

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 18. NATUROPATHIC PHYSICIANS BOARD OF MEDICAL EXAMINERS

PREAMBLE

1. Sections Affected

Rulemaking Action

R4-18-101	Amend
R4-18-102	Amend
R4-18-103	New Section
R4-18-104	Repeal
R4-18-106	Repeal
R4-18-106	New Section
R4-18-107	Amend
R4-18-108	Amend
R4-18-109	Repeal
R4-18-110	Amend
R4-18-111	Amend
R4-18-116	Repeal
R4-18-117	Repeal
Article 2	New Article
R4-18-201	New Section
R4-18-202	New Section
R4-18-203	New Section
R4-18-204	New Section
R4-18-205	New Section
R4-18-206	New Section
Article 3	New Article
R4-18-301	New Section
R4-18-302	New Section
R4-18-303	New Section
R4-18-304	New Section
R4-18-305	New Section
R4-18-306	New Section
Article 4	New Article
R4-18-401	New Section
R4-18-402	New Section
R4-18-403	New Section
R4-18-404	New Section
R4-18-405	New Section
R4-18-406	New Section
Article 5	New Article
R4-18-501	New Section
R4-18-502	New Section
R4-18-503	New Section
R4-18-504	New Section
Article 6	New Article
R4-18-601	New Section
R4-18-602	New Section
R4-18-603	New Section

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R4-18-604	New Section
Article 7	New Article
R4-18-701	New Section
Table 1	New Table
Article 8	New Article
R4-18-801	New Section
R4-18-802	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. § 32-1504(A)(1)

Implementing statutes: A.R.S. §§ 32-1501(8), 32-1504(A)(3), 32-1504(A)(4) 32-1504(A)(5), 32-1504(A)(7), 1504(A)(9), 32-1504(B)(1), 1504(B)(3), 32-1522, 32-1522.01, 32-1523, 32-1523.01, 32-1524, 32-1525, 32-1526, 32-1527, 32-1529, 32-1551, 32-1559, -)2-1560, 32-1561,32-1581, and 41-1072 through 41-1078

3. A list of all Previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 7 A.A.R. 5725, December 21, 2001

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

Name: Dr. Craig Runbeck, Executive Director
Address: Naturopathic Physicians Board of Medical Examiners
1400 W. Washington, Suite 230
Phoenix, AZ 85007
Telephone: (602) 542-8242
Fax: (602) 542-3093
E-mail: craig.runbeck@npbomex.az.gov

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

The proposed rules provide additional guidance and clarity to the regulated community and others impacted by the rules. Obsolete requirements are deleted. The scope of subject matter covered is increased. This rulemaking complies with statutory mandates that rules be promulgated to implement certain provisions. Generally, deleted materials are not included in the brief discussion that follows.

R4-18-101. Definitions. This Section is revised and updated. Definitions are added to address the broader scope of subject matter covered.

R4-18-102. Board Meetings; Elections. The amendments are primarily administrative in nature.

R4-18-103. Duties of Board Committees. This Section is administrative in nature.

R4-18-106. Rehearing and Review of Decision. Replaces old Section on examination subjects which is no longer needed due to changes in statute.

R4-18-108. Titles, Use of Abbreviations. Covers titles and abbreviations that may and may not be used.

R4-18-110. Display of Licenses: Notice of Change of Status: Student Identification: Display of Certificates.

R4-18-201. Jurisprudence Examination. Qualifications to take exam and passing requirements.

R4-18-202. License by Examination. Requirements for a license.

R4-18-203. License by Endorsement. Requirements for a license.

R4-18-204. Specialist Certificate. Requirements for a specialist certificate.

R4-18-205. Continuing Medical Education Requirements. Annual CME requirements for renewal of a license.

R4-18-206. Renewal of a License. Requirements for annual renewal.

R4-18-301. Certificate to Dispense and Renewal. Requirements for a certificate and renewal.

R4-18-302. Natural Substances that may be Dispensed. Outlines what may be dispensed from a physician's office.

R4-18-303. Packaging and Inventory. Requirements for packaging and inventory.

R4-18-304. Dispensing Requirements.

R4-18-305. Recordkeeping and Reporting Shortages of Controlled Substances

R4-18-306. Inspections. Requirements for complying with Board inspections.

R4-18-401. Approval of a School of Naturopathic Medicine. Requirements for approval.

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R4-18-402. Annual Renewal of an Approved School of Naturopathic Medicine.

R4-18-501. Certificate to Engage in Clinical or Preceptorship Training. Requirements for clinical and preceptorship training programs.

R4-18-502. Annual Renewal of a Certificate to Engage in a Clinical or Preceptorship Training.

R4-18-503. Application for a Certificate to Conduct a Clinical or Preceptorship Training Program.

R4-18-504. Annual Renewal of a Certificate to Conduct a Clinical or Preceptorship Training Program.

R4-18-601. Medical Assistant Training Requirements.

R4-18-602. Authorized Procedures for Medical Assistants.

R4-18-603. Application for a Medical Assistant Certificate.

R4-18-604. Renewal of a Medical Assistant Certificate.

R4-18-701. Time-frames for Board Decisions. This new Section complies with the statutory mandate to specify in a rule time-frames within which the Board will make a determination of administrative completeness and then complete a substantive review and render a decision regarding a request for an approval. Overall time-frames are also specified.

R4-18-801. Experimental Medicine. Defines what is considered experimental.

R4-18-802. Informed Consent and Duty to Follow Protocols. Requires Informed consent from a patient prior to engaging in an experimental procedure and requires all experimental procedures be approved by an Institutional Review Board.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed 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

7. 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

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

A preliminary analysis indicates that the following provisions may have an economic, small business, or consumer impact. Public comment regarding impact is requested and appreciated.

R4-18-107. Fees. There are some modest increases in fees to cover the rising costs of Board operations. The fees are within the statutory authority granted in A.R.S. § 32-1527.

R4-18-201. Jurisprudence Examinations. There is a fee assessed that is included under R4-18-107.

R4-18-202. License by Examination. There is a fee assessed that is included under R4-18-107.

R4-18-203. License by Endorsement. There is a fee assessed that is included under R4-18-107.

R4-18-204. Specialist Certificate. There is a fee assessed that is included under R4-18-107.

R4-18-205. Continuing Medical Education Requirements. There will be a cost associated attending CME conferences. That cost will vary depending on the type of training the physician chooses.

R4-18-206. Renewal of a License. There is a fee assessed that is included under R4-18-107.

R4-18-301 Certificate to Dispense. There is a fee assessed that is included under R4-18-107.

R4-18-401. Application for Recognition as an Approved School of Naturopathic Medicine. There is a fee assessed that is listed under R4-18-107.

R4-18-402. Renewal as an Approved School of Naturopathic Medicine. There is a fee assessed that is listed under R4-18-107.

R4-18-501. Application for a Certificate to Engage in Clinical or Preceptorship Training. There is a fee assessed that is listed under R4-18-107.

R4-18-502. Annual Renewal of a Certificate to Engage in Clinical or Preceptorship Training. There is a fee assessed that is listed under R4-18-107.

R4-18-503. Application for a Certificate to Conduct a Clinical or Preceptorship Training Program. There is a fee assessed that is listed under R4-18-107.

R4-18-504. Annual Renewal of a Certificate to Conduct a Clinical or Preceptorship Training Program. There is a fee assessed that is listed under R4-18-107.

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R4-18-601. Medical Assistant Training Requirements. This rule requires that a medical assistant complete formalized training in an accredited school. Since this is a new requirement, there will be the additional costs associated with attending the formal training.

R4-18-603. Application for a Medical Assistant Certificate. There is a fee assessed that is listed under R4-18-107.

R4-18-604. Renewal of a Medical Assistant Certificate. There is a fee assessed that is listed under R4-18-107.

R4-18-802. Informed Consent and Duty to Follow Protocols. There would be a potential cost associated with the formation of an Institutional Review Board.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Dr. Craig Runbeck, Executive Director
Address: Naturopathic Physicians Board of Medical Examiners
1400 W. Washington, Suite 230
Phoenix, AZ 85007
Telephone: (602) 542-8242
Fax: (602) 542-3093

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Written comments may be submitted until 5:00 p.m. April 11, 2002 to the person identified in item #4. The Board will conduct an oral proceeding at the following location in the state, taking oral and written testimony on the proposed rule from members of the public.

April 11, 2002
4:00 to 5:00 p.m.
1400 W. Washington
Room B-1
Phoenix, AZ 85007

Phone-in access: (602) 542-3097

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

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 18. NATUROPATHIC PHYSICIANS BOARD OF MEDICAL EXAMINERS

ARTICLE 1. GENERAL PROVISIONS

Section

- R4-18-101. Definitions
- R4-18-102. Board Meetings; Elections; Officers
- R4-18-103. ~~Reserved~~ Duties of Board Committees
- R4-18-104. ~~Examination Procedures~~ Repealed
- R4-18-106. ~~Examination Subjects Required for Licensing under A.R.S. § 32-1523~~ Rehearing or Review of Decision
- R4-18-107. Fees
- R4-18-108. Titles, Use of Abbreviations
- R4-18-109. ~~Continuing Education~~ Repealed
- R4-18-110. Display of Licenses: Notice of Change of Status; Student Identification: Display of Certificates
- R4-18-111. Notice of Civil and Criminal Actions
- R4-18-116. ~~Hearing Procedures~~ Repealed
- R4-18-117. ~~Rehearing or Review of Decision~~ Repealed

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ARTICLE 2. LICENSES; SPECIALIST CERTIFICATES; CONTINUING MEDICAL EDUCATION; RENEWALS

Section

- R4-18-201. Jurisprudence Examinations
- R4-18-202. License by Examination
- R4-18-203. License by Endorsement
- R4-18-204. Specialist Certificate
- R4-18-205. Continuing Medical Education Requirements
- R4-18-206. Renewal of a License

ARTICLE 3. DISPENSING NATURAL SUBSTANCES AND DEVICES

Section

- R4-18-301. Certificate to Dispense and Renewal
- R4-18-302. Natural Substances and Devices that may be Dispensed by a Physician
- R4-18-303. Packaging and Inventory
- R4-18-304. Dispensing Requirements
- R4-18-305. Recordkeeping and Reporting Shortages
- R4-18-306. Inspections

ARTICLE 4. APPROVAL OF SCHOOLS OF NATUROPATHIC MEDICINE

Section

- R4-18-401. Application for a Certificate as an Approved School of Naturopathic Medicine
- R4-18-402. Annual Renewal of Certificate as an Approved School of Naturopathic Medicine

ARTICLE 5. NATUROPATHIC CLINICAL TRAINING PROGRAMS REQUIREMENTS

Section

- R4-18-501. Application for a Certificate to Engage in Clinical or Preceptorship Training
- R4-18-502. Annual Renewal of a Certificate to Engage in Clinical or Preceptorship Training
- R4-18-503. Application for a Certificate to Conduct a Clinical or Preceptorship Training Program
- R4-18-504. Annual Renewal of a Certificate to Conduct a Clinical or Preceptorship Training Program

ARTICLE 6. MEDICAL ASSISTANTS

Section

- R4-18-601. Medical Assistant Training Requirements
- R4-18-602. Authorized Procedures for Medical Assistants
- R4-18-603. Application for a Medical Assistant Certificate
- R4-18-604. Renewal of Medical Assistant Certificate

