or certified by a regulatory agency of the state as a:

Health care institution defined in A.R.S. § 36-401;

Residential care institution defined in A.R.S. § 36-401;

Community residential facility defined in A.R.S. § 36-551; or

Behavioral health service facility defined in 9 A.A.C. 20, Articles 6, 7, and 8.

17- "Hospital" is defined in 9 A.A.C. 22, Article 1.

18- "GSA" is defined in 9 A.A.C. 22, Article 1.

19- ~~"ICF-MR"~~ "ICF-MR" means an intermediate care facility for the mentally retarded and is defined in 42 CFR 435.1009 and 440.150.

20- "IHS" means the Indian Health Services.

21- "Indian" is defined in P.L. 94-437.

22- "JCAHO" means the Joint Commission on Accreditation of Healthcare Organizations.

23- "License" or "licensure" is defined in 9 A.A.C. 22, Article 1.

24- "Medical record" is defined in 9 A.A.C. 22, Article 1.

25- "Medical services" is defined in 9 A.A.C. 22, Article 1.

26- "Medically necessary" is defined in 9 A.A.C. 22, Article 1.

27- "Member" is defined in A.R.S. § 36-2931.

- ~~28.~~ “NF” means nursing facility and is defined in ~~9 A.A.C. 22, Article 1.~~ 42 U.S.C. 1396r(a).
- 29. “Noncontracting provider” is defined in A.R.S. § 36-2931.
- 30. “Prior period coverage” means the period of time from the 1st day of the month of application or the 1st eligible month whichever is later to the day a member is enrolled with the program contractor. The program contractor receives notification from the Administration of the member’s enrollment.
- 31. “Prior-quarter period” means the 3 calendar months immediately preceding the month of application during which a member may be eligible for services covered under this Chapter, retroactively under federal law and under A.R.S. § 36-2937.
- ~~32.~~ “Program contractor” is defined in A.R.S. § 36-2931.
- 33. “Provider” is defined in A.R.S. § 36-2931.
- 34. “Referral” is defined in 9 A.A.C. 22, Article 1.  
“Reinsurance” is defined in 9 A.A.C. 22, Article 1.
- ~~35.~~ “SSA” means Social Security Administration defined in P.L. 103-296, Title I.
- 36. “SSP” is defined in 9 A.A.C. 22, Article 1.
- 37. “Subcontract” is defined in 9 A.A.C. 22, Article 1.

**R9-28-102. Covered Services Related Definitions**

Definitions. The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:

- ~~1.~~ “Ambulance” is defined in 9 A.A.C. 22, Article 1.
- 2. “Bed hold” means a 24 hour per day unit of service that is authorized by an ALTCS case manager or designee during a period of short-term hospitalization or therapeutic leave that meets the requirement specified in 42 CFR 483.12.
- 3. “Behavior intervention” means the planned interruption of ~~an eligible person’s or~~ a member’s inappropriate behavior using techniques such as reinforcement, training, behavior modification, and other systematic procedures intended to result in more acceptable behavior.
- ~~4.~~ “Covered services” is defined in 9 A.A.C. 22, Article 1.
- ~~5.~~ “Diagnostic services” is defined in 9 A.A.C. 22, Article 1.
- 6. “DME” means durable medical equipment and is defined in 9 A.A.C. 22, Article 1.
- 7. “Emergency medical services” is defined in 9 A.A.C. 22, Article 1.
- 8. “Home health services” is defined in 9 A.A.C. 22, Article 1.
- 9. “Medical supplies” is defined in 9 A.A.C. 22, Article 1.
- ~~10.~~ “Occupational therapy” is defined in 9 A.A.C. 22, Article 1.
- ~~11.~~ “Pharmaceutical service” is defined in 9 A.A.C. 22, Article 1.
- ~~12.~~ “Physician” is defined in 9 A.A.C. 22, Article 1.
- ~~13.~~ “Physical therapy” is defined in 9 A.A.C. 22, Article 1.  
“Physician” is defined in 9 A.A.C. 22, Article 1.
- 14. “Practitioner” is defined in 9 A.A.C. 22, Article 1.
- ~~15.~~ “Primary care provider” is defined in 9 A.A.C. 22, Article 1.
- 16. “Primary care provider services” is defined in 9 A.A.C. 22, Article 1.
- 17. “Prior authorization” is defined in 9 A.A.C. 22, Article 1.
- 18. “Private duty nursing services” is defined in 9 A.A.C. 22, Article 1.
- ~~19.~~ “Radiology services” is defined in 9 A.A.C. 22, Article 1.
- 20. “Respiratory therapy” is defined in 9 A.A.C. 22, Article 1.
- 21. “Respite care” means a short-term service provided in a NF or a home and community based service setting to an individual when necessary to relieve a family member or other person caring for the individual.
- ~~22.~~ “Room and board” means lodging and meals.
- ~~23.~~ “Scope of services” is defined in 9 A.A.C. 22, Article 1.
- 24. “Speech therapy” is defined in 9 A.A.C. 22, Article 1.
- ~~25.~~ “Ventilator dependent” for purposes of ALTCS eligibility, means an individual is medically dependent on a ventilator for life support at least 6 hours per day and has been dependent on ventilator support as an inpatient in a hospital, NF, or ICF-MR for 30 consecutive days.

**R9-28-103. Preadmission Screening Related Definitions**

Definitions. The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:

- ~~1.~~ “Case record” is defined in 9 A.A.C. 22, Article 1.
- ~~2.~~ “Developmental disability” means a disability described in A.R.S. § 36-551.
- 3. “Guardian” is defined in 9 A.A.C. 22, Article 1.
- ~~4.~~ “Minor” is defined in 9 A.A.C. 22, Article 1.

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5. "PAS" means preadmission screening, which is the process of determining an individual's risk of institutionalization at a NF or ICF-MR level of care, as specified in Article 3 of this Chapter.
6. "PASARR" means preadmission screening and annual resident review, which is the 2-step screening process for mental illness and mental retardation ~~according to as described in~~ A.R.S. § 36-2936. The level I screening is used to identify potentially mentally ill (MI) or mentally retarded (MR) individuals before nursing facility admission. The level II screening is used to make an in-depth assessment of potentially MI or MR individuals referred through the level I screening and to determine the appropriateness of nursing facility care and the need for special services for the MI or MR individual.
7. "Reassessment" means the process of redetermining PAS eligibility for ALTCS services on an annual or periodic basis, as appropriate, for all members ~~and eligible persons~~.

**R9-28-104. Eligibility and Enrollment Related Definitions**

Definitions. The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:

1. "211" ~~means is defined in~~ 42 CFR 435.211.
2. "217" ~~means is defined in~~ 42 CFR 435.217.
3. "236" ~~means is defined in~~ 42 CFR 435.236.
4. "Algorithm" means a mathematical formula used by the Administration to assign a member to an EPD program contractor when the member does not make a choice and does not meet the assignment-decision process.
5. "ALTCS acute care services" means services, under 9 A.A.C. 22, Articles 2 and 12, that are provided to a person who meets ALTCS eligibility requirements in 9 A.A.C. 28, Article 4 but who lives in an acute care living arrangement described in ~~R9-28-406(B)~~ R9-28-406 or who is not eligible for long-term care benefits, described in ~~R9-28-409(D)~~ R9-28-409, due to a transfer under R9-28-409 without receiving ~~equal compensation~~ fair consideration.
6. "Community spouse" means the husband or wife of an institutionalized person who has entered into a contract of marriage, recognized as valid by Arizona, and who does not live in a medical institution.
7. "~~Community Spouse Resource Deduction~~" ~~means the amount of a married couple's resources that are excluded in the eligibility determination to prevent impoverishment of the community spouse, determined under R9-28-410(B).~~
8. "CSR D" means ~~Community Spouse Resource Deduction defined in R9-28-104(7)~~ Deduction, the amount of a married couple's resources that are excluded in the eligibility determination to prevent impoverishment of the community spouse, determined under R9-28-410.
9. "Fair consideration" means income, real or personal property, services, or support and maintenance equal to the fair market value of the income or resources that were transferred.
10. "Institutionalized" means residing in a medical institution or receiving or expecting to receive HCBS that prevent the person from being placed in a medical institution determined by the ~~ALTCS Pre-Admission Screening (PAS)~~ PAS under R9-28-103.
11. "Medically eligible" means meeting the ALTCS medical eligibility criteria under 9 A.A.C. 28, Article 3.
12. "MMMNA" means Minimum Monthly Maintenance Needs Allowance.
13. "Redetermination" means a periodic review of all eligibility factors for a recipient.
14. "Representative" means a person other than a spouse or a parent of a dependent child, who applies for ALTCS on behalf of another person.
15. "Spouse" means ~~either someone who is a person~~ legally married under Arizona law, a person who is eligible for Social Security benefits as the spouse of another person, or a person who lives living with another person of the opposite sex and the couple represents themselves in their the community as husband and wife.

