

NOTICES OF FINAL RULEMAKING

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

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 16. DEPARTMENT OF HEALTH SERVICES OCCUPATIONAL LICENSING

PREAMBLE

- 1. Sections Affected**

R9-16-102	Amend
Exhibit A	Repeal
R9-16-105.01	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), 36-132(A), and 36-136(F)
Implementing statutes: A.R.S. §§ 36-751 through 36-760 and 41-1072 through 41-1079
- 3. The effective of the rules:**

June 18, 2002
- 4. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 8 A.A.R. 798, February 22, 2002
Notice of Proposed Rulemaking: 8 A.A.R. 723, February 22, 2002
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Kathleen Phillips, Rules Administrator
Address:	Department of Health Services 1740 W. Adams, Suite 102 Phoenix, AZ 85007
Telephone:	(602) 542-1264
Fax:	(602) 364-1150
E-mail:	kphilli@hs.state.az.us
or	
Name:	Dorothy Hanson, Program Manager
Address:	Department of Health Services Bureau of Community & Family Health Services 2927 N. 35th Avenue Phoenix, AZ 85017
Telephone:	(602) 364-1448
Fax:	(602) 364-1495
E-mail:	dhanson@hs.state.az.us

Arizona Administrative Register
Notices of Final Rulemaking

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

The purpose of the rules is to establish licensing time-frames required by A.R.S. § 41-1073. The rules establish time-frames for application approval, approval to take the oral part of the midwifery examination, initial licensure, and licensure renewal. The Department determined that a time-frame for approval to take the oral part of the midwifery examination was necessary because an individual taking the midwifery examination is required to pass each part of the midwifery examination before the individual is allowed to take the next part of the midwifery examination. The Department did not establish a time-frame for approval to take the practical part of the midwifery examination because the Department grants that approval within seven days and is not required to establish a licensing time-frame pursuant to A.R.S. § 41-1073(D).

In addition, the rules delete requirements for an individual to submit "An Intent to Apprentice in Midwifery" form before the individual begins a midwifery apprenticeship. The Department does not have statutory authority to regulate midwifery apprentices, as identified in the last five-year review report, submitted by the Department and approved by the Governor's Regulatory Review Council (G.R.R.C.) at the November 6, 2001 G.R.R.C. meeting. The Department is meeting with stakeholders and will be proposing rules to address the other issues identified in the five-year review report in a subsequent rulemaking.

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

None

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

Not applicable

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

The requirements for licensing time-frames in the rules will minimally increase tracking and noticing costs for the Department. The repeal of the apprenticeship requirements will minimally decrease tracking costs for the Department. Repealing the form entitled "An Intent to Apprentice in Midwifery" and its requirements will minimally decrease costs for individuals beginning a midwifery apprenticeship. Additionally, the rules will benefit applicants and licensed midwives by establishing time-frames for processing midwifery license applications and issuing midwifery licenses.

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

Technical and grammatical changes were made at the suggestion of G.R.R.C. staff.

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

None

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

None

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

None

14. Was this rule previously made as an emergency rule?

No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 16. DEPARTMENT OF HEALTH SERVICES
OCCUPATIONAL LICENSING**

ARTICLE 1. LICENSING OF MIDWIFERY

Section

R9-16-102. Qualifications for Licensure

Exhibit A. Intent to Apprentice in Midwifery Repealed

R9-16-105.01. Time-frames

Arizona Administrative Register
Notices of Final Rulemaking

ARTICLE 1. LICENSING OF MIDWIFERY

R9-16-102. Qualifications for Licensure

To qualify for a midwife license, an applicant shall:

