

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 16. ARIZONA MEDICAL BOARD

[R07-280]

PREAMBLE

1. Sections Affected

R4-16-101
R4-16-603
Article 7
R4-16-701
R4-16-702
R4-16-703
R4-16-704
R4-16-705
R4-16-706
R4-16-707

Rulemaking Action

Amend
Amend
New Article
New Section
New Section
New Section
New Section
New Section
New Section
New Section

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

Authorizing statute: A.R.S. §§ 32-1403(A)(8), 32-1404(D)

Implementing statute: A.R.S. §§ 32-1401(20), 32-1401(27)(tt)

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

Notice of Rulemaking Docket Opening: 13 A.A.R. 2267, June 29, 2007

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

Name: Timothy Miller, Executive Director

Address: 9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

Telephone: (480) 551-2791

Fax: (480) 551-2828

E-mail: tmiller@azmd.gov

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

The Board is making rules to provide standards for office-based surgery conducted in a physician's office or other outpatient setting that is not part of a licensed hospital or licensed outpatient surgical center.

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:

The Board did not review or rely on any study.

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

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

As used in this summary, minimal means less than \$1,000, moderate means between \$1,000 and \$10,000, and substantial means greater than \$10,000.

The rules affect the Board, a licensed physician who performs office-based surgery, a health care professional, staff member, and a patient. The Board should experience moderate to substantial costs to write and implement the rules. The Board believes that most licensed physicians who are currently performing office-based surgery using sedation follow the provisions stated in the rules. These physicians should experience minimal increases in costs because of the rules. Those physicians that are not currently following the rules' provisions could experience minimal to substantial increases in costs, depending on the rule(s) not being followed. By providing clear and understandable rules the rules protect physicians, staff members, health care professionals, and patients. The rules offer recourse to a patient who believes a physician who performed office-based surgery using sedation has committed an act of unprofessional conduct because the physician violated the statutes or rules governing office-based surgery using sedation.

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: Timothy Miller, Executive Director
Address: 9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258
Telephone: (480) 551-2791
Fax: (480) 551-2828
E-mail: tmiller@azmd.gov

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:

Date: September 17, 2007
Time: 9:00 a.m.
Location: 9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

A person may submit written comments about the proposed rules no later than 5:00 p.m. on September 17, 2007 to the individual listed in items 4 and 9.

Persons with a disability may request reasonable accommodations by contacting the individual listed in item 4 or 9. Requests should be made as early as possible to allow sufficient time to arrange for the accommodations.

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. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 16. ARIZONA MEDICAL BOARD

ARTICLE 1. GENERAL PROVISIONS

Section
R4-16-101. Definitions

ARTICLE 6. DISCIPLINARY ACTIONS

Section
R4-16-603. Acts of Unprofessional Conduct

ARTICLE 7. OFFICE-BASED SURGERY USING SEDATION

Section
R4-16-701. Health Care Institution License
R4-16-702. Administrative Provisions

<u>R4-16-703.</u>	<u>Procedure and Patient Selection</u>
<u>R4-16-704.</u>	<u>Sedation Monitoring Standards</u>
<u>R4-16-705.</u>	<u>Perioperative Period; Patient Discharge</u>
<u>R4-16-706.</u>	<u>Emergency Drugs; Equipment and Space Used for Office-Based Surgery Using Sedation</u>
<u>R4-16-707.</u>	<u>Emergency and Transfer Provisions</u>

ARTICLE 1. GENERAL PROVISIONS

R4-16-101. Definitions

Unless the context otherwise requires, definitions prescribed under A.R.S. § 32-1401 and the following apply to this Chapter:

1. “ACLS” means advanced cardiac life support performed according to certification standards of the American Heart Association.
2. “Agent” means an item or element that causes an effect.
3. “Approved medical assistant training program” means a program accredited ~~program~~ by any of the following:
 - a. ~~the~~ The Commission on Accreditation of Allied Health Education Programs (CAAHEP);
 - b. ~~the~~ The Accrediting Bureau of Health Education Schools (ABHES); or
 - c. ~~a~~ A medical assisting program accredited by any accrediting agency recognized by the United States Department of Education; or
 - d. ~~a~~ A training program:
 - i. ~~designed~~ Designed and offered by a licensed allopathic physician;
 - ii. ~~that~~ That meets or exceeds any of the prescribed programs in subsection (a), (b), or (c); and
 - iii. That verifies the entry-level competencies of a medical assistant prescribed under R4-16-402(A).
4. “Auscultation” means the act of listening to sounds within the human body either directly or through use of a stethoscope or other means.
5. “BLS” means basic life support performed according to certification standards of the American Heart Association.
6. “Capnography” means monitoring the concentration of exhaled carbon dioxide of a sedated patient to determine the adequacy of the patient’s ventilatory function.
7. “Deep sedation” means a drug-induced depression of consciousness during which a patient:
 - a. Cannot be easily aroused, but
 - b. Responds purposefully following repeated or painful stimulation, and
 - c. May partially lose the ability to maintain ventilatory function.
8. “Discharge” means a written or electronic documented termination of office-based surgery to a patient.
9. “Drug” means the same as in A.R.S. § 32-1901.
10. “Emergency” means an immediate threat to the life or health of a patient.
11. “Emergency drug” means a drug that is administered to a patient in an emergency.
12. “General Anesthesia” means a drug-induced loss of consciousness during which a patient:
 - a. Is unarousable even with painful stimulus; and
 - b. May partially or completely lose the ability to maintain ventilatory, neuromuscular, or cardiovascular function or airway.
13. “Health care professional” means a registered nurse defined in A.R.S. § 32-1601, registered nurse practitioner defined in A.R.S. § 32-1601, physician assistant defined in A.R.S. § 32-2501, and any individual authorized to perform surgery according to A.R.S. Title 32 who participates in office-based surgery using sedation at a physician’s office.
14. “Informed consent” means advising a patient of:
 - a. Purpose for and Alternatives to the office-based surgery using sedation.
 - b. Associated risks of office-based surgery using sedation, and
 - c. Possible benefits and complications from the office-based surgery using sedation.
15. “Inpatient” has the same meaning as in A.A.C. R9-10-201.
16. “Malignant hyperthermia” means a life-threatening condition in an individual who has a genetic sensitivity to inhalant anesthetics and depolarizing neuromuscular blocking drugs that occurs during or after the administration of an inhalant anesthetic or depolarizing neuromuscular blocking drug.
17. “Minimal Sedation” means a drug-induced state during which:
 - a. A patient responds to verbal commands.
 - b. Cognitive function and coordination may be impaired, and
 - c. A patient’s ventilatory and cardiovascular functions are unaffected.
18. “Moderate Sedation” means a drug-induced depression of consciousness during which:
 - a. A patient responds to verbal commands or light tactile stimulation, and
 - b. No interventions are required to maintain ventilatory or cardiovascular function.
19. “Monitor” means to assess the condition of a patient.

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20. “Office-based surgery” means a medical procedure conducted in a physician’s office or other outpatient setting that is not part of a licensed hospital or licensed ambulatory surgical center. A.R.S. § 32-1401(20).
21. “PALS” means pediatric life support performed according to certification standards of the American Academy of Pediatrics or the American Heart Association.
22. “Patient” means an individual receiving office-based surgery using sedation.
23. “Physician” has the same meaning as doctor of medicine as defined in A.R.S. § 32-1401.
24. “Sedation” means minimum sedation, moderate sedation, or deep sedation.
25. “Staff member” means an individual who:
 - a. Is not a health care professional, and
 - b. Assists with office-based surgery using sedation under the supervision of the physician performing the office-based surgery using sedation.
26. “Transfer” means a physical relocation of a patient from a physician’s office to a licensed health care institution.

ARTICLE 6. DISCIPLINARY ACTIONS

R4-16-603. Acts of Unprofessional Conduct

A physician commits an act of unprofessional conduct when the physician violates one or more subparagraphs of A.R.S. § 32-1401(27). These statutory violations are referenced under the categories that follow.

1. No change
 - a. No change
 - b. No change
2. No change
 - a. No change
 - b. No change
3. No change
 - a. No change
 - b. No change
4. No change
 - a. No change
 - b. No change
5. No change
 - a. No change
 - b. No change
6. No change
 - a. No change
 - b. No change
7. No change
 - a. No change
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8. No change
 - a. No change
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9. No change
 - a. No change
 - b. No change
10. No change
 - a. No change
 - b. No change
11. No change
 - a. No change
 - b. No change
12. No change
 - a. No change
 - b. No change
13. No change
 - a. No change
 - b. No change
14. No change
 - a. No change

- b. No change
- 15. No change
 - a. No change
 - b. No change
- 16. No change
 - a. No change
 - b. No change
- 17. No change
 - a. No change
 - b. No change
- 18. No change
 - a. No change
 - i. No change
 - (1) No change
 - (2) No change
 - (3) No change
 - (4) No change
 - (5) No change
 - ii. No change
 - iii. No change
 - iv. No change
 - b. No change
 - i. No change
 - ii. No change
 - c. No change
 - i. No change
 - ii. No change
 - d. No change
 - i. No change
 - ii. No change
- 19. No change
 - a. No change
 - b. No change
- 20. “Performing office-based surgery using sedation in violation of Board rules” includes those actions or omissions that violate A.R.S. § 32-1401(27)(t) and Article 7 of this Chapter.
 - a. The Board may resolve a one-time violation with probation, but may issue a letter of reprimand and probation for a departure from the standard of care; and
 - b. The Board may resolve repeated or egregious violations by issuing a decree of censure and probation, suspension, or revocation.