**R9-28-107. Standards for Payments ~~Payment~~ Related Definitions**

Definitions. The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:

1. "Aggregate" is defined in 9 A.A.C. 22, Article 1.
2. "Billed charges" is defined in 9 A.A.C. 22, Article 1.
3. "Capped fee-for-service" is defined in 9 A.A.C. 22, Article 1.
4. "Clean claim" is defined in 9 A.A.C. 22, Article 1.
5. "CPT" is defined in 9 A.A.C. 22, Article 1.
6. "County of fiscal responsibility" means the county that is financially responsible for the state's share of ALTCS funding.
7. "Encounter" is defined in 9 A.A.C. 22, Article 1.
8. "~~Reinsurance~~" ~~is defined in 9 A.A.C. 22, Article 1.~~

NOTICE OF FINAL RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION  
MOTOR VEHICLE DIVISION

PREAMBLE

- 1. Sections Affected:**

R17-4-204	<b><u>Rulemaking Action:</u></b>
R17-4-204	Repeal
R17-4-206	New Section
R17-4-206	Repeal
R17-4-208	New Section
R17-4-208	Repeal
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 28-366

Implementing statutes: A.R.S. §§ 28-2055, 28-2058, and 28-2063(B)
- 3. The effective date of the rules:**

June 8, 2000
- 4. A list of all previous notices appearing in the Register addressing the final rule:**

For R17-4-204 and R17-4-206:

Notice of Rulemaking Docket Opening: 5 A.A.R. 2743, August 13, 1999

For R17-4-208:

Notice of Rulemaking Docket Opening: 5 A.A.R. 3278, September 24, 1999

For R17-4-204, R17-4-206, and R17-4-208:

Notice of Proposed Rulemaking: 6 A.A.R. 952, March 10, 2000
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	George R. Pavia, Division Rules Coordinator
Address:	3737 North Seventh Street, Suite 160 Phoenix, Arizona 85014
Telephone:	(602) 712-8446
Fax:	(602) 241-1624
E-mail:	gpavia@dot.state.az.us
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**

The following two rules reflect changes either in statute or in internal program requirements for the implementation of statute. The respective rules detail the following:

  1. Content items provided for on title certificate forms (R17-4-204), and
  2. The divisional authentication of title transfers (R17-4-206).

Motor Vehicle Division is revising these title and registration rules for purposes of clarity and specificity to the general public.

The 1998 statutory rewrite of A.R.S. Title 28 has incorporated R17-4-208 in its entirety into the implementing statute, A.R.S. § 28-2063(B). The statutory language has been modernized to reflect current requirements of understandability, clarity, and conciseness. R17-4-208, aside from being archaic in form, is duplicative and unnecessary. Repeal is a natural course of action.
- 7. A reference to any study that the agency relied on its evaluation or justification for the rule, and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None

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

Not applicable

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

For R17-4-204:

Since A.R.S. § 28-2051 requires title certificates of all motor vehicles, trailers, and semitrailers in the State of Arizona, any owning business or consumer will bear the costs of titling a subject vehicle within this state. The Division incurs an estimated \$8.17 cost per titling transaction. This includes the cost of the tamper-resistant paper, data entry, printing, and agency employee handling costs in executing each titling action. The state titles an estimated 1.7 million vehicles per annum. Thus, the aggregate cost of issuing title certificates is substantial (greater than \$10,000) to the Division. The full Economic Impact Statement shows that the Division recoups titling costs in total revenue generated through annual vehicle registration fees. The benefit to the state, insurance entities, and vehicle owners in the mandatory issue of title certificates is anticipated reduction in fraudulent ownership claims and litigation.

For R17-4-206:

The only cost to a vehicle seller in transferring vehicle ownership would be a required fee by a Notary Public to acknowledge the seller's signature. Notary fees for signature acknowledgements are \$2 each as prescribed under A.R.S. § 41-316. This is a minimal per transfer cost to the consumer. There is no cost to the seller if a signature is witnessed by an MVD agent. Witnessing valid signatures is an employee task included in general MVD field office agent assigned and remunerative duties.

For R17-4-208:

MVD is claiming exemption under the provisions of A.R.S. § 41-1055 (D) (3). The only foreseen economic impact of repealing R17-4-208 is clerical costs involved in formal rulemaking. Any other economic requirements of R17-4-208 are still in force under implementing statutory authority listed in #2 above and are not germane to this repeal action.

For all 3 rules in this rulemaking:

Minimal costs will be incurred in staff handling, printing, and publishing by the Governor's Regulatory Review Council, the Office of the Secretary of State, and the Division.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

All changes listed are non-substantial adjustments in wording or hierarchical order.

Changes in R17-4-204:

(A), (B) Words deleted or reordered within the sentences for efficiency and clarity.

(B)(2)(b) "Make, year, and body style" added for specificity.

(B)(2)(d) The word "code" was replaced with "information". The Division's program feels it necessary to allow for other odometer information to appear on the title certificate.

(B)(2)(e) Delete "Previous". The Division's program feels a statement of a vehicle's condition, present as well as previous, should be provided for on a title certificate.

(B)(3)(a) Delete "All". Make nouns singular since the plural is included. The Division's program does not print more than 1 lienholder on a title certificate at the time of rulemaking but may print more than one in the future as indicated in the language of A.R.S. § 28-2055 (A).

(B)(3)(c) Add "lien" before "date" for specificity.

(B)(4) Make the first word "owner" possessive for parallelism.

(B)(5)(d) Reorder "Dealer reassignment information" as (B)(6). It was erroneously placed under "Ownership change information". The reordering will cause reenumeration of subsequent hierarchical rule items.

(B)(7) Make "records" singular since it includes the plural.

Change in R17-4-206:

Reword the first sentence splitting it into 2 sentences for clarification of the transfer action consisting in the seller signing the transfer and the appropriate agent acknowledging the seller's signature. Reference restriction to subsection (C) of A.R.S. § 28-370 is deleted in order to draw the definition of "Motor Vehicle Division agent" from the entirety of A.R.S. § 28-370.

**11. A summary of the principal comments and the agency response to them:**

The Division received no oral or written comments for this rulemaking.

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

None

**13. Incorporations by reference and their location in the rules:**

None

**14. Was this rule previously adopted as an emergency rule?**

Not applicable

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

**TITLE 17. TRANSPORTATION**

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION, MOTOR VEHICLE DIVISION**

**ARTICLE 2. TITLES AND REGISTRATION**

Section

~~R17-4-204. Certificate of Title~~

R17-4-204. Certificate of Title Form

~~R17-4-206. Title sign-off by owner must be witnessed-~~

R17-4-206. Seller's Signature Acknowledgement

~~R17-4-208. Mobile home—dual units as separate vehicles Repealed~~

**ARTICLE 2. TITLES AND REGISTRATION**

**R17-4-204. Certificate of Title**

**A.** Security features — Certificate of Title will be printed on paper utilizing security features which hinder counterfeiting or alteration.