ARTICLE 7. TIME-FRAMES FOR BOARD APPROVALS

Section

- R4-18-701. Time-frames for Board Approvals

ARTICLE 8. EXPERIMENTAL MEDICINE

Section

- R4-18-801. Experimental Medicine
- R4-18-802. Informed Consent and Duty to Follow Protocols

ARTICLE 1. GENERAL PROVISIONS

R4-18-101. Definitions

~~For purposes of Title 32, Chapter 14 of the Arizona Revised Statutes and these regulations unless the context requires a different meaning or unless inconsistent with the manifest intention of the board:~~

~~In addition to the definitions in A.R.S. §§ 32-1501 through 32-1581, the following definitions apply to this Chapter unless otherwise specified:~~

~~“Abnormalities of the human mind and body” means diseases, injuries, ailments, or infirmities and other conditions of the human mind and body, ordinarily justifying professional assistance from a Naturopathic physician.~~

~~“Diagnosis” means the determination of the nature of a person’s condition and includes physical, clinical, and laboratory examinations, and the employment of x-rays for diagnostic purposes.~~

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~~“Hygienic” means all forms of hygiene and the use of local and topical antiseptics and nonpoisonous, extracted, compounded, or concentrated substances obtained from an animal, a plant, or a mineral origin and utilized for aseptic and therapeutic purposes by a doctor of naturopathic medicine.~~

~~“Laws and regulations relating to public health” means any applicable state or federal law, relating to public health and includes but is not limited to the requirements for the registration of birth certificates, reporting of violent wounds and injuries and child abuse as required by law.~~

~~“Nonsurgical” means a system of treating without surgical invasion of the human body but does not preclude acupuncture, electrical currents, or the repair and care incident thereto to superficial lacerations and abrasions, and the removal of foreign bodies located in superficial structures, and the use of standard clinical procedures in connection therewith.~~

~~“Physiotherapy” means the treatment of disease by use of all natural forces, including but not limited to electrotherapy, hydrotherapy, arotherapy, mechanotherapy, massage and therapeutic exercise.~~

~~“Preceptorship” means a clinical course of study wherein a student of naturopathic medicine works in a naturopathic clinic under the supervision of a doctor of naturopathic medicine.~~

~~“Sanitary” means the use of all forms of bacteriostatic procedures, including but not limited to the use of topical antiseptics.~~

~~“System of treating” means the total management of a disease or other condition of the human body, including its prevention, diagnosis, alleviation, treatment, and cure.~~

~~“Rebates” means requesting, listing, accepting or receiving any compensation or commission for prescribing or recommending any diagnostic or treatment procedure; or offering, giving or promising, either directly or indirectly, any gift in return for the procurement of a patient or patients for any diagnostic or treatment procedure.~~

“Administrative completeness review” means the Board’s process for determining that an applicant has provided, or caused to be provided, all of the application packet information and documentation required by statute or rule for an application for a license or a certificate.

“Applicant” means a person requesting from the Board an initial, temporary, or renewal license or certificate.

“Application” or “application packet” means the forms, documents, and information the Board requires to be submitted by an applicant or on behalf of an applicant.

“Accredited medical assistant training program” means a course of instruction in medical assisting that meets one of the following requirements:

Accredited by the Commission on Accreditation of Allied Health Education Programs;

Accredited by the Accrediting Bureau of Health Education Schools;

Accredited by an accrediting agency recognized by the United States Department of Education; or

Provided by the Armed Forces of the United States.

“Approved Specialty College or Program” means any postdoctoral training program that awards a medical specialist certificate and is approved by one of the following:

The Council on Naturopathic Medical Education,

The American Association of Naturopathic Physicians, or

The Arizona Naturopathic Medical Association.

“Chief medical officer” means a physician who is responsible for a clinical, preceptorship, internship, or postdoctoral training program’s compliance with state and federal laws, rules, and regulations.

“Clinical training program” means a clinical training program operated in conjunction with an approved school of naturopathic medicine certified by the Board

“Continuing medical education” means courses, seminars, lectures, programs, conferences, and workshops related to subjects listed in A.R.S. § 32-1525(B), that are offered or sanctioned by one of the organizations referenced in R4-18-205 (B).

“Controlled substance” or “federally controlled natural substance” means a substance that is regulated and scheduled by federal law and for which a physician must be registered with the United States Drug Enforcement Administration prior to obtaining, administering, dispensing, or prescribing the article and includes the following:

Schedule II

Cocaine.

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Codeine salts,
Dronabinol,
Hydromorphone,
Morphine salts,
Oxycodone, and
Oxymorphone hydrochloride.

Schedule III
Hydrocodone,
Nandrolone salts,
Opium – paregoric,
Oxandrolone,
Oxymetholone,
Stanozolol, and
Testosterone.

Schedule IV
Butorphenol,
Difenoxin,
Pentazocine, and
Propoxyphene.

Schedule V
Buprenorphine,
Codeine (up to 200 mg),
Dihydrocodeine (up to 100 mg), and
Diphenoxylate.

“Endorsement” means the procedure for granting a license in this state to an applicant who is currently licensed to practice naturopathic medicine by another state, district, or territory of the United States or by a foreign country that requires a written examination substantially equivalent to the written examination provided for in A.R.S. § 32-1525.

“Facility” means a health care institution as defined in A.R.S. § 36-401, office or clinic maintained by a health care institution or by an individual licensed under A.R.S. Title 32, Chapter 13, 14, 17, or 29, office or public health clinic maintained by a state or county, office or clinic operated by a qualifying community health center under A.R.S. § 36-2907.06, or an office or clinic operated by a corporation, association, partnership, or company authorized to do business in Arizona under A.R.S. Title 10.

“Informed consent” means a document, signed by the patient or the patient’s legal guardian, that verifies that the patient, or legal guardian, understands the type of treatment they are to receive, and the legal status of the clinicians that are treating them. If an experimental or investigational protocol is to be followed, the informed consent form will clearly state that the patient understands the procedures to be carried out, the risks and benefits, that the patient can withdraw at any time, that the patient is voluntarily complying, and that the protocol meets the requirements of the institutional review board that approves the protocol.

“Institutional review board” means a group of persons that reviews investigational or experimental protocols and approves its use on animals or humans within an institution for the purposes of protecting the subjects of the investigational or experimental protocol from undue harm and assures that the research and its review is carried out according to guidelines of the United States Department of Health and Human Services, Office for Human Research Protection.

“Internship” means clinical and didactic training by a doctor of naturopathic medicine certified by the Board, in an institution, certified by the Board.

“License” means a document issued by the Board that entitles the individual to whom it is issued to practice naturopathic medicine.

“National board” means any of the following:

The Federation of State Medical Licensing Boards,
The National Board of Chiropractic Examiners,
The National Board of Medical Examiners,
The National Board of Osteopathic Examiners, or

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The North American Board of Naturopathic Examiners

“Natural substance” means a substance that:

Is derived, extracted, obtained, or propagated from a substance that is found in nature; or

Is synthetic but has an identical, or substantially identical, molecular structure to a substance that is derived, extracted, obtained, or propagated from a substance that is found in nature.

“Non-prescription” means a prescription order is not required by law prior to dispensing.

“Preceptorship” means clinical training, of not more than 24 months duration, by a person who holds a degree of doctor of naturopathic medicine, and has been certified by the Board for preceptorship training.

“Prescription only” means a physician is required by federal law to write a prescription on a preprinted form or in the patient’s medical record, prior to dispensing, or when issuing a prescription order to a pharmacy.

“Resident physician in training” means a person who holds a degree of doctor of naturopathic medicine and is certified by the Board to diagnose and treat patients under supervision in an internship, preceptorship, or a post doctoral training program.

“Substantive review” means the Board’s process for determining whether an applicant for licensure, certification, or approval meets the requirements of A.R.S. Title 32, Chapter 14 and this Chapter.

“Supervise” means to be physically present and within sight or sound of a medical assistant, student, or resident physician in training, who is providing naturopathic medical care to a patient.

“Supervision” means a supervisor assumes legal responsibility and has oversight of activities relating to the diagnosis and treatment of a patient and the acquiring, preparing, and dispensing of devices and natural substances to a patient by a medical assistant, nurse, medical student, or a preceptee.

“Supervisor” means an individual licensed under A.R.S. Title 32, Chapter 13, 14, 17, or 29 who supervises a medical student or a preceptee, or a person licensed under A.R.S. Title 32, Chapter 14 who supervises a medical assistant or a nurse.

R4-18-102. Board Meetings; Elections; Officers

- ~~A. The Board shall hold its statutorily required a regular meetings meeting in January and July of each year. Such other meetings of the Board, as may be required for the conduct of its business, shall be held from time to time as the board determines necessary. The officers shall be elected at the January meeting of the Board each year by majority vote of the Board members present at that meeting. The Board chairman shall preside at all Board meetings. If the chairman is disqualified or unable to attend, the Board vice-chairman shall preside at the meeting. If the Board vice-chairman is disqualified or unable to attend the Board secretary-treasurer shall preside at the meeting.~~
- ~~B. The Board shall hold its annual election of officers at the January Board meeting.~~
- ~~B. If an officer’s position becomes vacant, the Board shall elect a member of the Board to complete the term of office that is vacant.~~
- ~~C. A Board member shall attend meetings scheduled by the Board. The Board may recommend to the Governor that a Board member who fails to attend three consecutive Board meetings be removed from the Board.~~

R4-18-103. ~~Reserved~~ Duties of Board Committees

A committee appointed by the Board chairman shall make a report to the Board based on the findings or investigations of the committee and may make recommendations for further action by the Board.

R4-18-104. ~~Examination Procedures Repealed~~

- ~~A. Prior to the commencement of written examination, each applicant shall be given an examination number which shall be the only identifying mark placed on the examination papers. Each page of the examination shall be marked with the identifying number, and no applicant’s name shall appear on any page of the examination.~~
- ~~B. The pages of the examination shall be numbered consecutively at the top of each page. Only 1 side of a page may be used in answering examination questions.~~
- ~~C. Prior to the examination, applicants shall be informed of the time limit allowed for each section of the examination. No credit will be received for any work done by the applicant after the time limit.~~
- ~~D. In the event doubt exists as to the interpretation of a question, inquiries by the applicant shall be directed to a Board member only.~~
- ~~E. Any applicant using a book, paper or device to assist him or receiving assistance or giving assistance to another applicant, shall forfeit his right to continue the examination and shall forfeit his application fee.~~
- ~~F. At the close of the examination, each applicant shall return his answer sheets and deliver them, together with the examination questions, to a member of the Board or a duly appointed proctor.~~

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- ~~G.~~ Subsequent to review of the applicant's answers to the examination, results of the examinations will be forwarded in writing to each applicant.
- ~~H.~~ The Board may administer the Naturopathic Physicians Licensing Exam (NPLEX) in lieu of all or part of an examination prepared by the Board.

R4-18-106. Examination Subjects Required for Licensing Under A.R.S. § 32-1523 Rehearing or Review of Decision

The two subject areas of examination shall be:

1. Oral examination in the subject of naturopathic jurisprudence, including applicable federal and state laws, rules and regulations.
2. Oral examination in the subject of practical clinical skills of naturopathic medicine including but not limited to:
 - a. Physical
 - b. Medical emergencies, and
 - c. Office procedures.