ARTICLE 7. OFFICE-BASED SURGERY USING SEDATION

R4-16-701. Health Care Institution License

A physician who uses general anesthesia in the physician’s office or other outpatient setting that is not part of a licensed hospital or licensed ambulatory surgical center when performing office-based surgery using sedation shall obtain a health care institution license as required by the Arizona Department of Health Services under A.R.S. Title 36, Chapter 4 and 9 A.A.C. 10.

R4-16-702. Administrative Provisions

A. A physician who performs office-based surgery using sedation in the physician’s office or other outpatient setting that is not part of a licensed hospital or licensed ambulatory surgical center shall:

- 1. Establish, document, and implement written policies and procedures that cover:
 - a. Patient’s rights.
 - b. Informed consent.
 - c. Care of patients in an emergency, and
 - d. The transfer of patients;
- 2. Ensure that a staff member who assists with or a healthcare professional who participates in office-based surgery using sedation:
 - a. Has sufficient education, training, and experience to perform duties assigned;
 - b. If applicable, has a current license or certification to perform duties assigned; and
 - c. Performs only those acts that are within the scope of practice established in the staff member’s or health care pro-

professional's governing statutes;

3. Ensure that the office where the office-based surgery using sedation is performed has all equipment necessary:
 - a. For the physician to safely perform the office-based surgery using sedation.
 - b. For the physician or health care professional to safely administer the sedation.
 - c. For the physician or health care provider to monitor the use of sedation, and
 - d. For the physician to rescue a patient after sedation is administered to the patient and the patient enters into a deeper state of sedation than what was intended by the physician;
 4. Ensure that a copy of the patient's rights policy is provided to each patient before performing office-based surgery using sedation;
 5. Obtain informed consent from the patient before performing an office-based surgery using sedation that:
 - a. Authorizes the office-based surgery, and
 - b. Authorizes the office-based surgery to be performed in the physician's office; and
 6. Review all policies and procedures every 12 months and update as needed.
- B.** A physician who performs office-based surgery using sedation shall comply with:
1. The local jurisdiction's fire code;
 2. The local jurisdiction's building codes for construction and occupancy;
 3. The biohazardous waste and hazardous waste standards in A.A.C. Title 18, Chapter 13, Article 14; and
 4. The controlled drug administration, supply, and storage standards in A.A.C. Title 4, Chapter 23.

R4-16-703. Procedure and Patient Selection

- A.** A physician shall ensure that each office-based surgery using sedation performed:
1. Can be safely performed with the equipment, staff members, and health care professionals at the physician's office;
 2. Is of duration and degree of complexity that allows a patient to be discharged from the physician's office within 24 hours;
 3. Is within the education, training, experience and skills of the physician; and
 4. Is within the education, training, experience, and skills of the staff members and health care professionals at the physician's office.
- B.** A physician shall not perform office-based surgery using sedation if the patient:
1. Has a medical condition or other condition that indicates the procedure should not be performed in the physician's office, or
 2. Will require inpatient services at a hospital.

R4-16-704. Sedation Monitoring Standards

- A physician who performs office-based surgery using sedation shall ensure from the time sedation is administered until post-sedation monitoring begins:
1. A quantitative method of assessing a patient's oxygenation, such as pulse oximetry, is used when minimal sedation is administered to the patient, and
 2. When moderate or deep sedation is administered to a patient:
 - a. A quantitative method of assessing the patient's oxygenation, such as pulse oximetry, is used;
 - b. The patient's ventilatory function is monitored by any of the following:
 - i. Direct observation,
 - ii. Auscultation, or
 - iii. Capnography;
 - c. The patient's circulatory function is monitored during the surgery by:
 - i. Having a continuously displayed electrocardiogram,
 - ii. Documenting arterial blood pressure and heart rate at least every five minutes, and
 - iii. Evaluating the patient's cardiovascular function by pulse plethysmography or oximetry.
 - d. If the physician expects the patient's temperature to fluctuate, the patient's temperature is monitored so that the patient's temperature may be maintained; and
 - e. A licensed and qualified healthcare professional, other than the physician performing the office-based surgery, whose sole responsibility is attending to the patient, is present throughout the office-based surgery.

R4-16-705. Perioperative Period; Patient Discharge

- A physician performing office-based surgery using sedation shall ensure that:
1. During office-based surgery using sedation, the physician is physically present in the room where office-based surgery is performed;
 2. After the office-based surgery using sedation is performed, a physician is at the physician's office and sufficiently free of other duties to respond to an emergency until the patient's post-sedation monitoring is discontinued;
 3. If using minimal sedation, the physician or a health care professional certified in ACLS, PALS, or BLS is at the physician's office and sufficiently free of other duties to respond to an emergency until the patient is discharged;

4. If using deep or moderate sedation, the physician or a health care professional certified in ACLS or PALS is at the physician's office and sufficiently free of other duties to respond to an emergency until the patient is discharged;
5. A discharge is documented in the patient's medical record including:
 - a. The time and date of the patient's discharge, and
 - b. A description of the patient's medical condition at the time of discharge; and
6. A patient receives discharge instructions and documents in the patient's medical record that the patient received the discharge instructions.

R4-16-706. Emergency Drugs; Equipment and Space Used for Office-Based Surgery Using Sedation

A. In addition to the requirements in R4-16-702(A)(3) and R4-16-703(A)(1), a physician who performs office-based surgery using sedation shall ensure that the physician's office:

1. Has, at a minimum, the following:
 - a. A reliable oxygen source with a SaO₂ monitor;
 - b. Suction;
 - c. Resuscitation equipment, including a defibrillator;
 - d. Emergency drugs; and
 - e. A cardiac monitor;
2. Has the sedation equipment for patient monitoring according to the standards in R4-16-704;
3. Has space large enough:
 - a. To allow for access to the patient during office-based surgery using sedation, recovery, and any emergency;
 - b. To accommodate all equipment necessary to perform the office-based surgery using sedation; and
 - c. To accommodate all equipment necessary for sedation monitoring;
4. Has a source of auxiliary electrical power available in the event of a power failure; and
5. Has equipment, emergency drugs, and resuscitative capabilities required under this Section for patients less than 18 years of age, if office-based surgery using sedation is performed on these patients; and
6. Is maintained to minimize the spread of infection.

B. A physician who performs office-based surgery using sedation shall:

1. Ensure that all equipment used for office-based surgery using sedation is maintained, tested, and inspected according to manufacturer specifications, and
2. Maintain documentation of manufacturer-recommended maintenance of all equipment used in office-based surgery using sedation.

R4-16-707. Emergency and Transfer Provisions

A. A physician who performs office-based surgery using sedation shall ensure that before a health care professional participates in or staff member assists with office-based surgery using sedation, the health care professional and staff member receive instruction in the following:

1. Policy and procedure in cases of emergency,
2. Policy and procedure for office evacuation, and
3. Safe and timely patient transfer.

B. When performing office-based surgery using sedation, a physician shall not use any drug or agent that trigger malignant hyperthermia.

NOTICE OF PROPOSED RULEMAKING

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

[R07-279]

PREAMBLE

1. Sections Affected

R10-4-101
R10-4-102
R10-4-103
R10-4-104
R10-4-105
R10-4-106

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Re-number

Notices of Proposed Rulemaking

R10-4-106	New Section
R10-4-107	Renumber
R10-4-107	New Section
R10-4-108	Renumber
R10-4-108	Amend
R10-4-109	Renumber
R10-4-109	Amend
R10-4-110	Renumber
R10-4-110	Amend
R10-4-201	Amend
R10-4-202	Amend
R10-4-203	Amend
R10-4-204	Amend

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

Authorizing statute: A.R.S. § 41-2405(A)(8)

Implementing statute: A.R.S. § 41-2407

3. List of all previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 12 A.A.R. 3382, September 15, 2006

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

Name: Tony Vidale
Address: Arizona Criminal Justice Commission
1110 W. Washington St., Suite 230
Phoenix, AZ 85007
Telephone: (602) 364-1155
Fax: (602) 364-1175
E-mail: tvidale@azcjc.gov

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

The Commission is amending its rules to make them more clear, concise, and understandable and consistent with current agency practice. The Commission is also completing the plan of action contained in a five-year-review report approved by the Council in December 2003.