**B.** Contents of certificate — The State of Arizona, Motor Vehicle Division, Certificate of Title shall contain space for the following information:

1. Title information — title number, issue date, title control number, previous title number, state of previous title and date, month and year first registered and type of title being issued.
2. Vehicle information — type, status, vehicle identification number, model year, make, body style, model, fuel type, odometer code, month and year of manufacture, factory list price, previous vehicle mechanical or structural condition and gross vehicle weight.
3. Lienholder information — names and addresses of all lienholders.
4. Vehicle owner information — name and street address of owner(s).
5. Mailing information — name and mailing address of owner or owner's legal designee.
6. Ownership change information — date of sale, name and address of purchaser, new lienholder information, odometer statement, signature of seller, notary statement, and dealer reassignment information.

**R17-4-204. Certificate of Title Form**

**A.** The Motor Vehicle Division (MVD) shall produce the Certificate of Title form on tamper-resistant and counterfeit-resistant paper.

**B.** MVD shall provide space on the Certificate of Title form for the following information:

1. Title information:
  - a. Title number;
  - b. Issue date;
  - c. Previous title number; and
  - d. State and date of previous title.
2. Vehicle information:
  - a. Vehicle identification number (VIN);
  - b. Vehicle make, model, year, and body style;
  - c. Fuel type;
  - d. Odometer information; and
  - e. Vehicle mechanical or structural condition.
3. Lienholder information:
  - a. Lienholder name and address;
  - b. Lienholder customer or federal identification number; and
  - c. Lien amount and lien date.
4. Vehicle owner's or owner's legal designee information:
  - a. Name; and



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- b. Mailing address.
- 5. Ownership change information:
  - a. Sale date;
  - b. Purchaser's name and address;
  - c. Odometer mileage disclosure statement;
  - d. Seller's signature; and
  - e. Seller's signature certification.
- 6. Dealer reassignment information.
- 7. Other information as required by the Division for internal processing and recordkeeping.

**R17-4-206. Title sign-off by owner must be witnessed**

Requiring a verification by owner when transferring title to a motor vehicle.

- 1. Section 66-211, A.C.A. 139 as amended, relating to transfer of Title, reads in part and provides that the owner "shall also endorse on the back of the Certificate of Title to such vehicle, if issued, any assignment thereof, with the warranty of Title in the form printed thereon, and shall deliver the same to the purchaser or transferee at the time of delivery to him of such motor vehicle, except as provided in section 1640a".
- 2. It is of prime importance that the purchaser or transferee, referred to in the above quoted section, have assurance of the genuineness of the assignment and warranty.
- 3. Section 66-201, A.C.A. 1939 as amended, reads in part, "The Superintendent shall prescribe rules for carrying out the provisions of the Act".
- 4. To afford the purchaser or transferee of some assurance of the genuineness of the assignment and warranty, it is ordered that when the owner of a registered vehicle transfers or assigns his Title or interest thereto the signature of such assignment on the back of Title to such vehicle shall be acknowledged before a Notary Public or an agent of the Motor Vehicle Division who has been designated by the Superintendent as having the power to administer oaths and acknowledge signatures.

**R17-4-206. Seller's Signature Acknowledgement**

A seller shall ensure that a Notary Public or a Motor Vehicle Division (MVD) agent witnesses the seller sign the title transfer. The Notary Public or MVD agent shall sign the title transfer acknowledging witnessing the seller's signature. "Motor Vehicle Division agent" has the meaning prescribed in A.R.S. § 28-370.

**R17-4-208. Mobile home—dual units as separate vehicles Repealed**

~~When a series of mobile home units are placed side by side to comprise one home for human occupancy, for the purpose of obtaining a certificate of title and registration for the mobile home units under Arizona Revised Statutes, Title 28, Chapter 3, Article 1, each mobile home unit of the series comprising one home for human occupancy shall be considered a separate mobile home.~~

**NOTICE OF FINAL RULEMAKING**

**TITLE 20. COMMERCE, BANKING, AND INSURANCE**

**CHAPTER 4. BANKING DEPARTMENT**

**PREAMBLE**

<b><u>1. Sections Affected</u></b>	<b><u>Rulemaking Action</u></b>
R20-4-801	Amend
R20-4-804	Repeal
R20-4-805	Amend
R20-4-806	Amend
R20-4-807	Amend
R20-4-808	Amend
R20-4-809	Amend
R20-4-810	Amend
R20-4-811	Amend
R20-4-812	Amend
R20-4-813	Amend
R20-4-814	Amend
R20-4-815	Amend
R20-4-816	Amend
Appendix A	Repeal
Appendix B	Repeal

**2. The specific authority for the rulemaking, including both the authorizing statute (general), and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 6-123

Implementing statutes: A.R.S. §§ 6-851, 6-856, 6-859, 6-861, 6-862, 6-863, 6-865 6-870.02, 6-871

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

The rules will become effective when filed with the Secretary of State.

**4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 4 A.A.R. 4044, December 4, 1998

Notice of Rulemaking Docket Opening: 6 A.A.R. 717, February 18, 2000

Notice of Proposed Rulemaking: 6 A.A.R. 692, February 18, 2000

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: John P. Hudock, Esq.

Address: 2910 N. 44th Street, Suite 310  
Phoenix, AZ 85018

Telephone: 602-255-4421, ext. 167

Fax: (602) 381-1225

E-mail: jhudock@azbanking.com

**6. An explanation of the rule, including the agency's reason for initiating the rule:**

These rules regulate banks with trust powers, and also private trust companies. The agency revised these rules to reconcile them with statutory changes made in Laws 1996, Ch. 204, §§ 2-10 and 12, to improve the writing, to use "plain English" as much as possible, and to conform to modern rule writing standards.

R20-4-801 has been amended to eliminate restatement of statutory definitions. One definition, of "Managing Agent", has been removed from the amended rule because that term is no longer used in the new rules. Finally, the rule is amended to add definitions of "Governing instrument", "Investment responsibility", "Licensee", "Trust asset", "Trust funds" and "Trustor".

R20-4-804 is repealed because capital requirements are now specified in A.R.S. § 6-856. This rulemaking will, however, reserve this rule number for future use.

R20-4-805 (A) is removed because its subject matter is now contained in A.R.S. § 6-859. The remainder of this rule is amended and revised to remove references to Appendices repealed by this rulemaking, to remove passive constructions, and to modernize statutory references.

R20-4-806 is amended to include the right to use computer recordkeeping systems, and to more precisely define and describe required records. Other amendments remove passive constructions, and revise and clarify the retention period for required records.

R20-4-807 is amended to make editorial changes intended to clarify the rule.

R20-4-808 is amended to remove certain bonding requirements now contained in A.R.S. § 6-859, and to streamline, modernize, clarify, and renumber the remainder of the rule's provisions.

R20-4-809 is amended to more particularly define the required statement frequency. The new requirement of quarterly statements is more precise than the previous rule, and matches the requirements of the federal regulations.

R20-4-810 is amended to remove subsection (B), now addressed in A.R.S. § 6-862, and to clarify and renumber the remaining provisions of the rule.

R20-4-811 is amended to clarify the rule by, among other changes, adding modern statutory citations.

R20-4-812 is amended by completely rewriting the rule in "plain English" to clarify its requirements.

R20-4-813 is amended by certain editorial changes to recast the rule in "plain English".

R20-4-814 is amended by certain editorial changes to recast the rule in "plain English".

R20-4-815 is amended by certain editorial changes to modernize some of its provisions, to make its reference to other Sections consistent with this revision, to recast the rule in "plain English", and to remove the term "settlor" as an unnecessary and undefined legalism.

R20-4-816 is amended and clarified by certain editorial changes to modernize some of its provisions, and to recast the rule in gender-neutral "plain English".

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**7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**

The Department did not rely on any study as an evaluator or justification for the proposed rule.