1. Be 18 years of age or older;
2. Be a graduate from high school or the equivalent;
3. Be currently certified by the American Heart Association in adult basic cardiopulmonary resuscitation (CPR) and by the American Academy of Pediatrics in neonatal resuscitation.
4. ~~Submit the "Intent to Apprenticeship" form set forth in Exhibit A to the Department and complete a midwifery apprenticeship within 5 years prior to the date of application for licensure.~~
5. If licensed to practice midwifery in another state, in addition to complying with subsections (1), (2), (3), (6), and (7):
 - a. Provide evidence of either completion of a midwifery apprenticeship program or state licensed and professionally approved school at least equivalent to R9-16-103(E), (F), and (G). This shall be done in lieu of R9-16-103(E), (F), and (G).
 - b. If the above is not completed within 5 years prior to the date of application for Arizona licensure, the midwife shall in addition to the requirements of R9-16-102(5)(a), demonstrate experience in the management of prenatal, intrapartum, postpartum, and newborn periods, including not less than 50 labor and deliveries within the 5 years prior to application for Arizona licensure, as evidenced by letters from licensed physicians in that state who have provided services to the midwife's clients.
6. Submit to the Director 1 written recommendation from a physician, certified nurse-midwife, of a licensed midwife, and 1 written recommendation from a client of midwifery services; and
7. Submit to a background search conducted by the Department and the Office of Special Investigations for purposes of determining if the applicant has ever been convicted of a felony or misdemeanor involving moral turpitude.

According to A.R.S. § 36-755(B)(4), to qualify for a midwife license, an applicant shall:

1. Be 18 years of age or older;
2. Have a high school diploma or a high school equivalency diploma;
3. Be of good moral character;
4. Be currently certified by the American Heart Association in adult basic cardiopulmonary resuscitation;
5. Be currently certified by the American Academy of Pediatrics in neonatal cardiopulmonary resuscitation;
6. Submit a letter of recommendation from a certified nurse-midwife, a licensed midwife, or a physician that contains the recommending individual's signature, title, address, and telephone number and date of the recommendation; and
7. Submit a letter of recommendation from a mother for whom the applicant has provided midwifery services that contains the mother's signature, address, and telephone number and date of the recommendation.

Exhibit A. ~~Intent to Apprentice in Midwifery~~ Repealed

DIVISION OF FAMILY HEALTH SERVICES
INTENT TO APPRENTICE IN MIDWIFERY

Office Use Only

Date Stamp	Date: _____	
F/U Instruct.	Name: _____	Date of Birth: _____
	Address: _____	Phone: _____ (home)
	_____	Phone: _____ (work)
	Preceptor Name: _____	
	Preceptor Address: _____	Phone: _____ (home)
	_____	Phone: _____ (work)

Preceptor's _____ Consultants _____ Utilized _____ and _____ Emergency Plan: _____

