

# 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 2. ADMINISTRATION

#### CHAPTER 1. DEPARTMENT OF ADMINISTRATION

[R07-437]

#### PREAMBLE

- 1. Sections Affected**

Article 9	<b><u>Rulemaking Action</u></b>
R2-1-901	Amend
R2-1-902	Amend
R2-1-905	Amend
- 2. The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 41-703  
Implementing statute: A.R.S. § 41-786
- 3. The effective date of the rules:**

February 5, 2008
- 4. A list of all previous notices appearing in the Register addressing the final rules:**

Notice of Rulemaking Docket Opening: 12 A.A.R. 4023, October 27, 2006  
Notice of Proposed Rulemaking: 13 A.A.R. 1560, May 4, 2007
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Kayelen Rolfe, Manager Travel Reduction Programs
Address:	Department of Administration 100 N. 15th Ave., 4th Floor, Suite 431 Phoenix, AZ 85007
Telephone:	(602) 542-3638
Fax:	(602) 542-3125
or	
Name:	Rob Smook Rules Administrator
Address:	Department of Administration 1501 W. Madison Phoenix, AZ 85007
Telephone:	(602) 542-6161
Fax:	(602) 542-3125
- 6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**

The purpose of this rulemaking is to address the issues identified in the previous five-year-review report approved by the Governor's Regulatory Review Council. The subject matter of the rules prescribes how vanpool subsidies will be

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administered by the State. The new rulemaking will make minor changes to reflect current practice on the administration of vanpool transportation subsidies to state employees.

7. **A reference to any study relevant to the rule that the agency reviewed and either relied on 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:**

The agency did not utilize a study for evaluating or justifying the rulemaking.

8. **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

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

Adoption of this minor rule change will have minimal financial impact. Besides revising the online application form, the only other costs involve staff time associated with preparing, reviewing, and publishing these rules.

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

Based on suggestions from Council staff, minor, non-substantive changes were made in the rules to improve clarity. The suggestions included grammatical and other changes necessary to clarify the rules.

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

None

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

None

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

None

14. **Were the rules previously made as emergency rules?**

No

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

TITLE 2. ADMINISTRATION

CHAPTER 1. DEPARTMENT OF ADMINISTRATION

ARTICLE 9. REIMBURSEMENT FOR ~~VAN POOL~~ VANPOOL TRANSPORTATION

Section

- R2-1-901. Definitions
- R2-1-902. Vanpool Reimbursement Subsidy Eligibility
- R2-1-905. Vanpool Reduced Cost Procedure

ARTICLE 9. REIMBURSEMENT FOR ~~VAN POOL~~ VANPOOL TRANSPORTATION

**R2-1-901. Definitions**

In this Article, unless otherwise specified, the following terms apply:

1. "Commute" means travel to and from an employee's place of employment.
2. "Director" means the ~~director~~ chief executive officer of the Department of Administration or the Director's designee.
3. "Eligible employee" means an individual who is employed by the state of Arizona ~~in a paid work status, in pay status, who and~~ lives or works in a vehicle emissions control area, as defined in A.R.S. § 49-541, except a university employees employee and those employees or an employee of the State Compensation Fund under ~~subject to the provisions of A.R.S. § 23-981(01)~~ 23-981.01.
4. "Paid work status" means the condition of an employee of the state of Arizona who is receiving pay for work or for ~~compensated absence from work.~~ "Pay status" has the meaning in R2-5-101(48).
5. "Reduced cost" means ~~the an~~ eligible employee's share of the total cost of vanpool transportation ~~which that~~ remains after the reimbursement subsidy ~~has been~~ is paid.
6. "Reimbursement subsidy" means the portion of the total cost of vanpool transportation ~~which that~~ is paid, on behalf of an eligible employee, to a regional transit authority or state agency through a contract with the state of Arizona.
7. "Regional transit authority" means ~~an incorporated city or town, regional public transportation authority as defined in A.R.S. § 28-2502, or regional transportation authority as defined in A.R.S. § 28-2902~~ a regional transportation

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authority established under A.R.S. § 48-5302 or regional public transportation authority established under A.R.S. § 48-5102 which that operates or licenses a vanpool program.