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

Not applicable

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

A. The Banking Department

The rules will have marginal, but important, effects on this agency's income and expenses. The Department expects the revised rules' enhanced clarity will allow easier communication with licensees and promote improved compliance.

B. Other Public Agencies

The State will incur normal publishing costs incident to rulemaking.

C. Private Persons and Businesses Directly Affected

Costs of services will not increase to any measurable degree. Nor should these revisions increase any licensee's cost of doing business in compliance with these rules.

D. Consumers

No measurable effect on consumers is expected.

E. Private and Public Employment

There is no measurable effect on private and public employment

F. State Revenues

This rulemaking will not change state revenues.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

Some typographical, editorial, and stylistic changes were made since publication of the proposed rule to polish the writing and to conform to the Secretary of State's style rules. These changes include new typography intended to reserve R20-4-804 as a rule number for future use, although the text has been repealed. In the proposed rules, the preamble did not clearly indicate the Department's intent to reserve the numbers of repealed rules. In addition, Council staff and the Department made several changes to the text of the rules to improve clarity and conciseness, and to conform to modern rule writing standards. These changes have been made without changing the substance of the proposed rules.

**11. A summary of the principal comments and the agency response to them:**

A. Mission Management & Trust Co.

This licensee ("Mission") raised a number of careful criticisms of the initial draft. Many of them have been included in these final rules. The licensee suggested that the rules should contain a definition of "fiduciary" that does not use the term "fiduciary" in the definition. The Department has declined this sensible request because it is bound by the statutory definition incorporated in these rules.

At Mission's suggestion, the Department included, in the final rules, a definition of "Governing instrument."

The same author also pointed out the inconsistent use of the categories "trust company", "bank", and "trust company or bank" in the first draft. A review of the rules made it apparent the licensee was correct, and the draft was modified to unify these categories as "licensee" except in situations where the pertinent Section applied to only one of the sub-categories of licensee.

Mission commented on the vague and inconsistent use of the term "file" in the first draft revision of the Section on Records. In response, the Department revised the Section to permit the use of computer and electronic recordkeeping, and clarified the distinction between required paper files and those records that may be maintained in electronic form.

The Department revised the inconsistent use of the terms "account" and "trust business" in response to another very precise criticism by Mission.

The definition of "trust assets" in this final rules package was added as a result of Mission's request that the term be defined, because it was used in the several instances in the initial draft. In addition, the Department added a definition of the term "investment responsibility" at Mission's request to clarify the Sections using that term.

The Department revised and clarified the descriptive, non-exclusive list of a licensee's fiduciary duties in response to another of Mission's criticisms.

Mission's analysis and suggestions about the Section governing common trust funds caused the Department to make revisions that clarified its language and made the rule more accurately reflect the breadth of a licensee's activities.

Finally, Mission's comments caused the Department to rewrite some provisions to avoid archaic and sexist language in the rules.

B. Providence First Trust Company

The licensee ("Providence") commented that the definition of "Trust company" in the existing rules is not a simple incorporation of the statutory definition, as it should be. The Department revised the initial draft to meet this objection and incorporate the statutory definition.

Providence's other comment regarded Section R20-4-809(3). The initial draft revision of this Section required the provision of quarterly statements. That requirement is a change from the existing text. The present language requires statements to be provided ". . . at reasonable times . . ." The licensee noted that, under that more flexible requirement, trust companies had made agreements about statement frequency with original account parties long since deceased. The original proposed revision did not take into account situations where the original trustor is deceased, or where the trust company is acting as a successor to the original, now deceased, trustee. In response to these comments, the Department modified this Section to "grandfather" in lawful agreements that vary the terms of the revised rule and predate the effective date of these revisions.

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

Not applicable

**13. Incorporations by reference and their location in the rules:**

There is no material incorporated by reference in these final rules.

**14. Was this rule previously adopted as an emergency rule?**

No

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

**TITLE 20. COMMERCE, BANKING, AND INSURANCE**

**CHAPTER 4. BANKING DEPARTMENT**

**ARTICLE 8. TRUST COMPANIES**

Section

- R20-4-801. Definitions
- R20-4-804. ~~Capital Requirements~~ Repealed
- R20-4-805. Reports
- R20-4-806. Records
- R20-4-807. Unsafe or Unsound Condition
- R20-4-808. Administration of Fiduciary Powers
- R20-4-809. Fiduciary Duties
- R20-4-810. Funds Awaiting Investment or Distribution
- R20-4-811. Investment of Funds Held as Fiduciary
- R20-4-812. Self-Dealing
- R20-4-813. Custody of Investments
- R20-4-814. Compensation
- R20-4-815. Collective Investments
- R20-4-816. Termination of Fiduciary Power and Duties
- ~~App. A. Annual Trust Company Report~~
- ~~App. B. Annual Report of Trust Assets~~

**ARTICLE 8. TRUST COMPANIES**

**R20-4-801. Definitions**

In this Article, unless the context otherwise requires:

1. "Account" ~~or fiduciary account~~ means the trust, estate, or ~~of~~ other fiduciary relationship ~~which has been~~ established with a ~~the~~ trust company or bank.
2. "Affiliate" has the meaning stated at A.R.S. § 6-801 ~~means a person that directly, or indirectly through one or more intermediaries, control or is controlled by, or is under common control with, the person specified.~~

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3. "Bank" means a licensee under both A.R.S. § 6-201, et seq., and Article 2 of this Chapter ~~bank~~ that possesses a banking permit authorizing issued by the Superintendent, which authorized it to engage in trust business as defined at A.R.S. § 6-851.
4. "Certificate" has the meaning stated at A.R.S. § 6-851. ~~means a certificate of authority to engage in trust business issued under the provisions of Article 1, Chapter 8, Title 6, A.R.S.~~
5. "Fiduciary" has the meaning stated at A.R.S. § 6-851. ~~means a guardian, conservator, trustee, securities custodian, registrar, transfer agent, managing agent, or personal representative as defined in A.R.S. § 14-1201.~~
6. "Governing instrument" means a document, and all its operative amendments, that:
  - a. Creates a trust and regulates the trustee's conduct;
  - b. Creates an agency relationship between a licensee and a client; or
  - c. Otherwise evidences a fiduciary relationship between a licensee and a client.
6. ~~"Managing agent" means the fiduciary relationship assumed by a trust company or bank upon the creation of an account which names the trust company or bank as agent and confers investment discretion or responsibility upon such trust company or bank.~~
7. "Investment responsibility" means full and unrestricted discretion to invest trust funds without direction from anyone as to any matter, including the terms of the trade or the identity of the broker.
8. "Licensee" means a bank, as defined in this Section, and a trust company, as defined in this Section.
- 9.7. ~~"Person" has the meaning stated at A.R.S. § 1-215.~~ means an individual, corporation, company, partnership, firm, association or society.
- 10.8. ~~"Superintendent" has the meaning stated at A.R.S. § 6-851.~~ means the Arizona superintendent of banks.
11. "Trust asset" means any property or property right held by a licensee for the benefit of another.
- 12.9. ~~"Trust business" has the meaning stated at A.R.S. § 6-851.~~ means the holding out by a person to the public at large by advertising, solicitation or other means that such person is available to act as a fiduciary in this state and accepting and undertaking to perform the duties as such fiduciary in the regular course of his business.
- 13.10. ~~"Trust company" has the meaning stated at A.R.S. § 6-851.~~ means a corporation holding a certificate issued under Article 1, Chapter 8, Title 6, A.R.S.
14. "Trust funds" means any money held by a licensee for the benefit of another.
15. "Trustor" means a person who creates or funds a trust, or both.