Arizona Administrative Register
Notices of Final Rulemaking

2. If an application submitted under R9-16-103 is:
 - a. Incomplete, the Department shall provide a deficiency notice to the applicant describing the missing documentation or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the date the Department receives the documentation or information listed in the deficiency notice. An applicant shall submit to the Department the documentation or information listed in the deficiency notice within the time specified in Table 1 for responding to a deficiency notice.
 - i. If the applicant submits the documentation or information listed in the deficiency notice within the time specified in Table 1, the Department shall provide a written notice of administrative completeness to the applicant.
 - ii. If the applicant does not submit the documentation or information listed in the deficiency notice within the time specified in Table 1, the Department considers the application withdrawn and shall return the application packet to the applicant; or
 - b. Complete, the Department shall provide a notice of administrative completeness to the applicant.
 3. If an applicant takes and submits a part of the midwifery examination in R9-16-104 and the examination part is:
 - a. Incomplete, the Department shall provide a deficiency notice to the applicant stating that the applicant's examination part is incomplete and identifying the date of the next scheduled examination. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the Department receives a completed part of the midwifery examination; or
 - b. Complete, the Department shall provide a written notice of administrative completeness to the applicant.
- C.** The substantive review time-frame described in A.R.S. § 41-1072(3) is specified in Table 1 and begins to run on the date of the notice of administrative completeness.
1. If an application submitted under R9-16-103 or R9-16-105:
 - a. Does not comply with the requirements in this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall provide a written request for additional information to the applicant.
 - i. If the applicant does not submit the additional information within the time specified in Table 1 or the additional information submitted by the applicant does not demonstrate compliance with this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall provide the applicant a written notice of denial that complies with A.R.S. § 41-1092.03(A); or
 - ii. If the applicant submits the additional information within the time specified in Table 1 and the additional information submitted by the applicant demonstrates compliance with this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall provide a written notice of approval to take the examination to the applicant; or
 - b. Complies with the requirements in this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall provide a written notice of approval to take the examination to the applicant.
 2. If the Department determines that an applicant:
 - a. Failed to take any part of the midwifery examination within the time specified in subsection (F), the Department shall provide a written notice to the applicant requiring the applicant to submit a new application in R9-16-403;
 - b. Failed any part of the midwifery examination, the Department shall provide a written notice of appealable agency action that complies with A.R.S. Title 41, Chapter 6, Article 10 to the applicant; or
 - c. Passed all parts of the midwifery examination, the Department shall issue a midwifery license to the applicant.
 3. If an application for renewal of a midwifery license in R9-16-105:
 - a. Does not comply with the requirements in this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall provide a comprehensive request for additional information to the applicant;
 - i. If the applicant does not submit the additional information within the time specified in Table 1 or the additional information submitted does not demonstrate compliance with the requirements in this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall provide a written notice of appealable agency action that complies with A.R.S. Title 41, Chapter 6, Article 10 to the applicant; or
 - ii. If the applicant submits the additional information within the time specified in Table 1 and the additional information demonstrates compliance with the requirements in this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall issue a midwifery renewal license to the applicant; or
 - b. Complies with the requirements in this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall issue a midwifery renewal license to the applicant.
- D.** If an applicant receives a written notice of appealable agency action under subsection (C)(2)(b) or (C)(3)(a)(i), the applicant may file a notice of appeal with the Department within 30 days after receiving the notice of appealable agency action. The appeal shall be conducted according to A.R.S. Title 41, Chapter 6, Article 10.
- E.** If the Department grants approval of an application or approval to take a part of the midwifery examination or renews a midwifery license during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.

Arizona Administrative Register

Notices of Final Rulemaking

- F.** If an applicant does not take a part of the midwifery examination within 12 months of the Department's approval to take the midwifery examination, the applicant shall, before taking any part of the midwifery examination:
1. Submit a new application for Department approval and the application fee required in R9-16-103;
 2. Receive Department approval to take the midwifery examination; and
 3. Submit the nonrefundable examination fee required in R9-16-104.
- G.** If a time-frame's last day falls on a Saturday, Sunday, or a legal holiday, the Department considers the next business day as the time-frame's last day.

Table 1. Time-frames

<u>Type of Approval</u>	<u>Statutory Authority</u>	<u>Overall Time-Frame</u>	<u>Administrative Completeness Review Time-Frame</u>	<u>Time to Respond to Deficiency Notice</u>	<u>Substantive Review Time-Frame</u>	<u>Time to Respond to Comprehensive Written Request</u>
<u>Approval of application in R9-16-103</u>	<u>A.R.S. §§ 36-753, 36-754, and 36-755</u>	<u>75 days</u>	<u>30 days</u>	<u>60 days</u>	<u>45 days</u>	<u>120 days</u>
<u>Approval to take oral midwifery examination (R9-16-104)</u>	<u>A.R.S. § 36-755</u>	<u>75 days</u>	<u>15 days</u>	<u>180 days</u>	<u>60 days</u>	<u>180 days</u>
<u>Initial Licensure (R9-16-104)</u>	<u>A.R.S. §§ 36-753, 36-754, and 36-755</u>	<u>45 days</u>	<u>30 days</u>	<u>60 days</u>	<u>15 days</u>	<u>30 days</u>
<u>Midwifery License Renewal (R9-16-105)</u>	<u>A.R.S. § 36-754</u>	<u>60 days</u>	<u>30 days</u>	<u>30 days</u>	<u>30 days</u>	<u>15 days</u>