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 rules are necessary to promote a statewide interest if the rules 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 funds available to provide compensation awards to claimants will not change as a result of this rulemaking. However, the distribution of the funds will change because the rulemaking:

1. Adds crime scene cleanup expenses as a compensable cost;
2. Clarifies that a victim and derivative victim may submit separate claims and each may receive a compensation award; and
3. Expands the list of relatives who may submit a claim relating to loss of support.

The rulemaking also clarifies that:

1. A Native American ceremony is included within the definition of funeral expense; and
2. A gift, devise, or bequest made to cover a compensable cost is a collateral source.

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: Tony Vidale
Address: Arizona Criminal Justice Commission
1110 W. Washington St., Suite 230
Phoenix, AZ 85007

Telephone: (602) 364-1155
Fax: (602) 364-1175
E-mail: tvidale@azcjc.gov

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

An oral proceeding regarding the proposed rules will be scheduled if a written request is submitted to the individual listed in item 4 within 30 days after this notice is published. The rulemaking record will close on September 17, 2007.

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:

18 U.S.C. 2331 (January 3, 2005); U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250; incorporated at R10-4-101

13. The full text of the rules follows:

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM

Section

- R10-4-101. Definitions
- R10-4-102. Administration of the Fund
- R10-4-103. Statewide Operation
- R10-4-104. Operational Unit Requirements
- R10-4-105. Crime Victim Compensation Board
- ~~R10-4-106. Award Criteria~~ Prerequisites for a Compensation Award
- ~~R10-4-107. Hearings and Appeals~~ Submitting a Claim
- ~~R10-4-108. R10-4-106. Compensation Award Criteria~~
- ~~R10-4-109. R10-4-107. Hearings and Appeals~~ Hearing; Request for Hearing or Review
- ~~R10-4-110. R10-4-108. Emergency Awards~~ Compensation Award

ARTICLE 2. CRIME VICTIM ASSISTANCE PROGRAM

Section

- R10-4-201. Definitions
- R10-4-202. Administration of the Fund
- R10-4-203. ~~Program~~ Grant Eligibility Requirements
- R10-4-204. Services

ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM

R10-4-101. Definitions

In these rules this Article:

1. "Allowable expense" means an amount authorized under these rules to be paid as a compensation award by the Board to a victim, a derivative victim, or both for economic loss.
2. "Board" means the Crime Victim Compensation Board of an operational unit.
2. "Claim" means an application for compensation submitted under this Article.
3. "Claimant" means any a natural person, ~~filing who files a claim under these rules and authorized to receive a compensation award for economic loss because the person is:~~
 - a. ~~A victim of criminally injurious conduct;~~
 - b. ~~A resident of this state who is injured by an act of international terrorism;~~
 - e. ~~A derivative victim;~~
 - d. ~~A person authorized to act on a victim's behalf, or a person authorized to act on behalf of a deceased victim's dependent if the victim died as a direct result of criminally injurious conduct or an act of international terrorism;~~or

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- e. A person who assumes an obligation or pays an expense directly related to a victim's economic loss incurred as a direct result of criminally injurious conduct or an act of international terrorism;
 - f. Claimant does not mean:
 - i. ~~An offender, an accomplice of the offender, or a person who encouraged or in any way participated in or facilitated criminally injurious conduct or an act of international terrorism;~~
 - ii. A person serving a sentence of imprisonment in any detention facility, home arrest program, work furlough, or a person who has escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism; or
 - iii. A person convicted of a federal crime who is delinquent in paying a fine, monetary penalty, or restitution imposed for the offense only if the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that the entities administering federal victim programs have access to an accurate and efficient criminal debt payment tracking system.
4. "Collateral source" means a source of compensation for economic loss that a claimant has received; or that is available to ~~a~~ the claimant or that is payable to or on behalf of the victim including:
- a. ~~The offender perpetrator or a 3rd third party~~ responsible for the ~~offender's perpetrator's~~ actions;
 - b. The United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of ~~2 two~~ or more states, unless: ~~the~~
 - i. ~~The law providing for the compensation makes the compensation excess or secondary to benefits under this rule Article, or, specifically excluding those~~
 - ii. ~~The compensation is made with federal funds granted under 42 U.S.C. 10602;~~
 - c. Social Security, Medicare, or Arizona Health Care Cost Containment System payments;
 - d. State-required, temporary, nonoccupational disability insurance;
 - e. Worker's compensation insurance;
 - f. Wage continuation program of any employer;
 - g. Insurance proceeds payable ~~to the victim or claimant~~ for loss ~~sustained~~ due to the criminally injurious conduct or an act of international terrorism; ~~or~~
 - h. A contract providing for prepaid hospital and other health-care services or disability benefits; ~~and~~
 - i. Gift, devise, or bequest to cover a specific compensable cost.
5. "Commission" means the Arizona Criminal Justice Commission, as established by A.R.S. § 41-2404.
6. "Compensable cost" means an economic loss for which a compensation award is allowed under this Article.
7. "Compensation award" means a payment made to a claimant under the standards at R10-4-108.
8. "Crime scene cleanup expense" means the reasonable and customary cost for a professional service to remove or attempt to remove blood, dirt, stains, and other debris that result from criminally injurious conduct occurring in a residence.
- 6-9. "Criminally injurious conduct" means conduct that:
- a. Constitutes a crime as defined by ~~the laws of this state or federal law regardless of~~ whether ~~or not~~ the perpetrator of the ~~act~~ conduct is convicted;
 - b. Poses a substantial threat of physical injury, extreme mental distress, or death; and
 - c. Is punishable by fine, imprisonment, or death, or would be punishable but the ~~person engaging in~~ perpetrator of the conduct lacked the capacity to commit the crime under applicable laws.
- 7-10. "Derivative victim" means:
- a. The spouse, child, parent, stepparent, stepchild, sibling, grandparent, grandchild, or guardian of a victim who died as a result of criminally injurious conduct or an act of international terrorism ~~and includes a child born after the victim's death;~~
 - b. A child born to a victim after the victim's death;
 - ~~b-c.~~ A person living in the household of a victim who died as a result of criminally injurious conduct, in a relationship determined by the Board to be substantially similar to a relationship listed in subsection ~~(7)(a): (10)(a):~~
 - ~~e-d.~~ A member of the victim's family who witnessed the criminally injurious conduct: or act of international terrorism or who discovered the scene of the criminally injurious conduct;
 - ~~d-e.~~ A ~~nonfamily member~~ natural person who is not related to the victim but who witnessed a violent crime the crim- inally injurious conduct or discovered the scene of the criminally injurious conduct; or
 - ~~e-f.~~ A natural person whose mental health counseling and care or presence during the victim's mental health counseling and care is required for the successful treatment of the victim.
11. "Durable medical equipment" means an appliance, apparatus, device, or product that:
- a. Is medically necessary to treat an injury or condition resulting from criminally injurious conduct or an act of international terrorism;
 - b. Improves the function of an injured body part or delays deterioration of a patient's physical condition;
 - c. Is primarily and customarily used to serve a medical purpose rather than primarily for transportation, comfort, or convenience; and