**R20-4-804. Capital Requirements Repealed**

- ~~A. All trust companies shall maintain a capital of not less than the amount provided in A.R.S. 6-856. If a trust company's capital falls below this amount the capital of the trust company shall be deemed to be impaired.~~
- ~~B. For purposes of this regulation the capital of the trust company shall equal the company's assets less the company's liabilities. Generally accepted accounting principles shall be used in computing the total assets and liabilities of the company. Assets shall be valued at the lower of cost or market values.~~
- ~~C. The following shall not be allowed as assets in the determination of the capital of the trust company:
  1. Goodwill, trade names and other like intangible assets.
  2. Advances or loans to directors, officers or affiliates, whether secured or not, and advances to employees, agents and other persons on personal security only.
  3. Stock or other interests in the trust company or in an affiliate, or loans secured solely thereby.~~
- ~~D. Nothing in subsection (C) shall be construed to prevent the allowance as assets, in the determination of the capital of a trust company, of any deposit in a solvent state or national bank or any interest due or accrued on such deposits.~~
- ~~E. In any determination of the capital of a trust company, liabilities shall include all obligations due or accrued at the date the determination is made. Capital obligations of a trust company shall in every case be treated as a liability and shall not be treated as part of capital.~~

**R20-4-805. Reports**

- ~~A. Within 90 days following the 31st of December of each year each trust company shall file an annual audit report with the Superintendent on the form set forth in Appendix A to this Article. The annual report shall include financial statements for the trust company for the year ending December 31st. The statements shall be certified by a certified public accountant licensed as such in this state. The financial statements shall include at least a balance sheet, statement of income and retained earnings, and statement of changes in financial condition and appropriate footnotes regarding the corporate business of the trust company.~~
- ~~A.B. Within 90 days following each the 31st of December 31st, of each year each licensee ~~trust company and bank~~ shall file an annual report of trust assets with the Superintendent on the form prescribed by the Superintendent, ~~the form set forth in Appendix B to this Article.~~ The annual report shall include the current market value of all trust assets held by the licensee trust company or bank as a fiduciary as of the 31st of December 31st, and such assets shall be stated in current market value. ~~The~~ In addition the report shall also identify and briefly describe all transactions conducted in the report period that are regulated by subsections (E), (F), and (G) of R20-4-812 (E) through R20-4-812 (G), which have taken place during the fiscal year.~~

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~~B.C.~~ Each licensee trust company shall deliver file with a copy of each annual report and certificate of disclosure to the Superintendent within 10 days of filing each report and certificate at the Arizona Corporation Commission. A report or certificate covered by this subsection is one filed under the authority of ~~copies of all annual reports and certificates of disclosures filed with the Arizona Corporation Commission pursuant to A.R.S. §§ 10-202 40-125 or and 10-1622, 40-128;~~ A copy delivered to the Superintendent, as required in this subsection, shall be date-stamped by the Arizona Corporation Commission to confirm the actual filing date, respectively, which copies shall indicate the date the original was filed with the Corporation Commission and shall be filed with the Superintendent within 10 days of such filing with the Corporation Commission.

~~C.D.~~ Each licensee trust company shall notify the Superintendent of any change in the directors or officers of the company within 10 ten days of the such change. Any licensee trust company with more than 25 officers may, after obtaining with the Superintendent's prior written approval of the Superintendent, limit the officers covered by this subsection to those with having a substantial involvement in the licensee's corporate operations of the company or in the licensee's company's trust business in with this state.

**R20-4-806. Records**

~~A.~~ A licensee may use a computer recordkeeping system if the licensee gives the Superintendent advanced written notice that it intends to do so. Except for records required by subsections (B)(1)(a) or (B)(1)(b), the Department shall not require a licensee to keep a written copy of its records if the licensee can generate all information required by this Section in a timely manner for examination or other purposes. A licensee may add, delete, modify, or customize a computer recordkeeping system's hardware or software components. When requested, or in response to a written notice of an examination, a licensee shall report to the Superintendent any alteration in the approved computer recordkeeping system's fundamental character, medium, or function if the alteration changes the computer system to a paper-based system.

~~B.A.~~ All licensees trust companies shall keep and maintain books, accounts, and other records adequate to provide a clear and readily understandable evidence record of all business conducted by the licensee trust company; including, but not limited to, the following:

1. ~~A file~~ Files for each account that includes which:
  - a. ~~shall include the~~ The original of the governing instrument,
  - b. The originals of all contracts and other legal documents,
  - c. ~~Copies~~ copies of all correspondence concerning the account,
  - d. accounting records disclosing all the financial transactions concerning the account, and
  - e. ~~A a~~ listing of all trust the account's assets and liabilities of the account;
2. ~~An investment~~ A collateral file for each account that includes:
  - a. ~~, containing the originals of all~~ All original documentary evidence of documents evidencing the account's assets, or of the account.
  - b. Copies of the original documentary evidence of the account's assets, together with written evidence of custody or receipt of the originals by an authorized holder; and ~~Copies of such documents may be maintained in the collateral file where the originals are required to be filed or otherwise kept in the possession of another person.~~
  - c. A record of the initial and annual investment reviews for the account.
3. ~~The~~ A corporate general ledger kept current on a daily basis. ~~This record~~ The corporate general ledger shall identify and segregate all financial transactions conducted by the licensee for itself, distinguishing them from other than those relating to the licensee's trust company's trust business.
4. Unaudited financial statements, as described in rule R20-4-805, subsection (A); ~~Each licensee shall produce these statements quarterly that shall be produced quarterly or more frequently when directed by the Superintendent. The financial statements shall include at least:~~
  - a. A balance sheet; and
  - b. A statement of income, expenses, and retained earnings.
5. Adequate records of all pending litigation that names to which the licensee trust company as is a party.

~~C.B.~~ Every licensee trust company shall keep its fiduciary records separate and distinct from the licensee's corporate other records of the trust company.

~~D.C.~~ A licensee shall keep records described above in subsections (B)(1) and (B)(2) for at least 3 years after closing an account. If litigation occurs concerning a particular account, the licensee shall keep that account's records, described above in subsections (B)(1) and (B)(2), for 3 years after the litigation is finally resolved. All records described in paragraphs (1) and (2) of subsection (A) of this Section shall be maintained for at least six years after an account has been closed. All records described in paragraphs (3) through (5) of subsection (A) of this Section shall be maintained for at least six years following their creation.

**R20-4-807. Unsafe or Unsound Condition**

For purposes of A.R.S. §§ 6-863 and 6-865 a licensee trust company conducts is conducting business in an unsafe manner or its affairs are in an unsound condition if it:

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1. ~~Violates~~ Has violated any of its fiduciary duty duties or obligation obligations as a fiduciary; including but not limited to those listed set forth in Sections R20-4-809 through R20-4-815;
2. ~~Violates~~ Has violated any state or federal requirement requirements for operating with respect to the operation or maintaining maintenance of, trusts, common trust funds, or other accounts;
3. ~~Violates~~ Has violated any applicable federal or state law laws or regulation regulations regarding corporations or securities;
4. ~~Employs or where any of its an officer officers or director directors who violates have violated a their corporate fiduciary duty duties;~~
4. ~~Has violated any federal or state securities laws or regulations;~~
5. Is insolvent; or
6. ~~Engages~~ Has engaged in any conduct that which the Superintendent determines has determined, due to the circumstances present, constitutes an unsafe or unsound business practice condition jeopardizing the licensee's financial condition of the company or the interests of a the stockholder stockholders, creditor creditors, settlors, trustor trustors, beneficiary beneficiaries, or licensee's principal principals of the company.