A. Except as provided in subsection (G), any party who is aggrieved by a decision issued by the Board may file with the Board not later than thirty (30) days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds for the rehearing or review. For purposes of this Section, a decision shall be considered served when personally delivered or 5 days after mailing by certified mail to the party at the party's last known residence or place of business.

B. A motion for rehearing or review under this Section may be amended at any time before it is ruled upon by the Board. A response may be filed within 15 days after service the motion or amended motion by any other party. The Board may require the filing of written briefs upon the issue raised in the motion and may provide for oral argument.

C. A rehearing or review of the decision may be granted by the Board for any of the following reasons materially affecting the party's rights:

1. Irregularity in the proceedings of the Board, administrative law judge, or any abuse of discretion that deprives the moving party of a fair hearing;
2. Misconduct of the Board, or an administrative law judge;
3. Accident or surprise that could not have been prevented by ordinary prudence;
4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing; or
7. That the findings of fact or decision is not justified by the evidence, or is contrary to law.

D. The Board may affirm or modify its decision or grant a rehearing or review, to all or any of the parties on all or part of the issues for the reasons specified in subsection (C). An order modifying its decision or granting a rehearing or review, shall specify with particularity the ground or grounds on which the rehearing or review is granted, and the rehearing or review shall cover only those matters so specified.

E. Not later than thirty five (35) days after the date a decision is rendered, the Board may, on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion. In either case, the order shall specify the grounds for rehearing and review.

F. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. The Board may extend this period for good cause.

G. If the Board makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public health and safety and determines that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions pursuant to Title 12, Chapter 7, Article 6.

R4-18-107. Fees

A. Application fees are as follows:

- | | |
|---|-------------------------------|
| 1. Medical license | \$300 |
| 2. Specialist license | \$300 |
| 3. Certificate to dispense | \$300 |
| 4. Medical assistant certificate | \$100 |
| 5. Certificate to engage in a clinical <u>Clinical training program certificate</u> | \$100 <u>\$150</u> |
| 6. Certificate to engage in an internship <u>Internship program certificate</u> | \$100 <u>\$150</u> |
| 7. Certificate to engage in a preceptorship <u>Preceptorship program certificate</u> | \$100 <u>\$150</u> |

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8.	Certificate to conduct a clinical training program	\$100 \$150
9.	Certificate to conduct an internship program	\$100 \$150
10.	Certificate to conduct a preceptorship program	\$100 \$150
11.	Certificate to conduct a postdoctoral program	\$100
12.	Certificate to conduct a school of naturopathic medicine	\$1,000
B.	Examination Fees are as follows:	
1.	<u>Arizona naturopathic jurisprudence</u>	\$60
1.	For a regular medical license	
a.	Part 1—Basic medical science subjects	\$175
b.	Part 2—Clinical medical science subjects	\$175
c.	Part 3—Clinical medical competency subjects	\$175
2.	For a medical license by endorsement, Part 3—clinical medical competency subjects	\$175
C.	Initial issuance fees for a license or a certificate are as follows:	
1.	Medical license	\$20
2.	Specialty certificate	\$20
3.	Certificate to dispense	\$20
4.	Medical assistant certificate	\$20
5.	Certificate to engage in a clinical training program	\$20
6.	Certificate to engage in an internship training program	\$20
7.	Certificate to engage in a preceptorship program	\$20
8.	Certificate to conduct a clinical training program	\$20
9.	Certificate to conduct an internship training program	\$20
10.	Certificate to conduct a preceptorship training program	\$20
11.	Certificate to conduct a postdoctoral training program	\$20
12.	Certificate to conduct a school of naturopathic medicine	\$20
D.C.	Annual renewal fees are as follows:	
1.	Medical license	\$300 \$360
2.	Certificate to Dispense	\$300
3.	Medical assistant certificate	\$100
4.	Certificate to engage in a clinical—Clinical training program certificate	\$120 \$150
5.	Certificate to engage in an internship Internship training program certificate	\$120 \$150
6.	Certificate to engage in a preceptorship—Preceptorship program certificate	\$120 \$150
7.	Certificate to conduct a clinical training program	\$396
8.	Certificate to conduct an internship program	\$396
9.	Certificate to conduct a preceptorship program	\$396
10.	Certificate to conduct a postdoctoral training program	\$396
11.	Certificate to conduct a school of naturopathic medicine	\$396
E.D.	Late renewal fees are as follows:	
1.	Medical license	\$150 \$180
2.	Certificate to dispense	\$150
3.	Medical assistant certificate	\$30 \$50
4.	Certificate to engage in a clinical—Clinical training program certificate	\$60 \$75
5.	Certificate to engage in an internship Internship training program certificate	\$60 \$75
6.	Certificate to engage in a preceptorship—Preceptorship training program certificate	\$60 \$75
7.	Certificate to conduct a clinical training program	\$200
8.	Certificate to conduct an internship program	\$200
9.	Certificate to conduct a preceptorship program	\$200
10.	Certificate to conduct a postdoctoral training program	\$200
11.	Certificate to conduct a school of naturopathic medicine	\$200
F.E.	Other fees and charges are as follows:	
1.	For a duplicate license or certificate	\$12.50 \$20
2.	For endorsement of an Arizona license	\$25
3.	For a copy of Board meeting minutes	\$25
4.	2. For photocopying Board records, documents, letters, applications, and or files	\$5 or \$0.25 per page, whichever is greater
5.	3. For each audio tape or computer disk containing information requested	\$25
6.	For each computer diskette containing information requested, not requiring programming	\$25
7.	4. For written verification of a license or certificate	\$5 \$10
8.	For the inspection of a naturopathic medical school	Actual cost incurred by the Board

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9-5. For the costs in locating a person who is licensed or certified	Actual costs incurred by the Board
10. For a copy of the Official Annual Directory of Naturopathic Medicine	\$25
11-6. For submitting a fingerprint card to the department of public safety	\$24
12-7. For each insufficient fund check	\$25

G. Civil Penalties are as follows:

1. As stated in A.R.S. § 32-1553, for each violation of the Board's statutes or rules, \$1000 per violation to a maximum of \$10,000 for all violations.
2. As stated in A.R.S. § 32-1581, for dispensing without a certificate to dispense, \$300 to \$1,000 per transaction.

R4-18-108. Titles, Use of Abbreviations

A. ~~A doctor of naturopathic medicine licensed in this state may use the designations "Doctor of Naturopathic Medicine", "Doctor of Naturopathy", "Naturopath", and "Naturopathic Physician".~~ A physician issued a license by the Board may use any of the following titles or abbreviations:

1. Doctor of Naturopathic Medicine.
2. N.M.D.,
3. Doctor of Naturopathy.
4. N.D.,
5. Naturopath,
6. Naturopathic Physician, or
7. Naturopathic Medical Doctor.

B. ~~A doctor of naturopathic medicine licensed in this state may use the abbreviation "N.M.D.", "N.D.", and "D.N.". A physician issued a license, or a graduate of a school approved by the Board, shall not use any of the following titles or abbreviations:~~

1. Doctor of medicine (naturopathic).
2. M.D.(N.), or
3. M.D.(naturopathic).

C. An unlicensed graduate of a Board approved school of naturopathic medicine who is certified by the Board to engage in preceptorship training shall use the designation "(Preceptee)" after any of the designations in subsection (A). The preceptee shall also have any patient treated by the preceptee sign an informed consent treatment form stating clearly that the preceptee is undergoing training, is not licensed, and identifying the name of the supervising physician.

D. An unlicensed graduate of a Board approved school of naturopathic medicine who is certified by the Board to engage in internship training shall use the designation "(Intern)" after any of the designations in subsection (A). The intern shall also have any patient treated by intern sign an informed consent treatment form stating clearly that the intern is undergoing training, is not licensed and identifying the name of the supervising physician.

E. A person who has permanently retired their license in accordance to A.R.S. § 32-1528 may use any of the designations listed in subsection A if they also use the designation "(Retired)" after each designation.

R4-18-109. Continuing education Repealed

A. ~~Continuing education consisting of fifteen classroom hours directly relating to the practice of naturopathic medicine shall be required annually.~~

B. ~~The following courses and classes qualify for continuing education credit if directly related to the practice of naturopathic medicine:~~

1. ~~Continuing education courses and classes offered under the direct supervision of a State or district association of naturopathic physicians, provided that the State or district in which the association is organized is one that licenses naturopathic physicians.~~
2. ~~Continuing education courses and classes offered by the Board approved schools of naturopathic medicine.~~
3. ~~Continuing education courses and classes offered by or approved by the American Medical Association or the American Osteopathic Association.~~
4. ~~Any other continuing education courses or classes approved by the Board. Board approval shall be based upon the course content and requirement that the courses or classes sought to be approved have a level of instruction comparable to continuing education courses or classes offered by State and district associations or Board approved schools of naturopathic medicine.~~

C. ~~The licensee shall provide to the Board proof (verified under oath by licensee) of continuing education as follows:~~

1. ~~Dates of continuing education;~~
2. ~~Name of institution;~~
3. ~~Subject matter;~~
4. ~~Actual clock hours of instruction time~~

D. ~~The requirements of continuing education described in this Rule shall not apply in the calendar year in which this Rule becomes effective, or to licensees during the calendar year of their first naturopathic license issued by the Board.~~

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R4-18-110. Display of Licenses; Notice of Change of Status, Student Identification, Display of Certificates

- A. Each person licensed by the Board shall display ~~the~~ that license, or a Board issued duplicate issued to him or her by the Board in a conspicuous place in ~~his or her each location in which that person conducts regular and ongoing patient care activity office or place of professional practice.~~
 - B. ~~Licenses~~ A persons, business, or institution regulated by the Board shall notify the Board of any change in the information provided to the Board concerning a license or certificate application or its renewal, including changes in name, address, ~~and~~ place of practice, or actions taken against the licensee, for any reason, in any court or by any governmental regulatory body.
 - C. Each person certified by the Board to engage in clinical training shall wear an identification card issued by the approved naturopathic medical school conducting the training, that clearly identifies the person as a student, at all times that the person is involved in clinical training. A certificate to engage in clinical training issued by the Board may be kept at a central location of the primary training facility with other student certificates, if it is easily available for public viewing.
 - D. Each person, business, or institution that is issued a certificate by the Board shall display that certificate or a Board issued duplicate, in a conspicuous place at each location in which the person, business, or institution conducts regular and ongoing business activity.
- ~~E.~~ All notice requirements under this rule shall be in writing and made within 30 days of change of status.

R4-18-111. Notice of Civil and Criminal Actions

- A. Every licensee shall, within 10 days of receipt, notify the Board of any notice, subpoena, summons, or receipt of complaint, whether civil or criminal, arising directly or indirectly out of the licensee's conduct of ~~his~~ their professional practice.
- B. Notice to the Board shall consist of either a photocopy or facsimile copy of such notice or other service or may be in letter form advising the Board of the nature of the cause of action, setting forth any allegations made ~~by the plaintiff and his attorney of record,~~ and giving date, time, and place where appearance is required.
- C. Notice to the Board shall be by certified or registered mail.

