

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 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

[R05-348]

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R4-23-301 | Amend |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statutes: A.R.S. §§ 32-1904(A)(1) and (A)(5) and 32-1904(B)(7) and (B)(10)
Implementing statutes: A.R.S. §§ 32-1923, 32-1926, and 32-1926.01
- 3. The effective date of the rules:**
November 12, 2005
- 4. A list of all previous notices appearing in the *Register* addressing the final rule:**
Notice of Rulemaking Docket Opening: 11 A.A.R. 698, February 11, 2005
Notice of Proposed Rulemaking: 11 A.A.R. 1354, April 8, 2005
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Dean Wright, Compliance Officer
Address: Board of Pharmacy
4425 W. Olive Ave., Suite 140
Glendale, AZ 85302
Telephone: (623) 463-2727, ext. 131
Fax: (623) 934-0583
E-mail: rxcop@cox.net
- 6. An explanation of the rule, including the agency's reason for initiating the rule:**
During the January 12, 2005, Board meeting, the Board determined that a clarification was needed regarding intern licensure by foreign pharmacy graduates. Existing rule (R4-23-301) states that to receive a graduate intern license a graduate of an unapproved college or school of Pharmacy (usually a foreign pharmacy graduate) shall pass the Foreign Pharmacy Graduate Equivalency Examination (FPGEE) given by the Foreign Pharmacy Graduate Examination Committee (FPGEC) or be accepted to take the FPGEE. The Board determined that just being accepted to take the FPGEE is not sufficient because it appears that a large majority of individuals who receive a graduate intern license from Arizona never actually work as interns in Arizona. It appears the individuals are using the intern license received from Arizona to obtain a visa or work permit and actually work in other states that do not give graduate intern licenses. The Board feels that this is not the proper use of a graduate intern license and intends to amend R4-23-301 to require that an applicant for a graduate intern license who graduated from an unapproved college or school of pharmacy shall have completed Foreign Pharmacy Graduate Examination Committee certification. To receive an FPGEC certificate, an applicant has to pass the FPGEE, the Test of English as a Foreign Language (TOEFL), and the Test of Spoken English (TSE). The Board feels this is a necessary clarification to ensure that before working as an intern an individual has basic communication skills and equivalent pharmacy education. The rule includes format, style, and grammar necessary to comply with the current rules of the Secretary of State and Governor's Regulatory Review Council.

The Board believes that approval of this rule benefits the public and the pharmacy community by clearly establishing the standards for intern licensure.

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

None

8. A showing of good cause why the 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 amended rule will impact the Board and graduate interns. The amended rule's impact on the Board will be the usual rulemaking-related costs which are minimal. The amended rule may have an economic impact on a graduate intern license applicant. The amended rule will require an individual who graduated from an unapproved school or college of pharmacy to complete FPGEC certification before obtaining a graduate intern license. Existing rule allows an individual who graduated from an unapproved school or college of pharmacy to obtain a graduate intern license by showing proof the individual has been accepted to take the FPGEE. An individual impacted by the amended rule will not be able to work as a graduate intern during the period after the individual is accepted to take the FPGEE and the date the individual completes FPGEC certification. The Board's duty is to ensure that individuals who seek licensure are qualified. The amended rule ensures that individuals who graduated from an unapproved school or college of pharmacy have basic communication skills and equivalent pharmacy education before licensure. The amended rule has no economic impact on the public.

The public, Board, pharmacists, pharmacy interns, graduate interns, and pharmacies benefit from rules that are clear, concise, and understandable. The amended rule benefits the public, the Board, and the pharmacy community by clearly establishing the standards for intern licensure and specifically the licensure of individuals who graduated from an unapproved school or college of pharmacy.

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

There are no substantive changes in the final rule from the proposed rule. There are minor changes to style, format, grammar, and punctuation requested by G.R.R.C. staff.

11. A summary of the comments made regarding the rule and the agency response to them:

A public hearing was held on May 15, 2005. Janet Elliott representing The Arizona Community Pharmacy Committee attended the hearing to speak for the proposed rulemaking and provide a written statement from the committee expressing the committee's support of the proposed rulemaking. The Board thanked Ms. Elliott and the committee for their support. The Board received a written comment from the Arizona Pharmacy Alliance voicing support for the proposed rulemaking.

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

Not applicable

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

None

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

No.

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 3. INTERN TRAINING AND PHARMACY INTERN PRECEPTORS

Section

R4-23-301. Intern Licensure

ARTICLE 3. INTERN TRAINING AND PHARMACY INTERN PRECEPTORS

R4-23-301. Intern Licensure

- A. No change
- B. The prerequisites for licensure as a pharmacy intern are:
 - 1. Current enrollment, in good standing, in a Board-approved college or school of pharmacy; or
 - 2. Graduation from a college or school of pharmacy that is not approved by the Board; and
 - 3. Proof that the applicant ~~received~~ is certified by the Foreign Pharmacy Graduate Examination Committee (FPGEC); or
 - a. ~~A passing score on the Foreign Pharmacy Graduate Equivalency Examination (FPGEE); or~~
 - b. ~~Acceptance to take the FPGEE; or~~
 - 4. By order of the Board if the Board determines the applicant needs intern training.
- C. No change
- D. No change
 - 1. No change
 - 2. No change
 - 3. No change
- E. No change
- F. No change
 - 1. No change
 - 2. No change
- G. No change
- H. Intern application. An applicant for licensure as a pharmacy intern or graduate intern shall:
 - 1. Ensure that the applicant's college or school of pharmacy provides documentation to the Board of the applicant's current enrollment or graduation; and
 - 2. File an application on a form furnished by the Board, that includes:
 - a. Applicant's name, address, mailing address, if different, telephone number, and social security number;
 - b. Name and address of college or school of pharmacy attending or attended, degree anticipated or received, and anticipated date or date of graduation;
 - c. Whether the applicant has ever been convicted of an offense involving moral turpitude, a felony offense, or any drug-related offense or has any currently pending felony or drug-related charges, and if so, indicate charge, conviction date, jurisdiction, and location;
 - d. Whether the applicant has ever had an intern license revoked, suspended, or denied in this state or any other jurisdiction, and if so, indicate where and when;
 - e. A recent photograph of the applicant that is no larger than 2 1/2" x 3" with the applicant's signature on the front;
 - f. If the applicant graduated from an unapproved college or school of pharmacy, ~~a verification of acceptance to take the FPGEE or~~ an original Foreign Pharmacy Graduate Equivalency Examination Committee (FPGEC) certification document;
 - g. Date signed and applicant's verified signature; and
 - h. The initial licensure fee specified in R4-23-205.
- I. No change
- J. No change
- K. No change
 - 1. No change
 - 2. No change