**R20-4-808. Administration of Fiduciary Powers**

- A. ~~The board of directors and the officers share responsibility are responsible for the proper exercise of fiduciary powers by a licensee trust company or bank. The board of directors is responsible for All matters pertinent thereto, including the determining policy; determination of policies, the investing and disposing investment and disposition of trust assets; property held in a fiduciary capacity, and the directing and reviewing direction and review of the actions of all directors, officers, employees, and committees of the board utilized by the trust company or bank in the exercise of its that exercise fiduciary powers, are the responsibility of the board of directors. The board of directors may delegate the necessary power and authority to perform the licensee's duties as a fiduciary to selected directors, officers, employees, or committees of the board if the delegation is consistent with the corporate charter. The minutes of the board's meetings shall duly reflect all those delegations. In discharging this responsibility, the board of directors may assign, by action duly entered in the minutes, the administration of such of the trust company's or bank's fiduciary powers as it may consider proper to assign, to such directors, officers, employees or committees as it may designate.~~
- B. ~~A licensee shall not accept a new No account fiduciary account shall be accepted without first obtaining the prior board's approval, or that of the directors, officers, or committees that to whom the board may have authorized to designated the approve new accounts performance of that responsibility. The licensee shall keep a A written record shall be made of each new account approval such acceptances and of the relinquishment or closing out of each all account fiduciary accounts. A licensee shall conduct an asset review within 60 days after it accepts each new account if it has investment responsibility for that account. Upon the acceptance of an account for which the trust company or bank has investment responsibilities a prompt review of the assets shall be made. The licensee's board shall ensure that an annual review of account assets is conducted for any account in which the licensee has investment responsibility. The board shall also ensure that a regular and periodic review is made of all the assets held in or for each fiduciary account where the trust company or bank has investment responsibilities, to determine whether to retain the advisability of retaining or dispose disposing of the such assets.~~
- C. ~~The board of directors of a trust company or bank shall provide protection and indemnity for the trust company or bank against dishonesty, fraud, defalcation, forgery, theft and other similar insurable losses, with corporate insurance or surety companies authorized to do business in this state, not affiliated with the trust company or bank. Coverage against the foregoing losses shall include all directors, officers and employees of the trust company or bank, whether or not they draw salary or compensation, and shall be in the following amounts:~~

Trust Assets Market Value of:	Amount of Coverage
Less than \$3,000,000	\$100,000
3,000,000 to 5,000,000	125,000
5,000,000 to 7,500,000	150,000
7,500,000 to 10,000,000	175,000
10,000,000 to 15,000,000	200,000
15,000,000 to 20,000,000	250,000
20,000,000 to 25,000,000	300,000
25,000,000 to 35,000,000	350,000
35,000,000 to 50,000,000	450,000
50,000,000 to 75,000,000	500,000
75,000,000 to 100,000,000	700,000
100,000,000 to 150,000,000	850,000
150,000,000 to 250,000,000	1,200,000
250,000,000 to 500,000,000	1,700,000
500,000,000 to 1,000,000,000	2,500,000
1,000,000,000 to 2,000,000,000	4,000,000

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Over 2,000,000,000

6,000,000

~~C.D. A~~ Every licensee trust company or bank exercising fiduciary powers shall ~~use~~ designate and retain independent legal counsel admitted to practice in Arizona, who shall advise and inform the licensee on ~~be readily available to pass upon~~ fiduciary matters and all other legal issues presented to ~~advise the licensee trust company or bank and its trust department~~ by the conduct of its trust business.

**R20-4-809. Fiduciary Duties**

All ~~licensees trust companies and banks~~ shall faithfully perform all fiduciary duties imposed upon them by law, including ~~but not limited to~~ the following:

1. Administer accounts strictly according to the governing instrument and solely in the account beneficiary's interests of the beneficiaries or principals of the account;
2. Use reasonable care and skill to make the account productive;
3. Provide complete and accurate information of the nature and amount of assets held to each account's the beneficiary beneficiaries or principal principals of each account at reasonable times, and permit the beneficiary, beneficiaries or principal, principals or any person duly authorized by the beneficiary or principal them to inspect the account's records subject matter of the account and other documents related to the account at any time during normal business hours. The information provided in compliance with this subsection shall be delivered at least quarterly, unless:
  - a. The licensee and its account's beneficiary, principal, or authorized person agree otherwise in writing.
  - b. The governing instrument provides otherwise; or
  - c. A different frequency was established by a lawful course of dealing before the effective date of this rule; and
4. Comply fully with all lawful provisions of the governing instrument document.

**R204-810. Funds Awaiting Investment or Distribution**

A. ~~Trust funds~~ Funds held in a ~~fiduciary capacity~~ by a ~~licensee trust company or bank~~ awaiting investment or distribution shall not remain be held uninvested or undistributed any longer than is reasonable for the account's proper management of the account.

B. A licensee may keep trust funds in deposit accounts maintained by the licensee, unless prohibited by law or by the governing instrument. The licensee shall set aside collateral security for all deposited trust funds under a 3rd-party's control. The collateral shall be the following type of securities, in any combination:

1. Direct obligations of the United States or any agency, department, division, or administration of the federal government;
2. Any other obligations fully guaranteed by the United States government as to principal and interest;
3. Obligations of a Federal Reserve Bank;
4. Obligations of any state, political subdivision of a state, or public authority organized under the laws of a state; or
5. Readily marketable securities that either:
  - a. Qualify as investment securities under the Investment Securities regulations of the Comptroller of the Currency, 12 CFR, Chapter 1, Part 1; or
  - b. Satisfy state pledging requirements under A.R.S. § 6-245(C).

~~C.~~ Funds received by a trust company as ~~fiduciary on trust business within this state, which funds are awaiting investment or distribution, shall be deposited with a state or national bank or savings and loan association in this state.~~

~~C.D.~~ The securities set aside under pursuant to subsection (B)(C) shall, at all times, have a be at least equal in market value no less than to the amount of trust fiduciary funds deposited. No, but such collateral security is shall not be required to the extent such fiduciary funds are insured by the Federal Deposit Insurance Corporation, or its successor, insures the deposited trust funds.

~~C.~~ A bank may, unless prohibited by law or by the instrument creating the trust, deposit such funds in the commercial or savings or other department of the bank, ~~provided it first sets aside under control of a third party as collateral security:~~

1. ~~Direct obligations of the United States or any agency or instrumentality thereof or other obligators fully guaranteed by the United States as to principal and interest;~~
2. ~~Obligations of a federal reserve bank, a state or subdivision or instrumentality thereof, or public authority organized under the laws of such state; or~~
3. ~~Readily marketable securities that qualify as investment securities pursuant to the Investment Securities regulation of the Comptroller of the Currency, 12 CFR, Chapter 1, Part 1.~~

**R20-4-811. Investment of Trust Funds Held as Fiduciary**

A. Funds held by ~~A licensee trust company or bank~~ in a ~~fiduciary capacity~~ shall invest trust funds be invested according to:

1. The governing instrument, and
2. All in accordance with applicable laws law including A.R.S. §§ 6-862, 14-7402, and 14-7601 through 14-7611 and the instrument establishing the fiduciary relationship.

B. ~~The collective investment of funds received or held by A licensee trust company or bank shall make any collective investment of trust funds as a fiduciary shall be made exclusively under the terms of only in accordance with Section R20-4-815.~~



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**R20-4-812. Self-Dealing Self-dealing**