- 8. "State agency" means an agency which that administers a vanpool program in an area not served by a regional transit authority.
9. "Vanpool" means 7 seven or more persons who commute in an a van sponsored by a regional transit authority or in a van that is part of a vanpool administered by a state agency.

R2-1-902. Vanpool Reimbursement Subsidy Eligibility

A reimbursement subsidy The Department shall be paid pay to a regional transit authority or a state agency on behalf of an eligible employee in a paid-work pay status who:

- 1. Commutes in a vanpool operated by the regional transit authority or administered by a state agency, and
2. Has completed the vanpool reimbursement transportation subsidy application form.

R2-1-905. Vanpool Reduced Cost Procedure

An eligible employee seeking to pay a reduced cost shall complete the vanpool transportation subsidy application form and submit it to the Department of Administration Travel Reduction Program. The application form shall contain the following:

- 1. The employee's name and social security number, employee identification number,
2. The name and mailing address of the state agency compensating the employee, and
3. The employee's signature.

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TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 21. BOARD OF OPTOMETRY

[R07-433]

PREAMBLE

1. Sections Affected

Rulemaking Action

Table with 2 columns: Sections Affected and Rulemaking Action. Rows include R4-21-101 (Amend), R4-21-102 (Renumber), R4-21-103 (Amend), R4-21-103 (Renumber), R4-21-103 (Amend), Table 1 (Amend), R4-21-201 (Amend), R4-21-202 (Renumber), R4-21-202 (New Section), R4-21-203 (Renumber), R4-21-203 (Amend), R4-21-204 (Renumber), R4-21-204 (New Section), R4-21-205 (Renumber), R4-21-205 (Amend), R4-21-206 (Renumber), R4-21-206 (New Section), R4-21-207 (Renumber), R4-21-207 (Amend), R4-21-208 (Renumber), R4-21-208 (Amend), R4-21-209 (Renumber), R4-21-209 (Amend), R4-21-210 (New Section), R4-21-211 (New Section), R4-21-212 (Renumber), R4-21-212 (Amend), R4-21-213 (New Section), Article 3 (Amend), R4-21-301 (Repeal), R4-21-301 (Renumber).

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R4-21-301	Amend
R4-21-302	Amend
R4-21-303	Amend
R4-21-304	Renumber
R4-21-304	New Section
R4-21-305	Renumber
R4-21-305	Amend
R4-21-306	Renumber
R4-21-306	Amend
R4-21-307	Renumber
R4-21-307	Amend
R4-21-308	Renumber
R4-21-308	New Section
R4-21-309	Renumber
R4-21-309	Amend
Article 5	Repeal
R4-21-501	Repeal
R4-21-502	Repeal
R4-21-503	Repeal
R4-21-504	Repeal

**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. § 32-1704(A)

Implementing statute: A.R.S. §§ 32-1701 et seq.

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

February 2, 2008

**4. List of all previous notices appearing in the Register addressing the final rules:**

Notice of Rulemaking Docket Opening: 12 A.A.R. 4348, November 24, 2006

Notice of Proposed Rulemaking: 13 A.A.R. 3124, September 14, 2007

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

Name: Margaret Whelan

Address: Board of Optometry  
1400 W. Washington St., Ste. 230  
Phoenix, AZ 85007

Telephone: (602) 542-3095

Fax: (602) 542-3093

E-mail: Margaret.whelan@optometry.az.gov

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

The Board is updating its rules to make them more clear, concise, and understandable and consistent with statute and current agency and industry practice.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on 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 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

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

The rulemaking will have minimal economic impact on the Board, licensees, and applicants. The key changes producing economic impact are:

- Requiring medically necessary supportive equipment and supplies if a licensee maintains epinephrine auto-injectors at the licensee's practice location;
- Requiring a licensee with a pharmaceutical agents number to be certified in cardiopulmonary resuscitation; and
- Establishing a procedure for auditing compliance with the continuing education requirement.

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The minimal economic impact of these changes is outweighed by the safety benefits that accrue to consumers of optometry services.

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

In addition to minor, non-substantive, changes made between the proposed and final rules, the Board added R4-21-210(D), which specifies the standard for approving a continuing education. This is a clarifying rather than substantial change because the standard specified had been implied in subsection (A).