- d. Provides the medically appropriate level of performance and quality for the medical injury or condition present.
- ~~8-12.~~ “Economic loss” means financial detriment ~~consisting only of~~ resulting from ~~medical expenses expense, mental health counseling and care expenses, work loss expense, crime scene cleanup expense, and funeral expenses expense, or work loss.~~
- ~~9-13.~~ “Extreme mental distress” means a substantial personal disorder of emotional processes, thought, or cognition that impairs judgment, behavior, or ability to cope with the ordinary demands of life.
- ~~10-14.~~ “Fund” means the ~~Crime~~ Victim Compensation and Assistance Fund established by A.R.S. § 41-2407.
- ~~11-15.~~ “Funeral expense” means a reasonable and customary cost, such as those listed on the Statement of Funeral Goods and Services Selected required under A.A.C. R4-12-307, incurred as a direct result of a victim’s funeral, cremation, Native American ceremony, or burial.
- ~~16.~~ “Good cause” means a reason that the Board determines is substantial enough to afford a legal excuse.
- ~~17.~~ “Inactive claim” means a claim for which no compensation award is made for 12 consecutive months.
- ~~18.~~ “Incident of criminally injurious conduct” means all criminal actions that are related to or dependent upon each other regardless of the time involved in perpetrating the actions, number of persons perpetrating the actions, or the number of crimes with which the perpetrator is or could be charged.
- ~~12-19.~~ “International terrorism” ~~means an act as defined~~ has the meaning prescribed in 18 U.S.C. 2331 (October 29, 1992 26, 2001), which is incorporated by reference and on file with the Commission ~~and the Office of the Secretary of State. This incorporation~~ The material incorporated by reference contains no future editions or amendments and is available from the U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250;
- ~~13-20.~~ “Jurisdiction” means any county in this state.
- ~~14-21.~~ “Medical expense” means a reasonable and customary cost ~~related to~~ for medical care provided to a victim due to a physical injury or medical condition ~~resulting from~~ that is a direct result of criminally injurious conduct or an act of international terrorism. ~~Medical expense includes a cost resulting from damage to a prosthetic device or a dental device. Medical expense does not include a charge for a private room in a hospital, clinic, convalescent home, nursing home, or any other institution engaged in providing nursing care and related services, unless private accommodations are medically required.~~
- ~~15-22.~~ “Mental health counseling and care expense” means a reasonable and customary cost ~~related to the assessment, diagnosis, and treatment of~~ assess, diagnose, and treat a victim’s or derivative victim’s mental and emotional health ~~that is required to alleviate~~ extreme mental distress resulting from criminally injurious conduct or an act of international terrorism. ~~Mental health counseling and care expense does not include the cost for a private room in a hospital, clinic, convalescent home, nursing home, or any other institution engaged in providing nursing care and related services, unless private accommodations are medically required.~~
- ~~23.~~ “Minimum wage standard” means the uniform minimum wage payable in Arizona under federal and state law.
- ~~16-24.~~ “Operational unit” means a public or private agency authorized by the Commission to receive, evaluate, and present to the Board a claim ~~compensation claims from a claimant under these rules and state law.~~
- ~~17-25.~~ “Program” means the Crime Victim Compensation Program.
- ~~26.~~ “Reasonable and customary” means the normal charge within a specific geographic area for a specific service by a provider of a particular level of experience or expertise.
- ~~27.~~ “Resident” means a natural person who is domiciled in Arizona or is in Arizona for other than a temporary or transitory purpose.
- ~~18-28.~~ “Subrogation” means the substitution of the state ~~and or~~ an operational unit, ~~to the extent that the operational unit used the operational unit’s funds,~~ in place of the a claimant to enforce a lawful claim against a collateral source to recover any part of a compensation award made to the claimant using funds of the state or operational unit.
- ~~19.~~ “Work loss” means a reduction in income from work that a victim would have performed if the victim had not been injured or killed. ~~Work loss does not include any income earned from substitute work or income available to the victim from appropriate substitute work that the victim was capable of performing but unreasonably failed to perform.~~
- ~~20-29.~~ “Victim” means a natural person who suffers physical injury, medical condition, extreme mental distress, or death as a direct result of any of the following:
- a. Criminally injurious conduct,
 - b. An act of international terrorism,
 - c. ~~A~~ The person’s good faith effort to prevent criminally injurious conduct or an act of international terrorism, or
 - d. ~~A~~ The person’s good faith effort to apprehend a person suspected of engaging in criminally injurious conduct or an act of international terrorism.
- ~~30.~~ “Work loss” means a reduction in income from:
- a. Work that a victim or derivative victim would have performed if the victim had not been a victim; and
 - b. Social Security or Supplemental Security Income that a victim would have received or from which a derivative victim would have benefitted if the victim had not been killed.

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- A. The Commission shall deposit in the Fund all funds received under A.R.S. § 12-116.01 and any other funds received for compensating a ~~crime victim in the Fund~~ claimant.
- B. The Commission shall designate ~~1~~ one operational unit in a jurisdiction to receive an allocation from the Fund each state fiscal year.
- C. The Commission shall distribute a portion of the Fund to each ~~designated~~ operational unit for expenditure by the Board. ~~Funds shall be distributed by a formula determined annually by the Commission. The formula shall be derived~~ The Commission shall distribute the funds using a formula that the Commission determines annually using:
 - 1. A base amount for each operation unit,
 - ~~1-2. An analysis of the prior year's expenditure history, and~~
 - ~~2-3. A uniform base amount with the remaining funds divided among jurisdictions based on~~ The population of each jurisdiction.
- D. The Commission shall reserve the lesser of \$50,000 or 10% percent of the Fund to be used in the event of an unforeseen increase of victimization ~~by criminally injurious conduct or an act of international terrorism, when compensation cannot be provided by an~~ that causes the operational unit in a particular jurisdiction to lack the funds needed to provide compensation.
- E. If there is an unforeseen increase in victimization ~~by criminally injurious conduct or an act of international terrorism in a particular jurisdiction,~~ the Commission shall allow a claimant ~~from that jurisdiction~~ to apply directly to the Commission for a compensation award. The Commission will determine whether to make a compensation award based on the criteria established by ~~R10-4-106~~ R10-4-108.
- F. If, ~~at the end of a fiscal year, an operational unit has any unexpended funds received from the Commission remain unexpended by the Board at the end of a fiscal year,~~ the operational unit shall return the funds shall be returned to the Commission within ~~45~~ 90 days after the end of the fiscal year. ~~The Commission shall deposit the returned funds and redeposited in the Fund for use in the next fiscal year.~~
- G. Funds collected by an operational unit through subrogation ~~and~~ or restitution may be retained by the operational unit to the extent authorized by the Commission and shall be used to pay compensation awards based on the criteria established by ~~R10-4-106~~ R10-4-108.
- H. An operational unit that receives additional funds for victim compensation shall submit a quarterly, written report to the Commission. The operational unit shall include in the report ~~shall contain~~ the amount of additional funds received and distributed to compensate ~~crime~~ victims or claimants. The Commission shall use the information in the written report to apply for federal matching funds ~~from the Victims of Crime Act Fund (42 U.S.C. 10601 et seq. [November 26, 1997]).~~ If matching funds are received, the Commission shall forward the matching funds to the appropriate operational unit.
- I. ~~The~~ An operational unit ~~may~~ shall use funds to pay administrative costs only to the extent authorized by the Commission.

R10-4-103. Statewide Operation

For any portion of the state not served by an operational unit, the Commission ~~may~~ shall operate a ~~compensation~~ program in accordance with ~~these rules~~ this Article or ~~may~~ provide for a program by contract.

R10-4-104. Operational Unit Requirements

- A. ~~A public or private agency seeking designation as an operational unit shall submit a letter to the Commission requesting designation~~ To be designated by the Commission as an operational unit, a public or private agency shall submit to the Commission a written request for designation.
- B. ~~To be eligible to receive designation and funding by the~~ The Commission shall designate a public or private agency as the operational unit for a jurisdiction;
 - 1. Only if the public or private agency shall agree ~~agrees not to:~~
 - ~~1-a. Not use~~ Use Commission funds or federal funds to supplant funds otherwise available to ~~the program for crime victim compensation~~ compensate a victim or claimant;
 - ~~2-b. Make no a distinction between residents a resident and non-residents a non-resident in evaluating claims a claim made by or on behalf of victims and derivative victims of criminally injurious conduct occurring in the public or private agency's jurisdiction; and~~
 - c. Make a distinction in evaluating a claim relating to a federal crime that occurs in Arizona and one relating to a state crime; and
 - 3. ~~Forward to the Board compensation claims of victims and derivative victims of criminally injurious conduct occurring in this state;~~
 - 2. Only if the public or private agency agrees to:
 - 4-a. Forward to the Board ~~compensation claims of victims and derivative victims of a claim relating to an incident of criminally injurious conduct or an act of international terrorism~~ occurring in the public or private agency's jurisdiction;
 - 5-b. Forward to the Board a ~~compensation claim of~~ made by or on behalf of a resident of the public or private agency's jurisdiction who is a victim or derivative victim of an incident of criminally injurious conduct or an act

of international terrorism occurring in another state, the District of Columbia, Puerto Rico, or any other possession or territory of the United States that does not have a crime victim compensation program that meets the requirements of 42 U.S.C. 10602(b)(1)-(6);