- A.** Unless expressly and lawfully authorized by the instrument creating the fiduciary relationship, or by court order or by law, funds held by a trust company or bank as fiduciary shall not be invested in stock or obligations of, or property acquired from:
1. The trust company or bank, or its directors, officers, or employees;
  2. Affiliates of the trust company or bank or their directors, officers or employees; or
  3. Persons with whom there exists such a connection, or in which there exists such an interest, ~~that~~ as might affect the exercise of the best judgment of the trust company or bank, in acquiring such property.
- B.** Property held by a trust company or bank as fiduciary shall not be sold or transferred, by loan or otherwise, to:
1. The trust company or bank, or its directors, officers, or employees;
  2. Affiliates of the trust company or bank or their directors, officers or employees; or
  3. Persons with whom there exists such an interest, as might affect the exercise of the best judgment of the trust company or bank in selling or transferring such property.
- C.** Property held by a trust company or bank as fiduciary may be sold or transferred to the persons described in subsection (B) of this Section only:
1. Where expressly and lawfully authorized by the instrument creating the relationship or by court order or by law;
  2. In cases in which the trust company or bank has been advised in writing by its counsel designated and retained pursuant to Section R20-4-808(C) R20-4-808(D), that it has incurred as fiduciary a contingent or potential liability and desires to relieve itself from such liability, in which case such a sale or transfer may be made with the approval of the board of directors, provided that in all such cases the trust company or bank, upon the consummation of the sale or transfer, shall make reimbursement in cash at no loss to the account; or
  3. Where required by the Superintendent.
- D.** Funds held by a trust company or bank as fiduciary shall not be invested by the purchase of stock or obligations of the trust company or bank, or its affiliates, unless authorized by the instrument creating the relationship or by court order or by law; , provided, that if the retention of stock or obligations of the trust company or bank, or its affiliates, is authorized by the instrument creating the relationship or by court order or law, it may exercise rights to purchase its own stock or securities convertible into its own stock when offered pro rata to stockholders, unless such exercise is prohibited by law. When the exercise of rights or receipt of a stock dividend results in fractional share holdings, additional fractional shares may be purchased to complement the fractional shares so acquired.
- E.** A trust company or bank may sell assets held by it as fiduciary in one account to itself as fiduciary in another account if the transaction is fair to both accounts and if such transaction is not prohibited by law or by any governing instrument.
- F.** A trust company or bank may make a loan to an account from the funds belonging to another such account, when the making of the loan to a designated account is authorized by the instrument creating the accounts, and is not prohibited by law or by any governing instrument.
- G.** A trust company or bank may make a loan to a fiduciary account and may take as security therefor assets of the account, provided such transaction is fair to such account and is not prohibited by law or by the instrument creating the account.
- A.** A licensee shall not invest trust funds in the following types of property unless expressly authorized by the governing instrument, applicable state or federal law, or court order:
1. Its own securities;
  2. Other types of property acquired from the licensee;
  3. Property acquired from the licensee's directors, officers, or employees;
  4. Property acquired from the licensee's affiliates;
  5. Property acquired from its affiliates' directors, officers, or employees; or
  6. Property acquired from other individuals or organizations with an interest in the licensee if that interest might affect the licensee's exercise of discretion to the detriment of its trust clients.
- B.** However, the licensee may use trust funds to purchase its own securities, or its affiliates' securities:
1. If the licensee has authority under subsection (A); and
  2. If those securities are offered pro rata to all stockholders of the licensee.
- C.** A licensee shall not sell or loan trust property to itself, or to the following types of persons, unless expressly authorized by the governing instrument, applicable state or federal law, or court order:
1. Its directors, officers, or employees;
  2. Its affiliates;
  3. Its affiliates' directors, officers, or employees; or
  4. Other individuals or organizations with an interest in the licensee if that interest might affect the licensee's exercise of discretion to the detriment of its trust clients.
- D.** However, a licensee may sell or loan trust property to persons prohibited by subsection (C) if either:
1. Its counsel has advised in writing that, by holding certain property, the licensee has incurred a contingent or potential liability for breach of fiduciary duty; and
    - a. The proposed sale or loan avoids the contingent or potential liability;



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~~C.B.~~ A licensee shall advise all persons ~~Settlers and beneficiaries~~ having ~~an interest~~ interests in its common trust ~~fund~~ funds established by a trust company or bank shall be advised of the existence of the foregoing plan described in subsection (A), and shall ~~provide~~ be provided a copy of the said plan upon request.

~~D.C.~~ The annual report required under R20-4-805 (A) ~~Section R20-4-805, subsection (B)~~, shall include all common trust funds operated by the licensee.

**R20-4-816. Termination of Trust or Fiduciary Powers ~~power and Duties~~ duties**

- A. Any bank ~~that wants to surrender its trust powers~~ which has been granted the right to exercise fiduciary powers and which desires to surrender such rights shall file with the Superintendent a certified copy of the appropriate resolution of its board of directors or of the board's unanimous written consent signifying such desire. If, after investigation, the Superintendent concludes Upon receipt of such resolution, the Superintendent shall make an investigation and if he is satisfied that the bank has ~~no remaining been discharged from all~~ fiduciary duties, the Superintendent shall notify the bank that it ~~which it has undertaken, he shall amend the bank's permit to provide that it is no longer~~ has authority ~~authorized~~ to exercise trust fiduciary powers.
- B. Any trust company ~~that wants~~ which desires to surrender its certificate of authority to conduct trust business and wind up its affairs, shall file with the Superintendent a certified copy of the appropriate resolution of its board of directors or of the board's unanimous written consent, signifying such desire. Upon receipt of the such resolution or consent, the Superintendent shall cancel the trust company's certificate of authority and the trust company shall not accept ~~additional~~ new trust accounts ~~trust business~~.
- C. ~~After winding up its affairs, any~~ Any trust company ~~that wants~~ which desires to surrender its rights and obligations as a fiduciary and remove itself from the Superintendent's supervision ~~of the Superintendent~~ shall file with the Superintendent a certified copy of the appropriate resolution of its board of directors or of the board's unanimous written consent, signifying such desire. If, after investigation, the Superintendent concludes Upon receipt of such resolution, the Superintendent shall make an investigation and if he is satisfied ~~determines that the trust company's certificate has been cancelled or revoked, and that the trust company has been discharged from all~~ no further fiduciary duties which it has previously undertaken, the Superintendent shall notify the trust company that it ~~he shall issue a certificate to such trust company certifying that it is no longer~~ has authority ~~authorized~~ to exercise fiduciary powers.
- ~~D.~~ Any licensee that surrenders its powers, rights, obligations, or certificate under this Section or that has them cancelled, suspended, or revoked shall continue to be regulated under A.R.S. § 6-864 and this Article until it winds up its affairs. No action under this Section impairs any liability or cause of action, existing or incurred, against any licensee or its stockholders, directors, or officers.
- ~~C.~~ The fact that a trust company's certificate of authority has been surrendered, ~~and cancelled, or has been suspended or revoked,~~ does not relieve the trust company from the fiduciary duties previously undertaken, nor does it relieve the trust company from compliance with the requirements of this Article.

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**APPENDIX A. ANNUAL TRUST COMPANY REPORT REPEALED**

**ANNUAL TRUST COMPANY REPORT**

NAME.....

ADDRESS.....

FOR THE YEAR ENDING: December 31, 19

BALANCE SHEET		ASSETS	<u>Sch.</u>	<u>Item</u>	<u>Col.</u>	<u>Mil. Thou.</u>	
1.	Cash		C	6		_____	1
2.	U.S. Treasury securities		B	1	E	_____	2
3.	Obligations of other U.S. Gov't agencies & corps		B	2	E	_____	3
4.	Obligations of States & political subdivisions		B	3	E	_____	4
5.	Other bonds, notes, and debentures			4	E	_____	5
6.	Corporate stock					_____	6
7.	Trading account securities					_____	7
8.	a. Loans, Total (excluding unearned income)		A	9		_____	8a
	b. Less: Reserve for possible loan losses					_____	b
	c. Loans, Net					_____	c
9.	Direct lease financing					_____	9
10.	Premises, furn. & fixt. & other assets representing premises					_____	10
11.	Real estate owned other than premises					_____	11
12.	Investments in unconsolidated subsidiaries & associated companies					_____	12
13.	Other assets		D	7		_____	13
14.	TOTAL ASSETS (sum of items 1 thru 13)					_____	14
		LIABILITIES	<u>Sch.</u>	<u>Item</u>	<u>Col.</u>		
15.	Accounts payable					_____	15
16.	Current portion of long term debt					_____	16
17.	Accrued Taxes					_____	17
18.	Accrued interest					_____	18
19.	Other current liabilities					_____	19
20.	TOTAL CURRENT LIABILITIES					_____	20
21.	Other liabilities for borrowed money					_____	21
22.	Mortgage indebtedness					_____	22
23.	Other liabilities		E	9		_____	23
24.	Subordinated notes and debentures					_____	24
25.	TOTAL LIABILITIES (sum of items 15 thru 24)					_____	25
		EQUITY CAPITAL					
26.	Preferred stock	a. No. shares outstanding				_____	26
		(Par value)				_____	
27.	Common stock	a. No. shares authorized				_____	
		b. No. shares outstanding				_____	27
		(Par value)				_____	
28.	Surplus					_____	28
29.	Undivided profits					_____	29
30.	Reserve for contingencies & other capital reserves					_____	30
31.	TOTAL EQUITY CAPITAL (sum of items 26 thru 30)					_____	31
32.	TOTAL LIABILITIES & EQUITY CAPITAL (sum of items 25 and 31)					_____	32

I, ..... of the above-named trust company

(Name & title of officer authorized to sign report)

do solemnly swear that this report of condition (including the information on the reverse side hereof) is true and correct, to the best of my knowledge and belief.