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

A comment submitted by Lori Grover, a licensee, suggested changes to the definitions of “low vision” and “vision rehabilitation.” The Board concluded that the definitions as proposed were consistent with those suggested by Ms. Grover. However, the Board decided to:

- Change the word “bilateral” to “chronic” in the definition of “low vision”;
- Delete the definition of “vision rehabilitation” as proposed; and
- Change the definition of “vision therapy” to “vision rehabilitation.”

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

None

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

None

**14. Were these rules previously made as emergency rules?**

No

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 21. BOARD OF OPTOMETRY**

**ARTICLE 1. GENERAL PROVISIONS**

Section

R4-21-101. Definitions

~~R4-21-102. Repealed~~

~~R4-21-103. R4-21-102. Fees and other Charges~~

~~R4-21-203. R4-21-103. Time-frames for Licensure, Renewal of License, Certificates of Special Qualification, and Course of Study Approval~~ Board Action

Table 1. Time-frames (in calendar days)

**ARTICLE 2. LICENSING PROVISIONS**

Section

R4-21-201. Licensure by Examination

~~R4-21-202. Licensure by Endorsement~~

~~R4-21-202. R4-21-203. License Jurisprudence Examination~~

~~R4-21-204. License Issuance~~

~~R4-21-204. R4-21-205. License Renewal~~

~~R4-21-206. License Reinstatement; Application for Licensure following License Expiration~~

~~R4-21-205. R4-21-207. Course of Study Approval~~

~~R4-21-206. R4-21-208. Use of Pharmaceutical Agents Certificate of Special Qualification; Pharmaceutical Agent Number~~

~~R4-21-208. R4-21-209. Continuing Education Requirements; Program Criteria and Procedures Requirement~~

~~R4-21-210. Repealed Approval of Continuing Education~~

~~R4-21-211. Repealed Audit of Compliance with Continuing Education Requirement~~

~~R4-21-212. Repealed~~

~~R4-21-209. R4-21-212. Discretionary Exemption Waiver of or Extension of Time to Complete Continuing Education Requirement~~

R4-21-213. Registration of Nonresident Contact-lens Dispenser; Renewal

**ARTICLE 3. REGULATORY PROVISIONS STANDARDS; RECORDKEEPING; REHEARING OR REVIEW OF**

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**BOARD DECISION**

Section

- R4-21-301. ~~Styles of Optometric Practice; Staff Responsibility~~ Repealed  
R4-21-207-R4-21-301. ~~Issuance and Display of License; Surrender of License~~  
R4-21-302. ~~Advertising~~  
R4-21-303. ~~Affirmative Disclosures in Advertising and Practice; Warranties, Service, or Ophthalmic Goods Replacement Agreements~~ Required  
R4-21-304. Vision Examination Standards  
R4-21-304-R4-21-305. ~~Vision Examination Standards; Records~~ Recordkeeping  
R4-21-305-R4-21-306. Optometric Prescription Standards; Release to Patients  
R4-21-307. ~~Repealed~~  
R4-21-306-R4-21-307. ~~Low vision~~ Vision Rehabilitation and Vision Therapy  
R4-21-308. Anaphylactic-related Supplies  
R4-21-308-R4-21-309. Rehearing or Review of Administrative Board Decision

**ARTICLE 5. EXECUTIVE DIRECTOR DUTIES REPEALED**

Section

- R4-21-501. ~~Issuing Licenses~~ Repealed  
R4-21-502. ~~Denial of License~~ Repealed  
R4-21-503. ~~Issuing Subpoenas~~ Repealed  
R4-21-504. ~~Continuing Education Approval~~ Repealed

**ARTICLE 1. GENERAL PROVISIONS**

**R4-21-101. Definitions**

In addition to the definitions established in A.R.S. §§ 32-1701 and 32-1771, the following terms apply to this Chapter:

“Accredited” means approved by the ACOE.

1. “ACOE” means the Accreditation Council on Optometric Education.

“Advertisement” means a written, oral, or electronic communication that an ordinary person would perceive is designed to influence, directly or indirectly, a decision regarding ophthalmic goods or optometric services.