R4-18-116. Hearing Procedures Repealed

Hearings shall be conducted in accordance with the provisions of Title 41, Chapter 6 of the Arizona Revised Statutes.

R4-18-117. Rehearing or Review of Decision Repealed

- ~~A.~~ Except as provided in subsection (G), any party in a contested case before the Board who is aggrieved by a decision rendered in such case may file with the Board, not later than 10 days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor. For purposes of this subsection, a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at his last known residence or place of business.
- ~~B.~~ A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Board. A response may be filed within 10 days after service of such motion or amended motion by any other party. The Board may require the filing of written briefs upon the issue raised in the motion and may provide for oral argument.
- ~~C.~~ A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:
 - 1. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived 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 could not with reasonable diligence have been discovered and produced at the original hearing;
 - 5. Excessive or insufficient penalties;
 - 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing;
 - 7. That the decision is not justified by the evidence or is contrary to law.
- ~~D.~~ The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
- ~~E.~~ Not later than 10 days after a decision is rendered, the Board may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case the order granting such a rehearing shall specify the grounds therefor.
- ~~F.~~ When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may within 10 days after such service serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

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- G.** ~~If in a particular decision the Board makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health, and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any applicant for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions.~~
- H.** For purposes of this Section the terms "contested case" and "party" shall be defined as provided in A.R.S. § 41-1001.
- I.** ~~To the extent that the provisions of this rule are in conflict with the provisions of any statute providing for rehearing of decisions of the Board, such statutory provisions shall govern.~~

ARTICLE 2. LICENSES, SPECIALIST CERTIFICATES, CONTINUING MEDICAL EDUCATION, RENEWALS

R4-18-201. Jurisprudence Examination

In addition to the requirements of R4-18-202 or R4-18-203, an applicant for licensure shall take and pass the Arizona Naturopathic Jurisprudence Examination, administered by the Board, with a minimum score of 75%. If an applicant passed the jurisprudence examination to obtain a clinical training certificate under R4-18-501 and has been under the continuous regulation of the Board since obtaining the clinical training certificate, the applicant is not required to take the examination again. The examination consists of multiple-choice and true-false questions.

R4-18-202. License by Examination

In addition to the requirements of R4-18-201, an applicant for licensure by examination shall meet the requirements of A.R.S. Title 32, Chapter 15, and provide the Board:

1. A completed application form, provided by the Board, that is signed and dated;
2. A copy of the applicant's examination record including the basic science examination, the clinical science examination, and additional clinical test sections of acupuncture, minor surgery, and homeopathy, sent directly to the Board by the North American Board of Naturopathic Examiners, or its successor;
3. A complete transcript sent directly to the Board from the approved school of naturopathic medicine from which the applicant graduated. The transcript shall indicate the date of graduation and date of completion of clinical training;
4. A completed and legible fingerprint card; and
5. The fee specified in R4-18-107.

R4-18-203. License by Endorsement

In addition to requirements of R4-18-201, an applicant for a licensure by endorsement shall meet the requirements of A.R.S. Title 32, Chapter 15, and provide the Board:

1. A completed application form, that is provided by the Board, that is signed, and dated.
2. A document submitted directly to the Board by the agency by whom the applicant is licensed that is signed and dated by an official of the agency and contains:
 - a. The applicant's name,
 - b. The date of issuance of the license,
 - c. The current status of the license,
 - d. A statement of whether the applicant has ever been denied a license by the agency, and
 - e. A statement of whether any disciplinary action is pending or has ever been taken against the applicant.

R4-18-204. Specialist Certificate

To obtain a specialist certificate, a physician shall meet the requirements of A.R.S. Title 32, Chapter 15, and provide the Board:

1. A completed application form provided by the Board that is signed and dated,
2. The name and address of the approved specialty college or program at which the licensee completed postdoctoral specialty training and the date of completion, and
3. A letter from the specialty board that conducted the specialty examination verifying that the licensee is certified as a specialist in the specialty for which application is made.

R4-18-205. Continuing Medical Education Requirements

A. Every calendar year, a physician shall complete 30 credit hours of approved continuing medical education activities. Eight credit hours shall be in pharmacology as it relates to the diagnosis, treatment, or prevention of disease. Eight credit hours shall be from programs approved by one or more of the organizations listed in subsection B(2). One hour of credit is allowed for every 50 minutes participation in an approved continuing medical education activity unless otherwise noted in R4-18-205(B).

B. The following are approved continuing medical education activities:

1. Education certified as Category I by an organization accredited by the Accreditation Council on Continuing Medical Education.

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2. Continuing medical educational programs in the clinical application of naturopathic medical philosophy that are approved by:
 - a. The American Association of Naturopathic Physicians, or any of its constituent organizations,
 - b. The Arizona Naturopathic Medical Association, or
 - c. Any naturopathic licensing authority in the United States or Canada.
 3. One credit hour may be claimed for each eight hour day of training in an internship training program, a preceptorship training program, or a postdoctoral training program approved by the Board. A maximum of eight CME hours per year may be claimed in this manner.
 4. One credit hour, not to exceed eight credit hours, may be claimed for each eight hour day of research in subjects listed in A.R.S. § 32-1525(B), if the research is conducted by or sponsored by a school of naturopathic medicine that is accredited or a candidate for accreditation by:
 - a. The Council on Naturopathic Medical Education,
 - b. The Council for Higher Education Accreditation, or
 - c. An accrediting agency recognized by the United States Department of Education.
 5. One credit hour may be claimed for each hour serving as an instructor of naturopathic medical students, or other physicians, in a program approved by one of the organizations in subsection (B)(2), or a school approved by the Board. A maximum of eight CME hours may be claimed in this manner.
 6. A maximum of four credit hours may be claimed for preparing or writing for presentation or publication, a medically related paper, report, or book that is presented or published addressing current developments, skills, procedures, or treatment in the practice of naturopathic medicine. Credit may be claimed only for materials presented or published. Credit may be claimed once as of the date of publication or presentation.
 7. A maximum of eight credit hours may be earned for the following activities that provide necessary understanding of current developments, skills, procedures, or treatment related to the practice of naturopathic medicine if the physician maintains a record for at least three years, that includes the name of the activity, the date of the activity, and the amount of time to complete the activity:
 - a. Self-instruction that utilizes videotapes, audiotapes, films, filmstrips, slides, radio broadcasts, or computers;
 - b. Independent reading of scientific journals and books;
 - c. Preparation for specialty board certification or re-certification examinations; or
 - d. Participation on a staff committee or quality of care or utilization review in a facility or government agency.
- C.** The Board shall grant an extension of time to complete continuing medical education required in subsection (A) upon written application by a licensee if the licensee fails to meet the requirements due to illness, military service, medical or religious missionary activity, residence in a foreign country, or other extenuating circumstance. An extension, other than for military service, shall not exceed 90 days.
- D.** An applicant for renewal of a license shall certify on the application for renewal, under penalty of perjury, that the applicant has met or will meet, before January 1, the continuing medical education requirements for the calendar year.
- E.** Board staff shall annually select a minimum of ten percent of the active licensees for an audit of required continuing medical education. Failure to complete the required continuing medical education is considered unprofessional conduct.

R4-18-206. Renewal of a License

- A.** To renew a license to practice naturopathic medicine, on or before January 1 of each year, a licensee shall submit a license application renewal form provided by the Board that allows the Board to determine whether the applicant continues to meet the requirements of A.R.S. Title 32, Chapter 15. When an applicant makes a timely and complete application for renewal of the applicant's license, the physician may continue to practice until the application is approved or denied by the Board.
- B.** A licensee shall submit the license renewal fee required in R4-18-107 to the Board by mail or in person.

ARTICLE 3. DISPENSING NATURAL SUBSTANCES AND DEVICES

R4-18-301. Certificate to Dispense and Renewal

- A.** To obtain a certificate to dispense, a physician shall provide to the Board an application form furnished by the Board that allows the Board to determine whether the physician meets the requirements of A.R.S. Title 32, Chapter 15, and the appropriate fee listed in R4-18-107.
- B.** To renew a certificate to dispense, a physician shall provide to the Board a renewal form furnished by the Board that allows the Board to determine whether the physician continues to meet the requirements of A.R.S. Title 32, Chapter 15, and the appropriate fee listed in R4-18-107. The renewal application shall be submitted on or before July 1 of each year. When a physician makes a timely and complete application for renewal of a certificate to dispense, the physician may continue to dispense until the application is approved or denied by the Board.
- C.** If a completed annual renewal form, all required documentation, and the correct fee are not received in the Board's office on or before July 1, the physician shall cease dispensing devices and natural substances.

R4-18-302. Natural Substances and Devices that may be Dispensed

A physician issued a certificate to dispense by the Board may dispense;

1. A device that is regulated by federal law as prescription only.
2. A device that is not regulated by federal law, or
3. A natural substance that is designated by federal law as:
 - a. A food or dietary supplement.
 - b. A non-prescription drug.
 - c. A prescription-only drug, or
 - d. A controlled substance.

R4-18-303. Packaging and Inventory

- A. A physician shall dispense a natural substance in the original container provided by the manufacturer or repackaged in a light-resistant container that has a safety cap if requested by a patient or a patient's representative.
- B. A physician shall ensure that a natural substance that is dispensed is labeled with the information required in A.R.S. § 32-1581(A)(2).
- C. A physician shall secure prescription-only drugs and controlled substances in a locked cabinet or room. Access shall be controlled to the cabinet or room by a written procedure that designates the persons who have access to the cabinet or room. These written procedures shall be made available on demand to the Board or its authorized representatives for inspection or copying.
- D. A physician shall maintain a log for all controlled substances dispensed by the physician that includes a separate inventory sheet for each controlled substance. The log shall include the following information:
 1. The date the controlled substance is dispensed;
 2. The patient's name;
 3. The name, form, and strength of the controlled substance;
 4. The number of dosage units dispensed to the patient;
 5. A running total of the controlled substance dispensed to each patient; and
 6. The signature of the physician who dispensed the controlled substance, next to each entry.
- E. A natural substance not requiring refrigeration shall be maintained in an area where the temperature does not exceed 85 degrees Fahrenheit.
- F. The dispensing log required in subsection (D) may be maintained on computer if the log is accessible through either on-screen viewing or printing of a copy.

R4-18-304. Dispensing Requirements

- A. A physician shall conduct an initial office visit with a patient before prescribing or dispensing any device or natural substance, unless subsection (B) applies. After the initial visit the physician may prescribe or dispense based on new information obtained without the patient's physical presence.
- B. A physician may prescribe or dispense a device or natural substance in carrying out the written order of another licensed health care provider.
- C. A physician shall record on the patient's medical record:
 1. The name and strength of the device or natural substance dispensed.
 2. The date the device or natural substance is dispensed, and
 3. The medical reasons for dispensing the device or natural substance.

R4-18-305. Recordkeeping and Reporting Shortages of Controlled Substances

- A. A physician shall ensure that in dispensing from the physician's practice location:
 1. The original prescription for a controlled substance is dated and filed in the patient medical records in the order in which the prescription was originally dispensed;
 2. An original prescription order for a controlled substance is maintained separately from other prescription orders;
 3. Purchase orders, invoices, and original prescription orders for controlled substances are maintained for three years from the date of the order;
 4. Dispensing logs and destruction records are maintained for three years.
- B. A physician who determines that a controlled substance has been illegally removed from the physician's practice location or that a shortage exists in a controlled substance inventory shall immediately notify a local law enforcement agency. The physician shall follow the standard reporting procedures of the law enforcement agency. Copies of the report filed with the law enforcement agency shall be sent to the Drug Enforcement Administration and the Board within seven days of filing.