SEAL

.....  
 (Signature of officer authorized to sign report)

State of ..... County of .....

ss:

Sworn to and subscribed before me this ..... day of ....., 19.....  
 and I hereby certify that I am not an officer or director of this trust company.



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**APPENDIX B. ANNUAL REPORT OF TRUST ASSETS REPEALED**

**INSTRUCTIONS FOR THE PREPARATION OF THE ANNUAL  
REPORT OF TRUST ASSETS**

**General Instructions**

The Annual Report of Trust Assets is to be prepared for the use of the Superintendent of Banks. The information compiled from these forms will be used in the Superintendent's evaluation of the investment practices of the trust company or bank and in publications of statistical data on the fiduciary activities of trust companies and state banks.

Parts I and II of this report shall include all assets held by the trust company or bank as a fiduciary as of the 31st day of December for the reporting year. The assets listed in this report shall be stated at current market value. In reflecting the market values of assets, the trust company or bank should report the market value figure: (1) as of any one date within the last 60 days of the calendar year; or (2) as of the date of the most recent annual or periodic review of each account. If the trust company or bank adopts the latter alternative, it is recognized that data may be included as of different valuation dates. In the event the trust company or bank chooses to reflect such values as of different review dates, this fact should be clearly indicated in the report.

The assets of collective investment funds should be reported according to the appropriate classification and heading in the report. To avoid duplication, the value of units of participation in such collective investment funds should not be reported as assets of the participating accounts. The value of insurance policies held in both employee benefit and other accounts should be omitted from the report.

Where market values are not available, the trust company or bank should report the asset at cost, and should clearly designate such value with an asterisk.

All values should be reported in dollars with cents omitted. Values may be rounded to the nearest thousand dollars by 000's.

**Explanation of Report Headings  
(Part I)**

**Trusts and Estates**

1. "Employee benefit" should include all employee benefit accounts where the trust company or bank acts as trustee, even though such investments may be partially or wholly directed by others.
2. "Personal trusts" should include all testamentary, inter vivos, and other private trusts, even though some investments may be partially or wholly directed by others. Do not include employee benefit trusts in this category. Corporate trusts and corporate agency accounts should be omitted from this report entirely.
3. "Estates" should include accounts in which the trust company or bank acts in the following or similar capacities: executor, administrator, guardian.

**Agencies**

4. "Employee benefit" should include all employee benefit accounts where the trust company or bank acts as agent, even though some investments may be partially or wholly directed by others.
5. "All others" should include all other agency accounts separately stated, where the trust company or bank renders investment advice, regardless of whether the customer may approve or otherwise direct investment. Do not include any such accounts whose assets are not held by the trust company or bank. Assets of strictly custodial accounts should also be omitted.

**Total**

This column should include the sums of all assets categories reported under different account classifications, for example, the sum of columns (1), (2), (3), (4) and (5).

**Explanation of Assets Classifications  
(Parts I and II)**

**Bonds and other obligations.** All bonds and other obligations should be included (except as otherwise provided below) in the following three categories: "U.S. Government and agency obligations" (1); "State, county and municipal obligations" (2); or "other obligations" (3).

**Stocks.** All stocks should be included in two categories: "common stocks" (4); or "preferred stocks" (5). Common stocks of stock savings and loan associations are to be included in the category of "common stocks" (4).

**Real estate mortgages.** Real estate mortgages, real estate contracts, and trust certificates, and ground rents are to be included in the category of "real estate mortgages" (6).

**Real estate.** Real estate, mineral interests, royalty interests, leaseholds, and other similar assets should be included in the category of "real estate" (7). If the current market values of real estate are not readily available, estimates based upon appraisals within the past four years may be used for purposes of this form. It is permissible to estimate market values of mineral interests of whatever type by capitalizing an annual income five times, when appropriate.

**Savings and loan association accounts.** Accounts in, or shares accounts of, savings and loan associations should be included in the category "savings and loan association accounts" (8). Deposits in mutual savings banks should be included in the category of "time deposits—other banks" (10).

**Time and demand deposits.** Time and demand deposits in own (affiliated) or other commercial and savings banks should be included in the respective categories: "time deposits—own" (9); "time deposits—other banks" (10); "demand deposits—own" (11); or "demand deposits—other banks" (12).

**Miscellaneous.** Unsecured notes, notes secured by other than real estate, judgments, accounts receivable, jewelry, automobiles, livestock, and other miscellaneous assets not otherwise reported above should be shown in the category of "miscellaneous" (14).

**Total assets.** The total values for each asset category should be entered on the line entitled "total assets" (15).

**Total number of accounts.** The total number of accounts administered by the trust company or bank for each category of fiduciary accounts should be entered on the line entitled "total number of accounts" (16).

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ANNUAL REPORT OF TRUST ASSETS  
 For the year ending December 31, 19—

PART I Market Value of Trust Assets

ASSETS	Market Value					
	Trusts & Estates			Agencies		
	Employee Benefit (1)	Personal Trusts (2)	Estates (3)	Employee Benefit (4)	All Others (5)	Total (6)
U.S. Government and agency obligations . . . . . (1)						
State, county, and municipal obligations . . . . . (2)						
Other obligations . . . . . (3)						
Common stocks . . . . . (4)						
Preferred stocks . . . . . (5)						
Real estate mortgages . . . . . (6)						
Real estate . . . . . (7)						
Savings and loan association accounts . . . . . (8)						
Time deposits, own bank . . . . . (9)						
Time deposits . . . . . (10)						
Demand deposits, own bank . . . . . (11)						
Demand deposits . . . . . (12)						
Miscellaneous . . . . . (13)						
Total assets . . . . . (14)						
Total number of accounts . . . . . (15)						

Instructions for Completing Part II

In Part II, briefly describe each of the following transactions completed during the reporting period:

- (a) Inter-account sales. All sales of assets held by the trust company or bank as fiduciary in one account to itself as fiduciary in another account.
- (b) Inter-account loans. All loans made to fiduciary accounts of the trust company or bank from funds belonging to other such accounts.
- (c) Trustee loans. All loans of corporate or other funds, except those covered by (b), made by the trust company or bank to fiduciary accounts of the trust company or bank.

Each of the foregoing transactions should be described under the appropriate heading (i.e., "inter-account sales"; "inter-account loans" and "trustee loans") and should include the following information preceded by the appropriate number in parenthesis:

- (1) Date of the loan or sale.
- (2) The identity and a brief description of the accounts involved in the loan or sale.
- (3) Amount of the loan (in the case of a loan) or a description of the consideration exchanged by each account and the fair value of such consideration (in the case of a sale).
- (4) Other material terms of the loan or sale.
- (5) An explanation of why the trust company or bank believes that the loan or sale is fair to the accounts involved.
- (6) A statement of whether the loan or sale is prohibited by law or by any governing instruments.
- (7) A statement of whether the loan is authorized by the instrument creating the account from which the loan is made (inter-account loans only).

Part II Description of Trustee Loans and Inter-Account Transactions. (see Instructions)