2. “Applicant” means: ~~an~~

An individual who applies to the Board under A.R.S. § 32-1722 or 32-1723 for a license to practice the profession of optometry in this state under A.R.S. §§ 32-1722 and 32-1723, but has not yet been granted the license;

A licensee who applies under R4-21-205 for license renewal;

A licensee who applies under R4-21-208 for a pharmaceutical agents number;

A licensee or provider of continuing education that applies for approval of a continuing education under R4-21-210; or

A person who applies to the Board under A.R.S. § 32-1774 and R4-21-213 for registration as a non-resident dispenser of replacement soft contact lenses.

“Application package” means the forms, documents, and fees that the Board requires an applicant to submit or have submitted on the applicant’s behalf.

“Approved continuing education” means a planned educational experience relevant to the practice of the profession of optometry that the Board determines meets the criteria at R4-21-210.

3. “Certificate of special qualification” means a document that specifies ~~that whether~~ the holder, who was licensed by the Board before July 1, 2000, and has not completed a course of study approved by the Board, may prescribe, administer, and dispense one or more of a pharmaceutical agent categories identified in A.R.S. § 32-1728(B)(1), (2), or (3) or may practice optometry without the use of pharmaceutical agents and if so, whether the holder may prescribe, administer, and dispense:

A topical diagnostic pharmaceutical agent only, or

Topical diagnostic and topical therapeutic pharmaceutical agents.

4. “Correspondence course” means continuing education delivered by video, audio, electronic or digital means, scientific journals or periodicals, or any other media as approved by the Board.

“Course of study,” as used in A.R.S. § 32-1722, means education approved by the Board under R4-21-207 that qualifies an optometrist to prescribe, administer, and dispense topical diagnostic, topical therapeutic, and oral pharmaceutical agents.

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"Epinephrine auto-injector" means an intramuscular dose of epinephrine used for emergency treatment of an allergic reaction and delivered by a spring-loaded syringe.

"Good cause" means a reason that is substantial enough to afford a legal excuse.

5. "Incompetence," as used in A.R.S. § 32-1701(8), means lack of professional skill, fidelity, or physical or mental fitness, or substandard examination or treatment while practicing the profession of optometry.

"Low vision" means chronic impairment to vision that significantly interferes with daily routine activities and cannot be adequately corrected with medical, surgical, or therapeutic means or conventional eyewear or contact lenses.

"Low-vision rehabilitation" means use of optical and non-optical devices, adaptive techniques, and community resources to assist an individual to compensate for low vision in performing daily routine activities.

6. "Negligence," as used in A.R.S. § 32-1701(8), means conduct that falls below the standard of care for the protection of patients and the public against unreasonable risk of harm and that is a departure from the conduct expected of a reasonably prudent licensee under the circumstances.

7. "Low-vision rehabilitation" means evaluation, diagnosis, management, and treatment of a limited vision, including the prescribing of corrective spectacles, contact lenses, prisms, or filters; or the employment of any means for the adaptation of lenses.

8. "Pharmaceutical" or "pharmaceutical agent" means a prescription or nonprescription substance, or a schedule III controlled substance used for examination, diagnosis or treatment of conditions of the human eye and its adnexa. A.R.S. § 32-1701(5). Pharmaceutical and pharmaceutical agents include the following categories:

a. "Topical diagnostic agents" means externally applied medicine used to diagnose disease and conditions of the eye and its adnexa;

b. "Topical diagnostic and therapeutic pharmaceutical agent" means externally applied medicines used to diagnose, treat, and manage disease of the eye and its adnexa;

e. "Oral pharmaceutical" means an ingested medication used to diagnose, treat, and manage disease of the eye and its adnexa; and

d. "Anti-anaphylactic agent" means an intramuscular dose of epinephrine used for the emergency treatment of allergic reactions and delivered by a self-injecting syringe.

"Oral pharmaceutical agent," as used in A.R.S. § 32-1728, means an ingested prescription or non-prescription substance used to examine, diagnose, or treat disease of the eye and its adnexa.

"Party" has the same meaning as prescribed in A.R.S. § 41-1001.

"Plano lenses" means contact lenses that have cosmetic function only.

9. "Practice management" means the study of management of the affairs of optometric practice.