- ~~6-c.~~ Notify the Commission of any ~~changes~~ change in the public or private agency's program procedures before the ~~changes take~~ change takes effect. ~~If the changes are and if the change is~~ material, ~~the public or private agency shall receive prior~~ obtain written approval from the Commission before instituting the ~~changes~~ change;
- 7-d. Submit a written quarterly financial report to the Commission, on a form provided by the Commission, ~~that and~~ provide detailed information regarding the expenditure of funds received from the Commission and those required as a match for funds received from the Commission; ~~describes in detail the public or private agency's activities under this rule. The report shall include:~~
- a. ~~The impact that Commission funds had on the public or private agency;~~
 - b. ~~The amount and source of revenue available for victim compensation;~~
 - c. ~~The total number of claims, awards, denials, pending claims, total amount of awards; and the ethnic background, disability, age, and sex of each victim;~~
 - d. ~~The total number of claims for state resident and nonresident victims; the number and award amount by type of crime; and the number and award amount by type of expense, including medical, mental health counseling, work loss, and funeral;~~
 - e. ~~The type of provider for mental health counseling and care awards including psychiatrist, psychologist, rape crisis center, and community mental health center; the number, amount, and duration of mental health counseling and care awards; and~~
 - f. ~~Referral sources;~~
- ~~8-c.~~ Provide an application forms form to all persons who claim an award as a result of a claimant, ~~criminally injurious conduct or an act of international terrorism that occurred in the public or private agency's jurisdiction. The application form shall contain the following information:~~
- a. ~~The name, address, ethnic background, age, and sex of the victim or derivative victim of the criminally injurious conduct or act of international terrorism;~~
 - b. ~~The claimant's name, address and relationship to the victim;~~
 - c. ~~If the victim is deceased, the name and address of each derivative victim, and the extent to which each was dependent on the victim for financial support;~~
 - d. ~~The nature of the criminally injurious conduct or act of international terrorism and the date the conduct occurred;~~
 - e. ~~The law enforcement agency or officer to whom the criminally injurious conduct or act of international terrorism was reported;~~
 - f. ~~The nature and extent of the injuries the victim sustained from the criminally injurious conduct or act of international terrorism;~~
 - g. ~~The name and address of any person providing medical treatment to the victim and the name and address of any hospital or similar institution where the victim received medical treatment for the injuries;~~
 - h. ~~The economic loss sustained as a result of the criminally injurious conduct or act of international terrorism;~~
 - i. ~~The name and amount of any collateral source the victim, a derivative victim, or a claimant has received or is entitled to receive for economic loss as a result of the criminally injurious conduct or act of international terrorism;~~
 - j. ~~An affirmation that the claimant is not;~~
 - i. ~~An offender, accomplice, or facilitator of the criminally injurious conduct or an act of international terrorism;~~
 - ii. ~~Serving or was not serving a sentence of imprisonment in any detention facility, home arrest program, work furlough and has not escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism;~~
 - k. ~~A release authorizing the unit's investigative agent to obtain any report, document, or information that relates to the determination of a compensation claim.~~
- 9-f. Comply with all civil rights requirements; and
- 10-g. Ensure that each compensation claim is monitored; investigated; and substantiated before forwarding the claim to the Board for an a compensation award; and
- h. Monitor a compensation award to ensure that amounts paid are consistent with this Article.

R10-4-105. Crime Victim Compensation Board

- A. Each operational unit shall establish a Crime Victim Compensation Board. ~~The Board shall consist that consists~~ of an odd number of members with at least 3 three members. ~~The Board shall be appointed by the Commission Chairman from a list submitted by the operational unit. Members of the Board shall not receive no compensation for their services but are eligible for travel reimbursement under A.R.S. § 38-621.~~
- B. ~~Each appointed member's term shall be 3 years; except those members first appointed. Approximately~~ When a Board is

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first established, approximately one-third of the members shall be appointed for a ~~3~~ three-year term, one-third for a ~~2~~ two-year term, and one-third for a ~~1~~ one-year term. All vacancies, except through the expiration of term, shall be filled. If a Board member is unable to complete the term of the Board member's appointment, the Commission Chairman shall appoint a new Board member for the unexpired term only.

- ~~C.~~ The When a Board is first established and when a new member is appointed to an existing Board, the Commission Chairman shall ~~appoint a member to complete a vacated term~~ choose the individual to be appointed from a list submitted by the operational unit.
- ~~C.D.~~ The ~~A~~ majority of the Board membership constitutes a quorum ~~for the transaction of that may transact the business of the Board.~~
- ~~E.~~ The Board shall elect from its membership a chairman and other necessary officers ~~as necessary~~, to serve terms determined by the Board.
- ~~D.F.~~ The Board shall make a compensation award according to ~~these rules~~ this Article and perform other acts necessary for the operation of the program.
- ~~G.~~ As required by A.R.S. Title 38, Chapter 3, Article 8, a Board member shall not participate in making any decision regarding a claim or compensation award if the Board member has a substantial interest in the decision.

R10-4-106. Award Criteria Prerequisites for a Compensation Award

- ~~A.~~ The Board shall make a compensation award only if it determines that:
1. Criminally injurious conduct or an act of international terrorism:
 - a. Occurred in Arizona; or
 - b. Occurred outside of Arizona in an area without a crime compensation program and affected a resident;
 2. The criminally injurious conduct or act of international terrorism directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;
 3. The victim of the criminally injurious conduct or act of international terrorism was not:
 - a. The perpetrator, an accomplice of the perpetrator, or a person who encouraged or in any way participated in or facilitated the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;
 - b. Serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;
 - c. Escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;
 - d. Convicted of a federal crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the offense if the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that the entities administering federal victim compensation programs have access to an accurate and efficient criminal debt payment tracking system; or
 - e. Convicted of a state crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the crime if identified by the Arizona Administrative Office of the Courts or the Clerk of the Superior Court.
 4. The criminally injurious conduct or act of international terrorism was reported to an appropriate law enforcement authority within 72 hours after its discovery;
 5. The victim, derivative victim, or claimant willingly cooperated with law enforcement agencies;
 6. The victim, derivative victim, or claimant incurred economic loss as a direct result of the criminally injurious conduct or act of international terrorism that is not compensable by a collateral source; and
 7. A claim, as described in R10-4-107, was submitted to the operational unit within two years after discovery of the criminally injurious conduct or act of international terrorism.
- ~~B.~~ The Board shall extend the time limits under subsections (A)(4) and (A)(7) if the Board determines there is good cause for a delay.

R10-4-107. Hearings and Appeals Submitting a Claim

- ~~A.~~ If the prerequisites in R10-4-106 are met, a natural person is eligible to submit a claim if the person is:
1. A victim;
 2. A derivative victim;
 3. A person authorized to act on behalf of a victim or a deceased victim's dependent; or
 4. A person who assumed an obligation for or paid an expense directly related to a victim's economic loss.
- ~~B.~~ An operational unit shall not accept a claim from a person who is:
1. The perpetrator, an accomplice of the perpetrator, or a person who encouraged or in any way participated in or facilitated the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;

2. Serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;
 3. Escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough at the time of the criminally injurious conduct or act of international terrorism that directly resulted in the victim's physical injury, extreme mental distress, medical condition, or death;
 4. Convicted of a federal crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the offense if the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that the entities administering federal victim compensation programs have access to an accurate and efficient criminal debt payment tracking system; or
 5. Convicted of a state crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the crime if identified by the Arizona Administrative Office of the Courts or the Clerk of the Superior Court.
- C.** If a person is eligible under subsection (A) to submit a claim regarding more than one incident of criminally injurious conduct or act of international terrorism, the person shall submit a separate claim regarding each incident of criminally injurious conduct or act of international terrorism.
- D.** If more than one person is eligible under subsection (A) to submit a claim regarding an incident of criminally injurious conduct or act of international terrorism, each person shall submit a separate claim.
- E.** To apply for a compensation award, a person who is eligible under subsection (A) shall submit a claim, using a form that is available from the Commission, to the operational unit in the jurisdiction in which the incident of criminally injurious conduct occurred or in the county and state in which a victim of international terrorism lives. The claimant shall provide the following:
1. About the victim:
 - a. Full name.
 - b. Residential address.
 - c. Gender.
 - d. Date of birth.
 - e. Residential and work telephone numbers.
 - f. Social Security number.
 - g. Statement of whether the victim is deceased.
 - h. Ethnicity.
 - i. Statement of whether the victim is a resident, and
 - j. Statement of whether the victim is disabled;
 2. About the claimant if the claimant is not the victim:
 - a. Full name.
 - b. Residential address.
 - c. Gender.
 - d. Date of birth.
 - e. Residential and work telephone numbers.
 - f. Social Security number.
 - g. Relationship to the victim; and
 - h. If there are multiple victims or derivative victims of an incident of criminally injurious conduct or act of international terrorism, the name, residential address, Social Security number, and date of birth of each, and for derivative victims, the relationship to the victim;
 3. About the crime:
 - a. Type of crime;
 - b. Statement of whether the crime was related to domestic violence;
 - c. Statement of whether the crime was a federal crime;
 - d. Date on which crime was committed;
 - e. Date on which crime was reported to law enforcement authorities;
 - f. Name of law enforcement agency to which the crime was reported;
 - g. Name of law enforcement officer to whom the crime was reported;
 - h. Law enforcement report number;
 - i. Location of crime;
 - j. Name of perpetrator, if known; and
 - k. Brief description of the crime and resulting injuries;
 4. About a civil lawsuit:
 - a. Statement of whether the claimant has or will file a civil lawsuit related to the crime; and
 - b. If the answer to subsection (E)(4)(a) is yes, the name, address, and telephone number of the claimant's attorney;
 5. About benefits from collateral sources:

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- a. List of the benefits the claimant has received since the incident of criminally injurious conduct or act of international terrorism or is entitled to receive; and
 - b. For each benefit identified:
 - i. Type of benefit.
 - ii. Contact address and telephone number; and
 - iii. Claimant's identification or policy number;
 6. About the economic loss for which compensation is requested:
 - a. Medical expenses. A statement of whether the claim includes medical expenses and if so, the name, address, telephone number, account number, and date of service for each provider, and if mileage is claimed for medical care, the date and mileage of each trip;
 - b. Mental health counseling and care expenses. A statement of whether the claim includes mental health counseling and care expenses and if so, the name, address, telephone number, account number, and date of service for each provider, and if mileage is claimed for mental health counseling and care, the date and mileage of each trip;
 - c. Work loss expenses. A statement of whether the claim includes work loss expenses and if so, the date on which the claimant was first unable to work, date on which the claimant returned to work, total time lost from work, hourly rate of pay, number of hours worked each week, number of hours worked each day, name, address, and telephone number of employer, and name of supervisor;
 - d. Funeral expenses. A statement of whether the claim includes funeral expenses and if so, the name, address, and telephone number of the provider and the amount paid; and
 - e. Crime scene cleanup expenses. A statement of whether the claim includes crime scene cleanup expenses and if so, the name, address, and telephone number of the provider and the amount paid; and
 7. The claimant's dated signature:
 - a. Certifying that the claimant is eligible to submit a claim and that the information provided is true and correct to the best of the claimant's knowledge;
 - b. Subrogating to the state and operational unit the claimant's right to receive benefits from a collateral source;
 - c. Authorizing the release of confidential information necessary to administer the claim; and
 - d. Authorizing the use or disclosure of protected health information relating to care provided as a result of the criminally injurious conduct or act of international terrorism.
- F.** A claimant shall attach the following to the claim form submitted under subsection (E):
1. A copy of all bills, contracts, receipts, and insurance statements relating to each expense claimed under subsection (E)(6); and
 2. If work loss expenses are claimed, a signed statement on official letterhead:
 - a. From the claimant's employer verifying the information provided under subsection (E)(6)(c); and
 - b. If applicable, from the physician or mental health care provider indicating that the claimant was unable to work as a result of being a victim or derivative victim, the length of time the claimant was unable to work, and the date on which the claimant was or will be able to return to work.

R10-4-108, R10-4-106. Compensation Award Criteria

- A. The Board shall meet at least every 60 days to decide, based on the ~~investigative agent's~~ findings made by the operational unit, whether to make ~~an a~~ a compensation award and if so, the terms of the award, and the amount of the compensation award. The Board shall ~~render~~ make a decision within 60 days of receipt of an application ~~by~~ after the operational unit receives a claim under R10-4-107 ~~except where~~ unless good cause exists. The Board shall inform the ~~applicant~~ claimant in writing within five days of the Board's decision ~~in writing within 5 days of the decision~~.
- B. The Board shall not make a compensation award unless it determines that: the prerequisites in R10-4-106 are met:
 1. ~~Criminally injurious conduct or an act of international terrorism was committed;~~
 2. ~~The criminally injurious conduct or act of international terrorism directly resulted in physical injury to, extreme mental distress to, or death of the victim;~~
 3. ~~The criminally injurious conduct or act of international terrorism was reported to the appropriate law enforcement authority within 72 hours after its discovery unless good cause is shown to justify a delay; and~~
 4. ~~The compensation application was submitted to the operational unit within 2 years of the discovery of the criminally injurious conduct or act of international terrorism unless good cause is shown to justify a delay~~
- C. The Board shall make a compensation award from the Fund only for the following:
 1. ~~Medical~~ Reasonable and customary medical expenses due to a ~~the~~ the victim's physical injury, medical condition, or death ~~resulting from criminally injurious conduct or an act of international terrorism;~~
 - a. The Board shall include the following as a medical expense:
 - i. Repair of damage to a prosthetic device, eyeglasses or other corrective lenses, or dental device;
 - ii. Durable medical equipment necessary to treat a physical injury or medical condition; and
 - iii. Reasonable transportation costs related to obtaining medical care.
 - b. The Board shall not include as a medical expense a charge for a private room in a hospital, clinic, convalescent

- home, nursing care facility, or other institution that provides medical services unless the Board determines that the private room is medically necessary;
2. ~~Work~~ Reasonable and customary work loss expenses for:
 - a. ~~A victim's victim whose ability to work is reduced due to~~ physical injury, extreme mental distress, or ~~medical condition~~ death resulting from ~~the~~ criminally injurious conduct or ~~an~~ act of international terrorism. The compensation award for work loss, after deducting any collateral source for work loss, shall not exceed an amount equal to 40 hours per week at the current federal minimum wage standard for each week of work loss to the maximum allowable under subsection (D)(1).
 - b. A victim or derivative victim to make a medical or mental health counseling and care visit or attend a court proceeding directly related to the criminally injurious conduct or act of international terrorism;
 - ~~b-c.~~ A deceased victim's spouse, child, sibling, ~~or~~ parent, stepparent, stepchild, grandparent, or grandchild if the Board determines the death resulted in a loss of support from the victim to the spouse, child, sibling, ~~or~~ parent, stepparent, stepchild, grandparent, or grandchild. The compensation award for work loss, after deducting any collateral source for work loss, shall not exceed an amount equal to 40 hours per week at the current federal minimum wage standard for each week of work loss to the maximum allowable under subsection (D)(1);
 - ~~e-d.~~ A parent or guardian of a minor victim to transport or accompany the minor victim to a medical; ~~or~~ mental health counseling and care visit; or court proceeding directly related to the criminally injurious conduct or act of international terrorism. The compensation award for work loss, after deducting any collateral source for work loss, shall not exceed an amount equal to 40 hours per month at the current federal minimum wage standard for each month of work loss to the maximum allowable under subsection (D)(1); ~~or~~
 - ~~d-e.~~ A victim or derivative victim to attend court proceedings. The compensation award for work loss, after deducting any collateral source for work loss, shall not exceed an amount equal to 40 hours per month at the current federal minimum wage standard for each month of work loss to the maximum allowable under subsection (D)(1). make funeral arrangements or tend to the affairs of a deceased victim if the derivative victim made the funeral arrangements or tended to the affairs of the deceased victim; or
 - f. A family member or guardian or a person living in the victim's household in a relationship similar to those listed in R10-4-101(10)(a) to provide non-skilled nursing care for the victim that is required as a result of the criminally injurious conduct or act of international terrorism;
 3. ~~Funeral~~ Reasonable and customary funeral expenses. Expenses for clothing, travel, lodging, food, or per diem to attend a victim's funeral, Native American ceremony, or burial are not reasonable and customary funeral expenses and shall not be included in a claim for a compensation award due to a victim's death resulting from criminally injurious conduct or an act of international terrorism. The compensation award for funeral expense shall not exceed \$5,000; and
 4. ~~Mental~~ Reasonable and customary mental health counseling and care expenses due to a victim's or derivative victim's extreme mental distress resulting from the criminally injurious conduct or ~~an~~ act of international terrorism. ~~Mental health counseling and care expenses cannot exceed a 36 month period starting with the 1st treatment. Mental health counseling and care for derivative victims shall be included as a portion of the maximum award. if:~~
 - a. The mental health counseling and care is provided by an individual who:
 - i. Is licensed for independent practice by the Board of Behavioral Health Examiners,
 - ii. Is a behavioral health professional as defined at A.A.C. R9-20-101,
 - iii. Is a behavioral health technician as defined at A.A.C. R9-20-101 and employed by an agency licensed by the Department of Health Services, or
 - iv. Is authorized to perform mental health counseling and care by the laws of a federally recognized tribe; and
 - b. The mental health counseling and care expenses:
 - i. Include only reasonable costs of transportation related to obtaining the mental health counseling and care; and
 - ii. Do not include a charge for a private room in a hospital, clinic, convalescent home, nursing care facility, or any other institution that provides medical services unless the Board determines that the private room is medically necessary; and
 5. Reasonable and customary crime scene cleanup expenses due to a victim's death from criminally injurious conduct in a residence.
- D. The Board shall not make a compensation award to a claimant that exceeds:
1. Twenty thousand dollars ~~in the aggregate~~ for all economic loss sustained by a victim and any derivative victim the claimant as a result of an incident of criminally injurious conduct or act of international terrorism; and;
 2. The amount ~~existing in the Fund~~ available to the operational unit and not committed to other compensation awards at the time the Board makes the compensation award determination;
 3. For work loss expenses:
 - a. Work loss expenses under subsections (C)(2)(a) and (C)(2)(c) are limited to 40 hours per week at the current minimum wage to the maximum specified in subsections (D)(1) and (D)(2).