R4-18-306. Inspections

A physician shall cooperate with and allow access by the Board or its authorized representatives to the physician's office and records during compliance inspections by the Board.

ARTICLE 4. APPROVAL OF SCHOOLS OF NATUROPATHIC MEDICINE

R4-18-401. Approval of a School of Naturopathic Medicine

The Board shall approve a school of naturopathic medicine if, in addition to the requirements of A.R.S. § 32-1501(8):

1. If it is accredited or a candidate for accreditation by the Council on Naturopathic Medical Education, or its successor agency.
2. It has complied with the requirements of the Arizona State Board of Private Post Secondary Education in A.R.S. Title 32, Chapter 30 and AAC 4-39-101 through 4-39-603, and
3. Pays the fee listed in R4-18-107.

R4-18-402. Annual Renewal of an Approved School of Naturopathic Medicine

An approved school of naturopathic medicine shall be renewed by submitting on or before January 1, the appropriate fee listed in R4-18-107 and information that allows the Board to determine if the applicant continues to meet the requirements of A.R.S. § 32-1501(8) and of R4-18-401.

ARTICLE 5. NATUROPATHIC CLINICAL TRAINING PROGRAM REQUIREMENTS

R4-18-501. Certificate to Engage in Clinical or Preceptorship Training

- A.** To obtain a certificate to engage in clinical or preceptorship training, an applicant shall submit to the Board an application packet that includes a completed application form provided by the Board, that allows the Board to determine if the applicant meets the requirements of A.R.S. § 32-1524, signed and dated by the applicant, and the fee listed in R4-18-107.
- B.** In addition to the requirements in subsection (A), a naturopathic medical student who applies for a certificate to engage in clinical training shall comply with the requirements of A.R.S. § 32-1560 and:
1. Be attending an approved naturopathic medical school;
 2. Arrange to have submitted directly to the Board a letter from the chief medical officer of the medical school verifying that the applicant will be entering clinical training and the anticipated starting and completion dates;
 3. Provide a legible fingerprint card; and
 4. Take and pass the Arizona naturopathic jurisprudence examination with a minimum score of 75%.
- C.** In addition to the requirements in subsection (A), an applicant for a certificate to engage in a preceptorship training program shall comply with the requirements of A.R.S. § 32-1561 and arrange to have submitted directly to the Board:
1. An official transcript from the approved naturopathic medical school from which applicant graduated;
 2. A Board approved verification form, from the physician who will be responsible for the applicant's supervision and training;
 3. Provide a legible fingerprint card;
 4. If licensed to practice naturopathic medicine in another jurisdiction, a copy of the license; and
 5. Have on file in the Board office proof of passing the Arizona naturopathic jurisprudence test with a minimum score of 75%.

R4-18-502. Annual Renewal of a Certificate to Engage in Clinical or Preceptorship Training

A holder of a certificate to engage in a clinical or preceptorship training shall renew the certification at least 90 days before the anniversary date of the certificate by submitting:

1. A completed form provided by the Board that allows the Board to determine if the holder of the certificate continues to meet the requirements of A.R.S. Title 32 Chapter 14, and R4-18-501; and
2. A letter from the chief medical officer stating that the applicant is in good standing in the training program.

R4-18-503. Application for a Certificate to Conduct a Clinical or Preceptorship Training Program

- A.** A chief medical officer applying on behalf of a school of naturopathic medicine for a certificate to conduct clinical training, or on behalf of a preceptorship training program, shall submit to the Board an application form provided by the Board, signed and dated by the chief medical officer, that contains:
1. The chief medical officer's name, mailing address, and telephone number;
 2. The name and address of the training program and of each facility where training will be conducted;
 3. The name, professional degree, license number, and licensing agency for each physician who will be providing supervision in the training program; and
 4. A mission statement outlining the goals of the training program.
- B.** The fee indicated in R4-18-107

R4-18-504. Annual Renewal of Certificate to Conduct a Clinical or Preceptorship Training Program

A certificate to conduct clinical or preceptorship training shall be renewed 90 days before the anniversary date, by submitting the appropriate fee listed in R4-18-107 and a completed form supplied by the Board that allows the Board to determine if the applicant continues to meet the requirements of R4-18-503.

ARTICLE 6. MEDICAL ASSISTANTS

R4-18-601. Medical Assistant Training Requirements

- A.** To receive an initial certification as a medical assistant by the Board after July 1, 2002, an applicant shall have completed an accredited medical assistant training program.
- B.** For the purposes of this Section, a supervising physician shall be licensed by the Board and ensure that a medical assistant is certified by the Board, adequately trained, and supervised for any procedure performed on behalf of the supervising physician.

R4-18-602. Authorized Procedures for Medical Assistants

- A.** A medical assistant may perform, under the supervision of a physician, the following medical procedures:
1. Obtain patient medical histories;
 2. Obtain vital signs;
 3. Assist a physician in performing a physical examination, surgical procedure, or treatment.;
 4. Perform diagnostic tests ordered by a physician, including electrocardiogram, puncture of a peripheral vein, capillary puncture, urine analysis, hematology testing, and respiratory function testing;
 5. Administer medications by mouth;
 6. If trained in the use of, and in emergency medical procedures associated with the medications administered: administer medications by subcutaneous, intramuscular, or intravenous route; and
 7. Perform physiotherapy, including whirlpool treatments, diathermy treatments, electronic stimulation treatments, ultrasound therapy, massage therapy, traction treatments, transcutaneous nerve stimulation, and hot and cold pack treatments.
- B.** A medical assistant shall not perform diagnosis, X-rays, surgical procedures, acupuncture needle insertion, osseous manipulations, or prescribe any form of treatment.

R4-18-603. Application for a Medical Assistant Certificate

- A.** An applicant for a medical assistant certificate shall submit an application to the Board that includes a completed form provided by the Board, signed and dated by the applicant, that allows the Board to determine whether the applicant meets the requirements of A.R.S. § 32-1559 and R4-18-601.
- B.** In addition to the requirements in subsection (A), an applicant shall arrange to have submitted directly to the Board, from the accredited medical assistant school, an official transcript or letter showing that the applicant has completed all requirements of an accredited medical assistant training program.

R4-18-604. Renewal of Medical Assistant Certificate

- A.** A holder of a medical assistant certificate shall renew the certification on or before July 1 each year by submitting the fee listed in R4-18-107 and a completed application that allows the Board to determine whether the applicant continues to meet the requirements of R4-18-603. A medical assistant who submits a timely and complete renewal application may continue to work for the supervising physician until the Board either approves or denies the renewal application.
- B.** The Board shall not require a medical assistant who is certified by the Board before July 1, 2002 to comply with the requirements of R4-18-601(A) and R4-18-603 for the purposes of certificate renewal. A medical assistant certified by the Board before July 1, 2002, who certification expires shall comply with R4-18-601(A) and R4-18-603, before a certificate renewal will be issued.

ARTICLE 7. TIME-FRAMES FOR BOARD DECISIONS

R4-18-701. Time-frames for Board Decisions

- A.** The overall time-frame described in A.R.S. § 41-1072(2) for each type of license, certification, or 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 a substantive review and overall time-frame by no more than twenty five percent of the overall time-frame listed in Table 1.
- B.** The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of license, certification, and approval granted by the Board is listed in Table 1.
1. The administrative completeness review period begins on the day the Board receives the completed application form and the appropriate fee.
 2. If the application packet is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information.
 3. The administrative completeness review time-frame and the overall time-frame are suspended from the date on the Board's notice until the date the Board office receives all missing information.
- C.** The substantive review time-frame described in A.R.S. § 41-1072(3) for each type of license, certification, and approval granted by the Board is listed in Table 1.
1. The substantive review period begins on the date of the Board's notice of administrative completeness.

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2. If the Board determines that additional information or documentation is required, the Board shall send to the applicant a written request for that additional information or documentation.
 3. The time-frame for the substantive review is suspended from the date the request for additional information or documentation is sent to applicant, until the date on which all of the requested information is received.
 4. The Board shall notify the applicant of the dates of all Board meetings at which the application will be considered.
 5. The Board shall send a written notice of approval or denial to applicants within ten working days of the Board meeting at which the decision is made. An applicant may request a hearing review the decision within 30 days of the Board's action.
- D.** The Board shall consider an application withdrawn if within 360 days from the date of application the applicant fails to:
1. Supply the missing information requested under subsection (B)(2) or (C)(2); or
 2. If applicable, take and obtain a minimum score of 75% on the Arizona Naturopathic Jurisprudence Examination.
- E.** During the administrative review period, an applicant may withdraw an application by requesting so in writing. During the substantive review period, the Board shall decide whether to grant a request to withdraw.
- F.** An applicant shall send written notice to the Board within 10 days from the date of any change of applicant's address.

Table 1. Time-frames

<u>Type of Approval</u>	<u>Statutory Authority</u>	<u>Administrative Completeness Time-frame</u>	<u>Substantive Review Time-frame</u>	<u>Overall Time-frame</u>
<u>License by Examination(R4-18-201)</u>	<u>A.R.S. §§ 32-1504(A), 32-1522, 32-1523, 32-1523.01, 32-1524</u>	<u>90 days</u>	<u>90 days</u>	<u>180 days</u>
<u>License by Endorsement (R4-18-203)</u>	<u>A.R.S. §§ 32-1504(A), 32-1523</u>	<u>60 days</u>	<u>60 days</u>	<u>120 days</u>
<u>Specialist Certificate (R4-18-204)</u>	<u>A.R.S. §§ 32-1504(B)(3), 32-1529</u>	<u>60 days</u>	<u>60 days</u>	<u>120 days</u>
<u>Annual Renewal of License (R4-18-206)</u>	<u>A.R.S. §§ 32-1504(A), 32-1526</u>	<u>30 days</u>	<u>60 days</u>	<u>90 days</u>
<u>Certificate to Dispense (R4-18-301)</u>	<u>A.R.S. §§ 32-1504(A), 32-1581</u>	<u>30 days</u>	<u>60 days</u>	<u>90 days</u>
<u>Annual Renewal of Certificate to Dispense (R4-18-301)</u>	<u>A.R.S. §§ 32-1504(A), 32-1581</u>	<u>30 days</u>	<u>60 days</u>	<u>90 days</u>
<u>Certificate to Engage in a Clinical Preceptorship, Internship or Postdoctoral Training Program (R4-18-501)</u>	<u>A.R.S. §§ 32-1504(A), 32-1560, 32-1561</u>	<u>30 days</u>	<u>60 days</u>	<u>90 days</u>
<u>Annual Renewal of Certificate to Engage in a Clinical Preceptorship, Internship or Postdoctoral Training Program (R4-18-502)</u>	<u>A.R.S. §§ 32-1504(A), 32-1560, 32-1561</u>	<u>30 days</u>	<u>60 days</u>	<u>90 days</u>
<u>Certificate to Conduct a Clinical Preceptorship, Internship or Postdoctoral Training Program (R4-18-503)</u>	<u>A.R.S. §§ 32-1501, 32-1504(A)</u>	<u>30 days</u>	<u>60 days</u>	<u>90 days</u>
<u>Annual Renewal of Certificate to Conduct a Clinical Preceptorship, Internship or Postdoctoral Training Program (R4-18-504)</u>	<u>A.R.S. §§ 32-1504(A)</u>	<u>30 days</u>	<u>60 days</u>	<u>90 days</u>

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<u>Medical Assistant Certificate (R4-18-603)</u>	<u>A.R.S. §§ 32-1504(A), 32-1559</u>	<u>30 days</u>	<u>60 days</u>	<u>90 days</u>
<u>Annual Renewal of Medical Assistant Certificate (R4-18-604)</u>	<u>A.R.S. §§ 32-1504(A), 32-1559</u>	<u>30 days</u>	<u>60 days</u>	<u>90 days</u>

ARTICLE 8. EXPERIMENTAL MEDICINE

R4-18-801. Experimental Medicine

A procedure or device is experimental if:

1. An Institutional Review Board exists for a particular device, medication, or procedure; or
2. A procedure, medication, or device is not generally considered to be within the accepted practice standards for the naturopathic profession.