"Self-instructed media" means educational material in a printed, audio, video, or electronic format.

"Topical diagnostic pharmaceutical agent," as used in A.R.S. § 32-1728, means an externally applied prescription or non-prescription substance used to examine and diagnose disease and conditions of the eye and its adnexa.

"Topical therapeutic pharmaceutical agent," as used in A.R.S. § 32-1728, means an externally applied prescription or non-prescription substance used to treat disease of the eye and its adnexa.

10. "Vision therapy rehabilitation" means an individualized course of treatment and education prescribed to improve conditions of the human eye or adnexa or develop compensatory approaches. Vision therapy rehabilitation is designed to help individuals learn, relearn, or reinforce specific vision skills, including eye movement control, focusing control, eye coordination, and the teamwork of the two eyes. Vision therapy rehabilitation includes, but is not limited to: optical, non-optical, electronic, or other assistive treatments.

11. "Vision rehabilitation" means development of an individual plan specifying clinical therapy and instruction in compensatory approaches.

**~~R4-21-102. Repealed~~**

**~~R4-21-103-R4-21-102. Fees and other Charges~~**

~~A. In addition to The Board shall collect the fees established by A.R.S. § 32-1727;~~

~~B. Under the authority provided at A.R.S. § 32-1727, the Board establishes and shall charge collect the following licensee fees as follows:~~

~~1. License issuance fee of \$400, that which is prorated from date of issuance to date of renewal;~~

~~2. Biennial license renewal fee of \$400 that is prorated to the licensee's renewal date if less than biennial renewal period; and~~

~~3. Late renewal fee of \$200.~~

~~C. Under the authority provided at A.R.S. § 32-1773(B), the Board establishes and shall collect a fee of \$500 for registration~~

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or biennial registration renewal as a nonresident dispenser of contact lenses.

~~B-D.~~ ~~A~~ Except as provided in subsection (D)(3), a person requesting a public records record shall pay the following fees for searches and copies of Board records under A.R.S. §§ 39-121.01 or 39-121.03:

1. Noncommercial copy:
  - a. 5¢ per name and address for directory listings or 15¢ each if printed on labels, and
  - b. 25¢ per page for other records;
2. Commercial copy:
  - a. 25¢ per name and address for directory listings or 35¢ each if printed on labels, and
  - b. 50¢ per page for other records; and
3. The Board ~~shall waive fees~~ waives the charges listed in subsections (D)(1) and (D)(2) for other a government agen-  
cies agency.
4. ~~Pamphlets containing optometry statutes and rules: \$5.~~

E. The Board establishes and shall collect the following charges for the services specified:

- ~~5-1.~~ Written or certified license verifications verification: \$10; and
- ~~6-2.~~ Duplicate or replacement renewal receipts receipt: \$10.

~~C.~~ An applicant for registration or biennial registration renewal as a nonresident contact lens dispenser shall pay to the Board a registration fee of \$500.

~~R4-21-203-R4-21-103.~~ Time-frames for Licensure, Renewal of License, Certificates of Special Qualification, and Course of Study Approval Board Action

A. For each type of license, certificate, or approval, ~~or renewal~~ issued by the Board, the overall time-frame described in A.R.S. § 41-1072(2) is listed in Table 1.

B. For each type of license, certificate, or approval, ~~or renewal~~ issued by the Board, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is listed in Table 1 and begins on the date the Board receives an application package.

1. ~~If the an~~ an application package is not administratively complete, the Board shall send a deficiency notice to the applicant:
  - a. The deficiency notice shall state that specifies each deficiency and the piece of information or document needed to complete the application and documents package.
  - b. The deficiency notice shall require the applicant to respond to the deficiencies within Within the time provided in Table 1 for response to a deficiency notice, beginning on the mailing postmark date of the deficiency notice, the applicant shall submit to the Board the missing information or document specified in the deficiency notice.
2. The time-frame for the Board to finish the administrative completeness review is suspended from the date the Board mails the deficiency notice to the applicant until the date the Board receives the missing information or document.
- ~~3-2.~~ If the an application package is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.
- ~~4-3.~~ If the applicant fails to respond timely and completely to an application package is not completed with the time provided to respond to the deficiency notice, the Board shall send a written notice to the applicant informing the applicant that the Board considers the application withdrawn.
5. An applicant may request an extension of the time to satisfy the deficiency notice.