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- b. Work loss expenses under subsections (C)(2)(b) and (C)(2)(d) are limited to 40 hours per month at the current minimum wage to the maximum specified in subsections (D)(1) and (D)(2).
- c. Work loss expenses under subsection (C)(2)(e) are limited to 24 hours at the current minimum wage, and
- d. Work loss expenses under subsection (C)(2)(f) are limited to 40 hours per week at the current minimum wage to a maximum of 160 hours;
- 4. For mental health counseling and care expenses, \$5,000 per victim or derivative victim;
- 5. For funeral expenses, \$5,000; and
- 6. For crime scene cleanup expenses, \$1,000.
- E. The Board shall deny or reduce a compensation award to a claimant if:
 - 1. The ~~economic loss victim or claimant has been~~ recouped ~~or is eligible to recoup the economic loss~~ from a collateral source ~~except if the Board determines that use of a collateral source, excluding benefits from a federal or federally financed program, to pay for mental health counseling and care expenses is not in the best interest of the victim or derivative victim, the Board shall not deny or reduce a compensation award for the mental health counseling and care expenses;~~
 - 2. The Board determines that the victim or claimant earned income from substitute work or unreasonably failed to perform available substitute work; or
 - 2-3. The ~~degree of responsibility for the cause of the~~ Board determines that the victim's physical injury, medical condition, extreme mental distress, or death was due ~~in part to the victim's~~ ~~negligence or~~
 - a. Negligence,
 - b. through intentional Intentional unlawful conduct that occurred at the time of the incident of criminally injurious conduct; or
 - c. substantially Conduct that intentionally provoked or aggravated the incident causing the injury criminally injurious conduct.
- F. The Board shall deny or reduce a compensation award under subsection (E)(3) in proportion to the degree to which the Board determines the victim is responsible for the victim's physical injury, medical condition, extreme mental distress, or death.
- G. The Board shall deny a compensation award to a claimant if:
 - 3-1. The Board determines that the victim or claimant ~~has~~ ~~did not~~ cooperate fully ~~cooperated~~ with the appropriate law enforcement agency ~~and the failure to cooperate was not due to a compelling health or safety risk. In determining the extent of non-cooperation, The Board shall use the following criteria shall be used as standards for failure to cooperate with law enforcement that warrants a claim be denied:~~
 - a. The victim or claimant failed to assist in the prosecution of a person who engaged in the criminally injurious conduct or an act of international terrorism or failed to appear as a witness, ~~the claim for a compensation award shall be denied for the prosecution;~~
 - b. The victim or claimant ~~initially decided not to assist~~ ~~delayed~~ assisting in the prosecution of a suspect and ~~later decided to assist in the prosecution and this causes as a result, the suspect of the criminally injurious conduct or an act of international terrorism to escape~~ ~~escaped~~ prosecution or ~~directly negatively affects the prosecution of the suspect was negatively affected,~~ ~~the claim for a compensation award shall be denied;~~ or
 - c. ~~The A~~ law enforcement authority indicates that the victim or claimant was reluctant to give information pertaining to the criminally injurious conduct or act of international terrorism, failed to appear when requested without good cause, gave false or misleading information, or attempted to avoid law enforcement authorities, ~~the award shall be reduced or denied;~~ or
 - d. If the claimant demonstrates that failure to cooperate was due to a compelling health or safety risk, the Board shall make a full award within the constraints in subsection (D).
 - 2. The Board determines that the victim or claimant knowingly made a false or misleading statement on the claim or in writing on supporting documents submitted to the Board or operational unit.
- ~~H.~~H. If there are insufficient funds to make a compensation award, the Board may;
 - 1. Deny the claim;
 - 2. Make a partial award and reconsider the claim later during the ~~current~~ fiscal year; or
 - 3. Extend a ~~valid~~ the claim into ~~the next~~ a subsequent fiscal year.
- ~~G.~~I. The operational unit Board shall not ~~provide funds~~ make a compensation award to pay attorney's fees incurred by the a victim or claimant.
- ~~H.~~J. The operational unit, in its discretion, may pay a compensation award directly ~~pay the~~ to a claimant, ~~the~~ or to a provider, or both.
- K. The operational unit may close an inactive claim:
 - 1. Five years after the claim is submitted for an adult victim or derivative victim except in a homicide case;
 - 2. Ten years after the claim is submitted for a minor victim or derivative victim except in a homicide case; and
 - 3. Fifteen years after the claim is submitted for a homicide victim or derivative victim.

R10-4-109, R10-4-107: Hearings and Appeals Hearing; Request for Hearing or Review

- A.** The Board, in its discretion, may shall conduct a hearing upon any application in accordance with A.R.S. § 41-1092 et seq. regarding a claim submitted under this Article if the Board determines that the hearing will enable it to evaluate the claim and make a proper decision.
- B.** The Board shall serve any notice required under this Section by personal delivery or certified mail to the last known residence or place of business of the person being served.
- 1-C.** A claimant; who is aggrieved by a decision of the Board may request a hearing or review of the decision within 30 days after service the Board serves notice of the decision. A written claimant shall make a request for a hearing or review of a Board decision shall in writing and specify the grounds for the request. For purposes of this subsection, a Board decision shall be served when personally delivered or mailed by certified mail to the party at the last known residence or place of business.
- 2-D.** A claimant may amend a request for a hearing, under this rule, may be amended or review of a Board decision at any time before it is ruled on by the Board.
- E.** The Board may require additional written explanation of the an issue raised in the a request for hearing or review of a Board decision and may provide for oral argument.
- 3-F.** A The Board may grant a hearing or review of the decision may be granted for any of the following causes reasons materially affecting a claimant's rights:
- a-1.** Irregularity in the administrative proceedings of the Board or its operational unit, or any order of or abuse of of discretion, depriving that deprived the requesting party claimant of a fair Board decision;
 - b-2.** Misconduct of the Board misconduct, the operational unit, or staff of the operational unit;
 - e-3.** Newly discovered material evidence which that could not, with reasonable diligence, have been discovered and produced at the original Board meeting;
 - d-4.** Error in the admission or rejection of evidence or other error of law occurring at the Board meeting; and
 - e-5.** The decision is not justified by the evidence or is contrary to the rules law.
- 4-G.** The Board may affirm or modify the a decision or grant a hearing to all or any of the parties claimant and on all or part of the issues for any of the reasons set forth listed in subsection (3) (F). An order granting a hearing or modifying a decision shall specify with particularity the grounds for the order, on which the If a hearing is granted, and the hearing shall cover only those grounds the matters specified in the order.
- 5-H.** Within Not later than 30 days after the date of a decision is rendered and after giving the claimant notice and an opportunity to be heard, the Board may, on its own initiative, order a hearing or review of its decision for any reason for which it might have granted a hearing on a motion of a party request by a claimant. After giving a party or parties notice and an opportunity to be heard on the matter, the The Board may grant a request for a hearing or review for a reason not stated in the request. In either case, the grounds for the request shall be specified An order granting a hearing or review shall specify with particularity the grounds on which the hearing or review is granted.
- 6.** For purposes of this Section, the terms "contested case" and "party" shall be defined as provided in A.R.S. § 41-1001.
 - 7.** If the provisions of this rule are in conflict with the provisions of any statute providing for hearings or decisions of the Board, the statutory provisions govern.

R10-4-110, R10-4-108: Emergency Awards Compensation Award

- A.** An operational unit A Board may grant an emergency compensation award; if the Board determines there is a reasonable likelihood that:
- 1.** the The person to whom the emergency compensation award is made is or will be an eligible claimant, and
 - 2.** serious Serious hardship will result to the person if an immediate payment compensation award is not made; provided that:
- B.** A Board that makes an emergency compensation award shall ensure that:
- 1.** The emergency compensation award amount shall does not exceed \$500; and
 - 2.** The amount of the emergency compensation award amount shall be is deducted from the final compensation award made to the claimant.

ARTICLE 2. CRIME VICTIM ASSISTANCE PROGRAM

R10-4-201. Definitions

In these rules this Article:

- 1.** "Commission" means the Arizona Criminal Justice Commission, established by A.R.S. § 41-2404.
- 2.** "Crime" means conduct, completed or preparatory, committed in this state Arizona, that constitutes a crime as defined by the laws of this state is a misdemeanor or felony under state law regardless of whether or not the perpetrator of the act conduct is convicted. "Crime" is not an act Conduct arising out of the ownership, maintenance, or operation of owning, maintaining, or operating a motor vehicle, aircraft, or water vehicle is not a crime unless except when a the person engaged in the conduct acts intentionally, knowingly, recklessly, or with criminal negligence, to cause physical injury, threat of physical injury, or death.