R4-18-802. Informed Consent and Duty to Follow Protocols

- A. A physician, medical student, preceptee, or intern who conducts research involving an experimental procedure, medication, or device, shall ensure that all research subjects give their informed consent to participate.
- B. A physician, medical student, preceptee, intern, school, who conducts research on humans shall have a protocol for that research approved by an Institutional Review Board.

TITLE 9. HEALTH SERVICES

**CHAPTER 8. DEPARTMENT OF HEALTH SERVICES
FOOD, RECREATIONAL AND INSTITUTIONAL SANITATION**

PREAMBLE

1. Sections Affected

Article 4
R9-8-401
R9-8-402
R9-8-403

Rulemaking Action

New Article
New Section
New Section
New Section

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

Authorizing statutes: A.R.S. §§ 36-104(3), 36-133(A)(18), 36-136(A)(7), and 36-136(F)

Implementing statutes: A.R.S. §§ 8-551 through 8-558, 8-560, 8-561, and 8-568

3. A list of previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 8 A.A.R. 654, February 15, 2002

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

Name: Will Humble, Office Chief

Address: Arizona Department of Health Services
Office of Environmental Health
3815 North Black Canyon Highway
Phoenix, AZ 85015

Telephone: (602) 230-5941

Fax: (602) 230-5933

E-mail: whumble@hs.state.us.az

or

Name: Kathleen Phillips, Rules Administrator

Address: 1740 West Adams, Suite 102

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Phoenix, AZ 85007

Telephone: (602) 542-1264

Fax: (602) 542-1150

E-mail: kphilli@hs.state.us.az

5. An explanation of the rules, including the agency's reasons for initiating the rule:

The proposed rulemaking adds three new Sections to Article 4 to address the licensing of children's camps required in A.R.S. Title 8, Chapter 6, Article 1. R9-8-401 sets forth the definitions used in the Article. R9-8-402 explains the requirements for an initial or renewal license application and the license application fee structure. R9-8-403 contains time-frames requirements for issuing a license to a children's camp. The rulemaking is necessary to ensure that Department approvals are issued according to A.R.S. §§ 41-1072 through 41-1079.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed 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

7. 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

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

This rulemaking ensures that Department approvals for children's camps are consistent with the requirements in A.R.S. §§ 41-1072 through 41-1079. The rulemaking directly impacts the 85 children's camps that are currently licensed in the State, other children's camps not currently licensed under A.R.S. Title 8, Chapter 6, Article 1, county health departments, and the Department. The Department will incur costs to write, review, and process the rules through promulgation and amend the current license application form to reflect the new rules. The overall impact of the rulemaking is expected to be minimal, with the benefits of the rulemaking outweighing the costs. The time-frames will benefit children's camps by providing clarity in the application and approval process and assuring that the Department will process applications in a fair, consistent, and timely manner.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Will Humble, Office Chief

Address: Arizona Department of Health Services
Office of Environmental Health
3815 North Black Canyon Highway
Phoenix, AZ 85015

Telephone: (602) 230-5941

Fax: (602) 230-5933

E-mail: whumble@hs.state.us.az

or

Name: Kathleen Phillips, Rules Administrator

Address: 1740 West Adams Street, Suite 102
Phoenix, Arizona 85007

Telephone: (602) 542-1264

Fax: (602) 542-1150

E-mail: kphilli@hs.state.us.az

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule; or, if no proceeding is scheduled, where, when, and how many persons may request an oral proceeding on the proposed rule:

The Department has scheduled the following oral proceeding:

Date: April 8, 2002

Time: 10:00 a.m.

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Location: Department of Health Services
1740 West Adams Street, Room 411
Phoenix, Arizona 85007

A person may submit written comments on the proposed rules no later than the close of record, 5:00 p.m., April 9, 2002, to the individuals listed in items #4 and #9.

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

Not applicable

12. Incorporation by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 8. DEPARTMENT OF HEALTH SERVICES
FOOD, RECREATIONAL AND INSTITUTIONAL SANITATION**

ARTICLE 4. ~~RENUMBERED~~ CHILDREN'S CAMPS

Section

<u>R9-8-401</u>	<u>Definitions</u>
<u>R9-8-402</u>	<u>Initial and Renewal License Application Process</u>
<u>R9-8-403</u>	<u>Time-frames</u>

ARTICLE 4. ~~RENUMBERED~~ CHILDREN'S CAMPS

R9-8-401. Definitions

1. "Applicant" means an individual requesting a license from the Department to operate a children's camp.
2. "Bathing place" has the same meaning as in 9 A.A.C. 8, Article 8.
3. "Camp director" means an individual who runs, maintains, or otherwise controls or directs the functions of a children's camp.
4. "Children's camp" has the same meaning as in A.R.S. § 8-551.
5. "Department" means the Arizona Department of Health Services.
6. "Food establishment" has the same meaning as in 9 A.C.C. 8, Article 1.

R9-8-402. Initial and Renewal License Application Process

- A.** An applicant shall submit a completed license application form provided by the Department that contains:
1. The name, mailing address, and telephone number of the children's camp;
 2. The county in which the children's camp is located;
 3. The name, telephone number, and mailing address of the applicant;
 4. The name, telephone number, and if applicable, e-mail address of the camp director;
 5. The dates of operation of the children's camp;
 6. The number of individuals the children's camp can accommodate;
 7. Whether there is a food establishment in the children's camp;
 8. Whether there is a bathing place in the children's camp;
 9. The potable water supply source at the children's camp;
 10. The type of sewage disposal system;
 11. Whether the application is for an initial or a renewal license; and
 12. The signature of the applicant.
- B.** With the completed license application, an applicant shall include a map that specifies the location of a children's camp, and:
1. For an initial license, a fee of \$100, or
 2. For a renewal license, a fee of \$25.
- C.** The Department begins reviewing applications on May 1 of each year.

R9-8-403. Time-frames

- A.** This Article applies to the Department and to county boards of health to which the Department has delegated authority under A.R.S. § 8-568.
- B.** The overall time-frame described in A.R.S. § 41-1072 for an initial or a renewal license granted by the Department is 60 days. The applicant and the Department may agree in writing to extend the substantive review time-frame and the overall

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time-frame. An extension of the substantive time-frame and the overall time-frame may not exceed 25% of the overall time-frame.

- C.** The administrative completeness review time-frame described in A.R.S. § 41-1072 for an initial or a renewal license granted by the Department is 30 days and begins on the date the Department receives the license application, but no sooner than May 1 of each year.
1. The Department shall mail notice of administrative completeness or deficiencies to the applicant within the administrative completeness time-frame.
 - a. A notice of deficiencies shall list each deficiency and the information and documentation needed to complete the license application.
 - b. If the Department issues a notice of deficiencies within the administrative completeness time-frame, the administrative completeness time-frame and the overall time-frame are suspended from the date that the notice is issued until the date the Department receives the missing information from the applicant.
 - c. If the applicant fails to submit to the Department all the information and documents listed in the notice of deficiencies within 60 days of the date the Department mailed in the notice of deficiencies, the Department shall deem the license application withdrawn.
 2. If the Department issues a license to the applicant during the administrative completeness time-frame, the Department shall not issue a separate written notice of administrative completeness.
- D.** The substantive review time-frame described in A.R.S. § 41-1072 is 30 days and begins on the date of the notice of administrative completeness is mailed to the applicant.
1. The Department shall mail a children's camp license or a written notification of denial of the license application to the applicant within the substantive review time-frame.
 2. As part of the substantive-review time-frame for a children's camp license, the Department may complete an inspection to determine whether the applicant has complied with all the statutory requirements listed in A.R.S. Chapter 6, Article 1.
 3. If the Department issues a comprehensive written request or supplemental request for information, the substantive review time-frame and the overall time-frame are suspended from the date the Department issues the request until the date the Department receives all of the information.
 4. If an applicant meets all the requirements under A.R.S. Chapter 6, Article 1 and these rules, the Department shall issue a license to the applicant.
 5. If the Department disapproves a license application, the Department shall send the applicant a written notice of disapproval setting forth the reasons for disapproval and all other information required in A.R.S. § 41-1076.
- E.** If a time-frame's last day is on a Saturday, Sunday, or legal holiday, the Department considers the next business day as the time-frame's last day.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 5. DEPARTMENT OF TRANSPORTATION - COMMERCIAL PROGRAMS

ARTICLE 2. MOTOR CARRIERS

PREAMBLE

- | | |
|-------------------------------------|----------------------------------|
| 1. <u>Sections affected:</u> | <u>Rulemaking Action:</u> |
| R17-5-201 | New Section |
| R17-5-202 | Amend |
| R17-5-203 | Amend |
| R17-5-205 | Amend |
| R17-5-208 | Amend |
| R17-5-209 | Amend |
| R17-5-210 | 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. §§ 28-5204 and 28-5235
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
- Notice of Rulemaking Docket Opening: 8 A.A.R. 622, February 8, 2002

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

Name: George R. Pavia, Department Rules Supervisor
Address: Administrative Rules Unit
Department of Transportation, Mail Drop 507M
3737 N. 7th Street, Suite 160
Phoenix, AZ 85014-5079
Telephone: (602) 712-8446
Fax: (602) 241-1624
E-mail: gpavia@dot.state.az.us

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at www.dot.state.az.us/about/rules.

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

MVD engages in this rulemaking to incorporate sections of the 2001 edition of the 49 CFR by reference into Arizona Motor Carrier Safety and Hazardous Materials Transportation administrative rules. For purposes of clarity, general definitions are moved to a new Section, R17-5-201, created just for definitions.

This rulemaking also introduces two amendments:

1. In R17-5-203(B)(3), an additional provision redefines Commercial Motor Vehicle to include operation for interstate commerce with a gross vehicle weight greater than 10,001 pounds. Compliance to federal regulations is already required for this provision under 49 CFR 390.5; but statewide law enforcement wishes specifically to codify the provision in rule language to reinforce compliance with Motor Carrier Safety Assistance Program "MCSAP" requirements on the state level and ensure receipt of MCSAP grant funding.