C. For each type of license, certificate, or approval, ~~or renewal~~ issued by the Board, the substantive review time-frame described in A.R.S. § 41-1072(3) is listed in Table 1 and begins on the date of receipt of the Board sends written the notice of administrative completeness to the applicant.

1. During the substantive review time-frame, the Board may make one comprehensive written request for additional information. The Within the time provided in Table 1 for response to a comprehensive written request for additional information, the applicant shall submit to the Board the requested additional information within the time provided in Table 1. The time-frame for the Board to finish the substantive review is suspended from the date the Board mails the comprehensive written request for additional information to the applicant until the Board receives the additional information.
2. If, under A.R.S. § 32-1722(C), the Board determines that a hearing is needed to obtain information on the character of an applicant, the Board shall include a notice of the hearing in its comprehensive written request for additional information.
3. The Board shall issue a written notice of denial of a license, renewal, certificate, or approval if the Board determines that the applicant does not meet all of the substantive criteria required by statute or this Chapter. If the applicant fails to provide the additional information within the time provided to respond to a comprehensive written request for additional information, the Board shall send a written notice to the applicant informing the applicant that the Board considers the application withdrawn.
4. If the applicant meets all of the substantive criteria required by statute and this Chapter for licensure, renewal, certificate, or approval, the Board shall notify the applicant that the qualifications for licensure have been met and the license shall be issued as specified in R4-21-207 after receipt of the license issuance fee.



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- D.** An applicant may receive a 40-day extension of the time to respond under subsection (B)(3) or (C)(3) by sending a notice of extension of time to the Board before expiration of the time to respond. The time-frame for the Board to act remains suspended during any extension of time. If the applicant fails to provide the requested information during the extension of time, the Board shall send a written notice to the applicant informing the applicant that the Board considers the application withdrawn.
- E.** Within the overall time-frame listed in Table 1, the Board shall:
1. Deny a license, certificate, or approval to an applicant if the Board determines that the applicant does not meet all of the substantive criteria required by statute and this Chapter; or
  2. Grant a license, certificate, or approval to an applicant if the Board determines that the applicant meets all of the substantive criteria required by statute and this Chapter.
- F.** If the Board denies a license, certificate, or approval under subsection (E)(1), the Board shall provide a written notice of denial to the applicant that explains:
1. The reason for the denial, with citations to supporting statutes or rules;
  2. The applicant's right to seek a fair hearing to appeal the denial;
  3. The time for appealing the denial; and
  4. The right to request an informal settlement conference.
- D.G.** A In computing any period of time as prescribed in this Section, does not include the day of the initial act, event, or default after which the designated period begins to run is not included. The time period begins on the date of personal service, receipt, or the date shown as received on a certified mail receipt, or postmark date. The last day of the time frame period is included unless it falls on a Saturday, Sunday, or state holiday in which case, the time period ends on the next business day.

**Table 1. Time-frames (in calendar days)**

Type of License	Overall Time-frame	Administrative Review Time-frame	Time to Respond to Deficiency Notice	Substantive Review Time-frame	Time to Respond to Request for Additional Information
<del>Initial</del> Licensure by <u>Examination examination</u> A.R.S. § 32-1722; <del>R4-21-201</del>	<del>90</del> <u>75</u>	<del>30</del> <u>15</u>	<del>20</del> <u>60</u>	60	20
<del>Initial</del> Licensure by endorsement <u>A.R.S. § 32-1723; R4-21-201 R4-21-202</u>	<del>120</del> <u>75</u>	<del>60</del> <u>15</u>	<del>20</del> <u>75</u>	60	20
Renewal of <del>License</del> <u>license</u> <u>A.R.S. § 32-1726; R4-21-204 R4-21-205</u>	<del>90</del> <u>45</u>	<del>60</del> <u>15</u>	20	30	20
<del>Board Approved Course of Study</del> <del>R4-21-205</del>	180	90	20	<del>90</del>	<del>20</del>
<del>Certificates of Special Qualification</del> <u>Pharmaceutical agents number</u> <u>A.R.S. § 32-1728; R4-21-206 R4-21-208</u>	<del>120</del> <u>75</u>	<del>60</del> <u>15</u>	<del>20</del> <u>60</u>	60	20
<del>Continuing Education Program</del> <u>Approval of a continuing education</u> <u>A.R.S. § 32-1704(D); R4-21-208 R4-21-210</u>	<del>120</del> <u>75</u>	<del>60</del> <u>15</u>	20	60	20
Registration of nonresident dispenser of replacement soft contact lenses A.R.S. § 32-1773; <u>R4-21-213</u>	<del>120</del> <u>75</u>	<del>60</del> <u>15</u>	20	60	20