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3. "Financial support from other sources" means that at least one-fourth of the ~~applicant's program~~ budget for a victim assistance program is from sources, including in-kind contributions, other than the Fund, ~~including in-kind contributions~~.
4. "Fund" means the ~~Arizona Crime~~ Victim Compensation and Assistance Fund established by A.R.S. § 41-2407.
5. "Immediate family" means ~~the victim's~~ spouse, child, stepchild, parent, stepparent, sibling, stepbrother, stepsister, grandparent, grandchild, or guardian.
6. "In-kind contribution" means ~~the value of something received or provided that does not have a monetary cost associated with it~~ a non-cash input to which a cash value can be given.
7. "~~Qualified program~~" means ~~a victim assistance program, approved by or affiliated with a prosecuting attorney's office or law enforcement agency, that meets the requirements of R10-4-203.~~
8. "Subrogation" means the substitution of the state, ~~and~~ or a qualified program ~~to the extent that the qualified program used financial support from other sources~~, in the place of the a victim to enforce a lawful claim against a third party to recover the cost of the services to the victim provided paid for by the Fund or financial support from other sources.
- 9-8. "Substantial financial support from other sources" means that at least half of the financial support to a qualified victim assistance program is from sources other than the Fund.
- 10-9. "Victim" means a natural person against whom a crime is perpetrated. ~~For the purposes of the Crime Victim Assistance Program~~ "victim" includes and the victim's immediate family.

R10-4-202. Administration of the Fund

- A. The Commission shall deposit in the Fund all funds received under A.R.S. §§ 31-466(A) and 31-411(F) and any other funds received for victim assistance ~~in the Fund~~.
- B. The Commission shall make distributions from the Fund through a competitive grant process that ensures statewide distribution and effective and efficient use of the funds.
- C. At least two months before an application for a grant from the Fund is due, the Commission shall make a grant application form and instructions available on its web site, which is www.azcjc.gov.
- ~~B.D.~~ An application for funds shall be on a form provided by the Commission and shall include:
 1. ~~The amount of funds requested;~~
 2. ~~A detailed description of how the funds will be spent;~~
 3. ~~Certification that the program will comply with R10-4-203; and~~
 4. ~~Whether the program will charge for services and how much the charges are for each service.~~
 5. If the applicant is a private nonprofit organization, the applicant shall include:
 - a. Evidence of nonprofit status; and
 - b. Approval letter from a prosecuting attorney's office or law enforcement agency. To apply for a grant from the Fund, an authorized official of a public agency or private nonprofit organization that operates a program that meets the standards in R10-4-203 shall complete and submit to the Commission the application form referenced in subsection (C).
- ~~C.~~ The Commission shall establish a policy that promotes statewide distribution and effective and efficient use of the funds.
- ~~D.E.~~ The Commission's grant period coincides with the state's fiscal year. If any funds received from the Commission remain are unexpended by a qualified program at the end of the ~~contract~~ grant period, the public agency or private nonprofit organization that received the funds shall ~~be returned~~ return them to the Commission within ~~45~~ 30 days after ~~the end of the contract and redeposited~~ receiving a written request from the Commission. The Commission shall redeposit the unexpended funds in the Fund for use in the next fiscal year.

R10-4-203. Program Grant Eligibility Requirements

- A. A non-criminal justice governmental agency or private nonprofit organization may apply for and receive a grant from the Commission only if the non-criminal justice governmental agency or private nonprofit organization is approved by a prosecuting attorney's office or law enforcement agency.
- ~~A.B.~~ A public agency or private nonprofit organization qualified under subsection (A) may apply for and receive a grant ~~qualified program~~ may receive funds from the Commission if the public agency or private nonprofit organization operates a program that:
 1. Provides services described in R10-4-204 to victims;
 - ~~1-2.~~ Does not use Commission funds or federal funds to supplant funds otherwise available to the program for victim assistance;
 2. ~~Is operated by a public agency or private nonprofit organization, or a combination of public agency and private nonprofit organization, and provides services to victims;~~
 3. Uses volunteers to effectively and efficiently to provide victim services;
 4. Promotes coordinated public and private efforts to assist victims within the community served;
 5. Assists a victim in seeking available victim compensation benefits; and
 6. Complies with all applicable civil rights laws;

- C.** To receive a grant from the Commission, a public agency or private nonprofit organization that operates a program that has existed for at least three years shall demonstrate to the Commission that the program:
1. Has substantial financial support from a source other than the Fund; and
 2. Has a history of providing effective services to victims. The Commission shall determine whether the program's victim services are effective based on:
 - a. The length of time the program has provided victim services; and
 - b. Whether data indicate program results are achieved in a cost effective manner.
- D.** To receive a grant from the Commission, a public agency or private nonprofit organization that operates a program that has existed fewer than three years shall demonstrate to the Commission that the program:
1. Has financial support from a source other than the Fund; and
 2. Is designed to meet a currently unmet need for a specific victim service.
- E.** To receive a grant from the Commission, a public agency or private nonprofit organization shall agree to:
- 7.1. Submits Submit to the Commission quarterly financial reports, on a form provided by the Commission, containing detailed expenditures of funds received from the Commission and ~~detailed expenditures~~ of matching funds;
 - 8.2. Submits Submit an annual report to the Commission, on a form provided by the Commission. ~~The report shall contain, and provide~~ the following information:
 - a. Number of victims served by type of crime during the reporting period;
 - b. Type of services provided;
 - c. Number of times each service was provided;
 - d. Ethnic background, age, and sex of each victim served;
 - e. Number and type of assistance provided to victims in obtaining victim compensation; and
 - f. A narrative assessment of the impact of Commission funds on the program.
- ~~**B.** An existing program shall:~~
1. ~~Have substantial financial support from a source other than the Fund; and~~
 2. ~~Have a history of providing effective services to crime victims. The Commission shall determine if the services are effective based on the following:~~
 - a. ~~The length of operation; and~~
 - b. ~~An assessment of the program's services that shows the results are achieved in a cost effective manner.~~
- ~~**C.** A new programs shall:~~
1. ~~Have financial support from a source other than the Fund, and~~
 2. ~~Demonstrate a specific need for victim services that is currently not being met.~~

R10-4-204. Services

- A.** Funding may be provided to a qualified program for any of A public agency or private nonprofit organization that receives a grant from the Commission shall ensure that the funds are used to provide only the following victim services:
1. Crisis intervention services ~~for to meet~~ the urgent emotional or physical needs of a victim, ~~which~~ Crisis intervention services may include a 24-hour hotline for counseling or referrals for a victim;
 2. Emergency services including:
 - a. Temporary shelter for a victim who cannot safely remain in current lodgings;
 - b. Petty cash for immediate needs related to transportation, food, shelter, and other necessities; ~~or and~~
 - c. Temporary repairs such as locks and windows damaged as a result of a crime: to prevent the immediate rebur-
glarization of a home or apartment;
 3. Support services, including:
 - a. ~~Follow up counseling~~ Counseling dealing with the effects of victimization;
 - b. Assistance dealing with other social services and criminal justice agencies;
 - c. Assistance in obtaining the return of property kept as evidence;
 - d. Assistance in dealing with the victim's landlord or employer; and
 - e. Referral to other sources of assistance as needed;
 4. Court-related services, including:
 - a. Direct services or petty cash that help ~~victims~~ a victim participate in criminal justice proceedings, including transportation to court, child care, meals, and parking expenses; and
 - b. Advocate services including escorting ~~victims~~ a victim to criminal justice-related interviews, court proceedings, and assistance in accessing temporary protection services; and
 5. Notification services, including notifying a victim:
 - a. ~~Notification of~~ Of significant developments in the investigation or adjudication of the case;
 - b. ~~Notification that~~ That a court proceeding, for which the victim has been subpoenaed, has been canceled or rescheduled; and
 - c. ~~Notification of~~ Of the final disposition of the case.
- B.** A public agency or private nonprofit organization that receives a grant from the Commission may use the funds to pro-

vide:

~~6.1.~~ Training for salaried or volunteer staff of criminal justice, social services, mental health, or related agencies, who provide direct services to victims.; and

~~7.2.~~ Printing and ~~distribution of~~ distributing brochures or similar announcements describing the direct services available, how to obtain program assistance, and volunteer opportunities.

~~B.C.~~ The qualified program A public agency or private nonprofit organization that receives a grant from the Commission shall not use Crime Victim Assistance ensure that funds are not used for the following:

1. Crime prevention efforts, other than those aimed at providing specific emergency help after a victimization;
2. General public relations programs;
3. Advocacy for a particular legislative or administrative reform;
4. General criminal justice agency improvement;
5. A program in which victims are not the primary beneficiaries;
6. Management training ~~and~~ or training for persons who do not provide direct services to a victim; or
7. Victim Compensation provided under R10-4-101 et seq.