2. In R17-5-208(6)(a), language is deleted to help reduce confusion concerning medical reporting requirements for insulin dependent diabetics applying for a CDL under the waiver pilot program. The applicant must report hypoglycemic insulin reactions that occurred within a 12-month period before applying for a CDL. The Medical Review Program of MVD has maintained this standard since the initiation of the pilot program, but has encountered repeated misunderstanding of actual requirements by prospective applicants and reporting physicians.

Other minor amendments are made to reflect modifications in 49 CFR 2001 section naming and numbering. This rulemaking does not arise from a five-year review but is an annual update.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed 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

7. 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

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

The economic impact of this rulemaking is negligible. No substantial changes are introduced since the last rulemaking, effective July 12, 2001. The new Section and amendments in this rulemaking provide minimal benefit to the agency and regulated persons in reduction of confusion and employee time required to clarify regulatory provisions.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Questions concerning the economic impact statement may be directed to the officer listed in item #4.

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

No oral proceeding is scheduled for this rulemaking. An interested person may request an oral proceeding through the officer listed in item #4. If no oral proceeding is requested, the public record for this rulemaking will close at 4:30 p.m. on Friday, April 12, 2002.

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

None

12. Incorporations by reference and their location in the rules:

In R17-5-202, subsection (A):

49 CFR Parts 40, 382, 390, 391, 392, 393, 395, 396, 397, and 399, published October 1, 2001.

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In R17-5-209, subsection (A):

49 CFR Parts 107, 171,172,173,177,178, and 180, published October 1, 2001.

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 5. DEPARTMENT OF TRANSPORTATION - COMMERCIAL PROGRAMS

ARTICLE 2. MOTOR CARRIERS

Section

R17-5-201. ~~Reserved~~ Definitions

R17-5-202. Motor Carrier Safety: Incorporation of Federal Regulations; ~~Definitions~~; Application

R17-5-203. Motor Carrier Safety: 49 CFR 390 - Federal Motor Carrier Safety Regulations; General Applicability and Definitions; General Requirements and Information

R17-5-205. Motor Carrier Safety: 49 CFR 382 - Controlled Substances and Alcohol Use and Testing

R17-5-208. Insulin-Dependent Commercial Driver License Waiver Pilot Study Program

R17-5-209. Hazardous Materials Transportation

R17-5-210. ~~Definitions~~ Repealed

ARTICLE 2. MOTOR CARRIERS

R17-5-201. ~~Reserved~~ Definitions

A. The following definitions apply to this Article unless context indicates otherwise:

1. “Audit” means any inspection of a transporter’s motor vehicle, equipment, books, or records to determine compliance with this Article and A.R.S. Title 28, Chapter 14.
2. “Co-applicant” means an employer or potential employer.
3. “Commercial driver license” or “CDL” has the meaning prescribed in A.R.S. § 28-3001(2).
4. “Danger to public safety” means any condition of a transporter likely to result in serious peril to the public if not discontinued immediately.
5. “Division” or “MVD” means the Motor Vehicle Division, Arizona Department of Transportation.
6. “Division Director” means the Assistant Director of the Arizona Department of Transportation for the Motor Vehicle Division or the Assistant Director’s designated agent.
7. “Hearing Office” means the Arizona Department of Transportation, Motor Vehicle Division, Executive Hearing Office.
8. “Transporter” means any person, driver, motor carrier, motor vehicle, shipper, manufacturer, including any motor vehicle transporting hazardous material, a hazardous substance, or hazardous waste, subject to this Article and A.R.S. Title 28, Chapter 14.
9. “Violation” means any conduct, act, or failure to act required or prohibited under this Article and A.R.S. Title 28, Chapter 14.

B. Any definition prescribed under A.R.S. § 28-5201 also applies to this Article.

R17-5-202. Motor Carrier Safety: Incorporation of Federal Regulations; ~~Definitions~~; Application

A. The Division incorporates by reference 49 CFR 40, 382, 390, 391, 392, 393, 395, 396, 397, and 399 published October 1, 2000; 2001, and no later amendments or editions and on file with the Federal Motor Carrier Safety Administration, the Division, and the Office of the Secretary of State, as amended by R17-5-202 through R17-5-208.

~~B.~~ ~~The following definitions apply for purposes of R17-5-202 through R17-5-208 unless indicated otherwise:~~

- ~~1. “Co-applicant” means an employer or potential employer.~~
- ~~2. “Commercial driver license” or “CDL” has the meaning prescribed in A.R.S. § 28-3001(2).~~
- ~~3. “Division” or “MVD” means the Motor Vehicle Division, Arizona Department of Transportation.~~
- ~~4. “Division Director” means the Assistant Director of the Arizona Department of Transportation for the Motor Vehicle Division or the Assistant Director’s designated agent.~~

~~C.~~B. The regulations of 49 CFR, incorporated by subsection (A), apply as amended by R17-5-203 through R17-5-208 to:

1. A motor carrier as defined in A.R.S. § 28-5201 except a motor carrier transporting passengers for hire in a vehicle with a design capacity of 6 or fewer persons.
2. A vehicle owned or operated by the state, a political subdivision, or a public authority of the state that is used to transport hazardous materials in an amount requiring the vehicle to be marked or placarded as prescribed in R17-5-209.

R17-5-203. Motor Carrier Safety: 49 CFR 390 - Federal Motor Carrier Safety Regulations; General Applicability and Definitions; General Requirements and Information

A. 49 CFR 390.3 General applicability is amended as follows:

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1. Paragraph (a) is amended to read:

Regulations incorporated in this Section are applicable to all motor carriers operating in Arizona and any vehicle owned or operated by the state, a political subdivision, or a state public authority that is used to transport a hazardous material in an amount requiring the vehicle to be marked or placarded as prescribed in R17-5-209.
 2. Paragraph (b) is amended to read:

A motor carrier driver domiciled in Arizona who operates a commercial motor vehicle defined in A.R.S. § 28-3001 shall comply with the requirements of A.R.S. Title 28, Chapter 8 and any rule made under that Chapter.
 3. Paragraph (c) is amended to read:

A motor carrier operating in Arizona in furtherance of a commercial enterprise, shall comply with the financial responsibility requirement specified in A.R.S. Title 28, Chapter 9, Article 2, and 49 CFR 387.
- B.** 49 CFR 390.5 Definitions. The definitions listed in 49 CFR 390.5 are amended as follows:
1. If the term “Commercial Motor Vehicle” or “CMV” is used in reference to the controlled substance and alcohol use and testing requirement of 49 CFR 382, the term has the meaning prescribed in 49 CFR 382.107.
 2. If the term “Commercial Motor Vehicle” or “CMV” is used in reference to the licensing requirements prescribed under A.R.S. § 28-3223, the term has the meaning prescribed under A.R.S. § 28-3001.
 3. If the term “Commercial Motor Vehicle” or “CMV” is not used in reference to the controlled substance and alcohol use and testing requirement of 49 CFR 382 or the licensing requirement prescribed under A.R.S. § 28-3223, the term means a self-propelled, motor-driven vehicle or vehicle combination, used on a public highway in this state in furtherance of a commercial enterprise that:
 - a. Has a gross vehicle weight rating (GVWR) as a single vehicle or a gross combination weight rating (GCWR) of 18,001 pounds or more;
 - b. Transports passengers for hire and has a design capacity of 7 or more persons; or
 - c. Transports a hazardous material in an amount requiring marking or placarding as prescribed in ~~R17-4-436~~ R17-5-209; ~~and~~
 - d. Is not an intrastate-operating tow truck that has a GVWR up to 26,000 pounds, but remains subject to all other provisions prescribed under 49 CFR 391.41, 391.43, 391.45, 391.47, and 391.49-; ~~and~~
 - e. Operates for purposes of interstate commerce with a GVWR of greater than 10,001 pounds.
 4. “Exempt intracity zone” is deleted from R17-5-203 through R17-5-206 and has no application in this Section.
 5. “For-hire motor carrier,” “private motor carrier”, “private motor carrier of passengers (business),” and “private motor carrier of passengers (nonbusiness)” are deleted from R17-5-203 through R17-5-206 and the term “motor carrier” is substituted.
 6. “Gross combination weight rating (GCWR)” has the meaning prescribed under 49 CFR 390.5, Definitions.
 7. “Gross vehicle weight rating (GVWR)” has the meaning prescribed under 49 CFR 390.5, Definitions, amended by adding:

In the absence of a value specified by the manufacturer and the vehicle identification number, law enforcement shall use a vehicle’s actual gross weight or declared gross weight to determine the GVWR.
 8. “Regional Director of Motor Carriers” means the Division Director of the Arizona Department of Transportation, Motor Vehicle Division.
 9. “Special agent” means an officer or agent of the Department of Public Safety, the Division, or a political subdivision, who is trained and certified by the Department of Public Safety to enforce Arizona’s Motor Carrier Safety requirements.
 10. “State” means a state of the United States or the District of Columbia.
 11. “Tow truck” has the meaning prescribed under A.A.C. R13-3-101.
- C.** 49 CFR 390.15 Assistance in investigations and special studies. Paragraph (a) is amended to read:

A motor carrier shall make all records and information pertaining to an accident available to a special agent upon request or as part of any inquiry within the time the request or inquiry specifies. A motor carrier shall give a special agent all reasonable assistance in the investigation of any accident including providing a full, true, and correct answer to any question of the inquiry.
- D.** 49 CFR 390.21 Marking of CMVs. Paragraph (a) is amended to read:

This Section applies to all motor carrier vehicles operated in Arizona. A motor carrier not subject to U.S. Department of Transportation marking requirements shall mark its vehicle with the:

 1. Company name, or
 2. Business trade name and
 3. City and state.
- E.** 49 CFR 390.23 Relief from regulations.
1. Paragraph (a) is amended to read:

Regulations contained in 49 CFR 390 through 397 do not apply to a motor carrier that:

 - a. Is exempt from federal jurisdiction, and
 - b. Operates a commercial motor vehicle used or designated to provide relief during an emergency.

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2. Paragraphs (a)(1), ~~(a)(1)(A)~~, ~~(a)(1)(B)~~, and ~~(a)(1)(B)(ii)~~ (a)(1)(i), (a)(1)(i)(A), (a)(1)(i)(B), and (a)(1)(ii) are deleted.
 3. Paragraph ~~(a)(2)(A)~~ (a)(2)(i)(A) is amended as follows:

An emergency has been declared by a federal, state, or local government official having authority to declare an emergency; and
 4. Paragraph ~~(a)(2)(B)~~ (a)(2)(i)(B) is amended as follows:

The Arizona Department of Public Safety Commercial Vehicle Enforcement Bureau determines a local emergency exists that justifies an exemption from any or all of these Parts. If the Arizona Department of Public Safety Commercial Vehicle Enforcement Bureau determines relief from these regulations is necessary to provide vital service to the public, relief shall be granted with any restrictions the Arizona Department of Public Safety considers necessary.
 5. Paragraph (b) is amended as follows:

“Interstate commerce” means engagement in a commercial enterprise.
- F.** 49 CFR 390.25 Extension of relief from regulations - emergencies is amended as follows:

A motor carrier seeking to extend a period of relief from these regulations shall obtain approval from the Arizona Department of Public Safety Commercial Vehicle Enforcement Bureau. The motor carrier shall give full details of the additional relief requested. The Arizona Department of Public Safety shall observe time limits for emergency relief from regulations as prescribed under 49 CFR 390.23(a), but may extend a period of relief after considering:

 1. Severity of the emergency,
 2. Nature of relief services to be provided by the motor carrier, and
 3. Other restrictions that may be necessary.
- G.** 49 CFR 390.27 Locations of motor carrier safety service centers is amended to read:

A motor carrier requesting relief from these regulations shall contact the Arizona Department of Public Safety, Commercial Vehicle Enforcement Bureau, Telephone (602) 223-2522.