**ARTICLE 2. LICENSING PROVISIONS**

**R4-21-201. Licensure by Examination**

- A.** An individual is eligible to apply for licensure by examination if the individual graduated from an accredited optometry program but is not eligible for licensure by endorsement under R4-21-202(A).
- A.B.** A person applying for licensure To apply for licensure by examination, an individual who is eligible under subsection (A)

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shall submit the following information on a licensure application form, provided by which is available from the Board, not later than 30 days before the date of the Board-designated jurisprudence exam and provide the following information about the applicant:

1. The applicant's full Full legal name and social security number;
2. Other names ever used, if any, and if applicable, a copy of the court document or marriage license resulting in a name change;
3. Social Security number;
2. The applicant's place and date of birth;
- 3-4. The applicant's current mailing Mailing address;
5. E-mail address, if any;
6. Residential, business, and mobile telephone numbers;
7. Date and place of birth;
- 4-8. The applicant's residence Residential addresses for the past five years;
- 5-9. The applicant's educational Educational background including the name and address of, dates of attendance at, and date of graduation from:
  - a. An accredited optometry program,
  - b. A pre-optometric school or undergraduate educational institution,
  - c. High school, and
  - d. Other post-secondary schools attended;
- 6-10. The applicant's previous optometric experience Experience in the practice of the profession of optometry including the business form and location of the practice;
- 7-11. The applicant's work Work experience or occupation, other than the practice of the profession of optometry, for the past five years;
8. A list of the applicant's previous state board examinations;
- 9-12. A list List of the states in which the applicant is or has been professionally licensed and, if a license is no longer valid, the reasons why including the name of the state, type of professional license, date issued, and expiration date;
13. List of the states in which the applicant was but no longer is professionally licensed including the name of the state, type of professional license, date issued, and reason the license is no longer valid;
14. Statement of whether the applicant:
10. Whether the applicant has
  - a. Has ever been denied the right to take an examination for optometric licensure by any state or jurisdiction and if so, the name of the state or jurisdiction, date, and reason for the denial;
11. Whether the applicant has
  - b. Has ever been refused denied an optometric license or renewal in any state or jurisdiction and if so, the name of the state or jurisdiction, date, and reason for the denial;
12. Whether the applicant has
  - c. Has ever had a license or certificate of registration to practice the profession of optometry suspended or revoked by any optometric licensing agency, board, or equivalent and if so, the name of the optometric licensing agency, date, reason for the suspension or revocation, and current status;
  - d. Has ever had an investigation conducted or has an investigation pending by an optometric regulatory agency of any state or jurisdiction and if so, name of the optometric regulatory agency and state or jurisdiction, date, reason for the investigation, and current status;
13. Whether any disciplinary action has
  - e. Has ever been had a disciplinary action instituted against the applicant by any optometric licensing agency or equivalent and if so, the name of the optometric licensing agency, date, nature of the disciplinary action, reason for the disciplinary action, and current status;
14. Whether the applicant has
  - f. Has ever been convicted of, pled guilty or no contest to, or entered into diversion in lieu of prosecution for any criminal offense in any jurisdiction of the United States or foreign country and if so, name of the jurisdiction, date, offense charged, offense for which convicted, pled guilty, or no contest, and current status;
15. Whether the applicant has
  - g. Has been addicted to narcotic substances or habitually abused alcohol within the last 10 years and if so, date, steps taken to address the addiction or abuse, and current status; and
16. Whether the applicant is
  - h. Is presently addicted to narcotic substances or habitually abuses alcohol and if so, why the addiction or abuse does not amount to unprofessional conduct; and
17. The applicant shall submit a complete explanation of the details if the answer to any of the questions in subsections (A)(12) through (A)(16) is affirmative;
- 18-15. A statement sworn under oath by the applicant Dated and sworn signature of the applicant verifying the truthful-