R17-5-205. Motor Carrier Safety: 49 CFR 382 - Controlled Substances and Alcohol Use and Testing

- A.** 49 CFR 382.103 Applicability. Paragraph (a)(1) is amended to read:

The commercial driver license requirements of the state of Arizona.
- B.** 49 CFR 382.115 Starting date for testing programs. Paragraph (a) is amended to read:

The controlled substance and alcohol use and testing requirements commence for all motor carriers on the date this Section goes into effect.
- C.** ~~Paragraphs (b) through (d) are~~ Paragraph (b) is deleted.

R17-5-208. Insulin-Dependent Commercial Driver License Waiver Pilot Study Program

The Division shall create a pilot study program for insulin-dependent diabetics to process, monitor, and evaluate the feasibility of establishing a waiver program for intrastate drivers who are disqualified as prescribed in the provisions of 49 CFR 391.41 (b)(3), but who are otherwise qualified. All requirements of R17-5-204 apply except subsections (B)(3) and (B)(4).

1. The Medical Review Officer, authorized to approve or deny waiver applications, shall administer the pilot study program.
2. The study program begins on the effective date of this rule and terminates 2 years from that date.
3. All waivers issued through the study program terminate upon the expiration of the study program.
4. The Division Director may extend the study or establish a permanent waiver process after review of the study program results.
5. An insulin-dependent diabetic may apply for a waiver, restricted to the state of Arizona, for participating in the 2-year pilot study if:
 - a. The applicant submits blood glucose logs to the endocrinologist or medical examiner at an annual examination or at any time as directed by the medical review section.
 - b. The applicant has a driving record meeting the minimum requirements of safe driving as specified in applicable federal and state safety regulations and has no serious traffic violation as described under A.R.S. § 28-3312(E), no period of driver disqualification, and no reportable accident for the 3-year period before submitting the waiver application.
 - c. A separate signed statement from an examining ophthalmologist is submitted that the applicant has been examined and does not have unstable proliferative diabetic retinopathy, unstable advancing disease of blood vessels in the retina, and has stable acuity of at least 20/40 Snellen in each eye, with or without corrective lenses.
6. An insulin dependent diabetic commercial driver license applicant shall provide:
 - a. A board-certified or board-eligible endocrinologist with a complete medical history including the date insulin use began, all hospitalization reports, consultation notes for diagnostic examinations, special studies pertaining to the diabetes and follow-up reports, and reports of any hypoglycemic insulin reactions within the prior 12 months ~~or~~ from the date the applicant started using insulin, ~~whichever is later~~.

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- b. An examination by a board-certified or board-eligible endocrinologist. The complete medical examination shall consist of a comprehensive evaluation of the applicant's medical history and current status, including a review of:
 - i. Fasting blood studies glucose, glycosylated hemoglobin/Hb Alc I including lab reference page and urinalysis performed during the last 6 months; and
 - ii. Insulin dosages and types, diet utilized for control, and any significant factors such as smoking, alcohol use, and other medications, or drugs taken.
- c. A statement prepared and signed by the examining endocrinologist whose status as board-certified or board-eligible is indicated. The signed statement shall include separate declarations indicating the following medical determinations:
 - i. The endocrinologist is familiar with the applicant's medical history for the past 12 months whether through actual treatment over that time or through consultation with a physician who has treated the applicant during that time.
 - ii. The applicant is free from insulin reactions including severe hypoglycemia and hypoglycemia awareness, and has had no more than 1 documented hypoglycemic reaction per month in the previous 12 months or from the date the applicant started using insulin injections, whichever is later.
 - iii. The applicant does not have severe hypoglycemia episodes of altered consciousness requiring the assistance of another person to regain control.
 - iv. The applicant does not have hypoglycemia unawareness or the inability to recognize the early symptoms of hypoglycemia such as sweating, anxiety, forceful heartbeat, and light-headedness.
 - v. The applicant's diabetic condition will not adversely affect the applicant's ability to operate a commercial motor vehicle; and
 - vi. The applicant is educated in diabetes and its management and is thoroughly informed of and understands procedures to follow to monitor and manage the applicant's diabetes and procedures to follow if complications arise.
- d. An insulin-dependent applicant for a commercial driver license waiver shall meet the following requirements for the last 3 years before application:
 - i. Have a driving record that contains no suspension or revocation of the applicant's driver license for the operation of any motor vehicle, including personal vehicles, except a suspension or revocation due to nonpayment of fines;
 - ii. Have no involvement in an accident as defined in 49 CFR 390.5 for which the applicant received a citation for a moving traffic violation while operating a commercial motor vehicle;
 - iii. Have no conviction for a disqualifying offense described in 49 CFR 383.51, or more than 1 serious traffic violation as described in 49 CFR 383.51 and A.R.S. § 28-3312 (E) while operating a commercial motor vehicle; and
 - iv. Have no more than 2 convictions for any non-serious moving traffic violations while operating a commercial motor vehicle.
- e. The applicant shall immediately report any arrest, citation, or conviction to the MVD Medical Review Program. Failure to do so may result in denial or rescission of the waiver.

R17-5-209. Hazardous Materials Transportation

A. Incorporation of federal regulations.

- 1. The Motor Vehicle Division incorporates the following portions of the Federal Hazardous Materials Regulations by reference. Materials incorporated by reference are on file in the Secretary of State's Office. The incorporated Hazardous Materials Regulations are published in 49 CFR Transportation, Subtitle B - Other Regulations Relating to Transportation, Chapter I - Research and Special Programs Administration, Department of Transportation:
 - a. Subchapter A - Hazardous Materials Transportation, ~~and~~ Oil Transportation, and Pipeline Safety; Part 107 - Hazardous materials program procedures; and
 - b. Subchapter C - Hazardous Materials Regulations; Parts:
 - i. 171 - General information, regulations, and definitions;
 - ii. 172 - Hazardous materials table, special provisions, hazardous materials communications, emergency response information, and training requirements;
 - iii. 173 - Shippers - general requirements for shipments and packagings;
 - iv. 177 - Carriage by public highway;
 - v. 178 - Specifications for packagings; and
 - vi. 180 - Continuing qualification and maintenance of packagings.
- 2. These parts are incorporated as printed in the October 1, ~~2000~~ 2001 edition, and those sections of the October 1, 1991 edition authorized for use under the transitional provisions of Section 171.14 of the October 1, ~~2000~~ 2001 edition.

B. Application and exceptions.

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1. Application.
 - a. Regulations incorporated in subsection (A) apply as amended by subsection (C) to motor carriers, shippers, and manufacturers as defined in A.R.S. § 28-5201.
 - b. Regulations incorporated in subsection (A) also apply to any vehicle owned or operated by the state, a political subdivision, or a state public authority, used to transport a hazardous material, including hazardous substances and hazardous waste.
 2. Exceptions. An authorized emergency vehicle, as defined in A.R.S. § 28-101, is excepted from the provisions of this Section.
- C. Amendments. The following sections of the Federal Hazardous Materials Regulations, incorporated under subsection (A), are amended as follows:
1. Part 171. General information, regulations, and definitions.
 - a. Section 171.1 Purpose and scope.
Paragraph (a) is amended to read:
“The transportation of hazardous materials by and their offering to: (1) interstate, intrastate, and foreign motor carriers; and (2) vehicles owned or operated by the state, a political subdivision or a state public authority, which are used to transport hazardous material.”
 - b. Section 171.8 Definitions and abbreviations. Section 171.8 is amended by revising the definitions for “Carrier,” “Hazmat employer,” and “Person,” and adding a definition for “Highway” as follows:
“‘Carrier’ means a person engaged in the transportation of passengers or property by highway as a common, contract, or private carrier and also includes the state, a political subdivision, and a state public authority engaged in the transportation of hazardous material.”
“‘Hazmat employer’ means a person who uses 1 or more of its employees in connection with: transporting hazardous material; causing hazardous material to be transported or shipped; or representing, marking, certifying, selling, offering, reconditioning, testing, repairing, or modifying containers, drums, or packagings as qualified for use in the transportation of hazardous material. This term includes motor carriers, shippers, and manufacturers defined in A.R.S. § 28-5201 and includes the state, political subdivisions, and state public authorities.”
“‘Highway’ means a public highway defined in A.R.S. § 28-5201.”
“‘Person’ has the same meaning defined in A.R.S. § 28-5201.”
 2. Part 172 - Hazardous materials table, special provisions, hazardous materials communications, emergency response information, and training requirements.
Section 172.3 Applicability.
Paragraph (a)(2) is amended to read:
“Each motor carrier that transports hazardous materials, and each state agency, political subdivision, and state public authority that transports hazardous material by highway.”
 3. Part 177. Carriage by public highway.
 - a. Section 177.800 Purpose and scope of this part and responsibility for compliance and training.
Paragraph (a) is amended as follows: The phrase “by private, common, or contract carriers by motor vehicle” is amended to read, “by a motor carrier operating in Arizona, a state agency, a political subdivision, or a state public authority that transports hazardous material by highway.”
 - b. Section 177.802 Inspection. Section 177.802 is amended to read: “Records, equipment, packagings, and containers under the control of a motor carrier or other persons subject to this part, affecting safety in transportation of hazardous material by motor vehicle, must be made available for examination and inspection by an authorized representative of the Department as prescribed in A.R.S. §§ 28-5204 and 28-5231.”

R17-5-210. Definitions Repealed

~~A. The following definitions apply to R17-5-211 and R17-5-212:~~

- ~~1. “Audit” means any inspection of a transporter’s motor vehicle, equipment, books, or records to determine compliance with:
 - a. R17-5-202 through R17-5-209; and
 - b. A.R.S. Title 28, Chapter 14.~~
- ~~2. “Danger to public safety” means any condition of a transporter likely to result in serious peril to the public if not discontinued immediately.~~
- ~~3. “Director” means the Division Director, Arizona Department of Transportation, Motor Vehicle Division or the director’s designee.~~
- ~~4. “Division” means the Motor Vehicle Division of the Arizona Department of Transportation and persons authorized by the Division.~~
- ~~5. “Hearing Office” means the Arizona Department of Transportation, Motor Vehicle Division, Executive Hearing Office.~~

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- 6. ~~“Transporter” means any person, driver, motor carrier, motor vehicle, shipper, manufacturer, including any motor vehicle transporting hazardous material, a hazardous substance, or hazardous waste, subject to:~~
 - a. ~~R17-5-202 through R17-5-209; and~~
 - b. ~~A.R.S. Title 28, Chapter 14.~~
 - 7. ~~“Violation” means any conduct, act, or failure to act required or prohibited under:~~
 - a. ~~R17-5-202 through R17-5-209; and~~
 - b. ~~A.R.S. Title 28, Chapter 14.~~
- B.** Any definition prescribed under A.R.S. § 28-5201 also applies to R17-5-211 and R17-5-212.