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ness of that the information provided is true to the best of the applicant's knowledge, information, and belief; and

19. A two inch by three inch passport style photograph of the applicant taken within the past six months.

**B.C.** In addition to the requirements of submitting the application form required under subsection (A) (B), an applicant for licensure shall submit or have submitted on the applicant's behalf:

1. A 2 inch by 3 inch passport-quality photograph of the applicant's head and shoulders that is taken within six months of the date of application and signed by the applicant in ink across the lower portion of the front side;

1.2. A completed Arizona Department of Public Safety fingerprint card accompanied by a full set of readable fingerprints taken by a criminal justice agency; separate nonrefundable fee in the form of

3. a A cashier's check, certified check, or money order in an amount determined by and payable to the Arizona Department of Public Safety in the amount required to obtain a state and federal criminal records check;

2.4. The application fees fee required pursuant to under A.R.S. § 32-1727;

3. Evidence of the successful completion of an approved course of study under A.R.S. § 32-1722(A)(3). Acceptable evidence includes:

a. An official transcript showing that the applicant has passed the required optometry courses; or

b. A certificate of completion issued by the sponsoring institution specifying the subject matter and hours completed; and

5. A copy of the scores obtained by the applicant on Parts I, II, and III of the National Board of Examiners in Optometry examination less than five years before the date of the application;

6. A passing score obtained by the applicant on the jurisprudence examination described at R4-21-203;

4.7. An official transcript received submitted directly from to the Board by the educational institution with an accredited optometry school program from which the applicant graduated with a degree in optometry;

8. An official transcript submitted directly to the Board by the educational institution at which the applicant took pre-optometry or undergraduate courses;

9. A self-query from the National Practitioner Data Bank-Healthcare Integrity and Protection Data Bank made within three months before the date of application; and

10. A copy of the front and back of the cardiopulmonary resuscitation card issued to the applicant or other written documentation of current certification in cardiopulmonary resuscitation.

**C.** An applicant for licensure by endorsement shall submit at least 30 days before the date of the Board designated jurisprudence exam:

1. A license verification from all states in which the endorsement applicant has practiced in the five years before the date of application that provides the following information:

2. Current status of the license;

3. Scope of practice; and

4. Date of licensure, license number, whether any disciplinary action has been taken, complaints against the licensee on file, and any pending investigations.

**D.** Review and approval of regular and endorsement applications. The Board may approve a regular or endorsement application based upon any combination of education or experience as specified in A.R.S. §§ 32-1722 and 1723.

**R4-21-202. Licensure by Endorsement**

**A.** An individual is eligible to apply for licensure by endorsement if the individual:

1. Graduated from an accredited optometry program.

2. Is licensed to practice the profession of optometry in another state that has licensing requirements that the Board determines meet or exceed Arizona's requirements.

3. Has engaged in the practice of the profession of optometry continuously in the other state or military for at least four of the five years before the date of application, and

4. Has not had a license to practice the profession of optometry suspended or revoked by any licensing jurisdiction for a cause that is a ground for suspension or revocation of a license in Arizona.

**B.** To apply for licensure by endorsement, an individual who is eligible under subsection (A) shall submit the application form described in R4-21-201(B).

**C.** In addition to complying with subsection (B), an applicant for licensure by endorsement shall submit or have submitted on the applicant's behalf:

1. The materials required under R4-21-201(C)(1) through (C)(4) and (C)(6) through (C)(10);

2. A state board certification and license verification form, which is submitted directly to the Board from the state that issued the license on which the applicant's endorsement application is based, indicating:

a. Name and title of the individual completing the verification form;

b. Number of the applicant's optometry license in the state;

c. Date on which the applicant was issued an optometry license by the state;

d. A statement of whether the applicant:

i. Has been licensed in the state for at least four of the last five years;

ii. Is certified to use topical diagnostic, topical therapeutic, or oral pharmaceutical agents and if so, the date on

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- which the certification was obtained;
- iii. Is currently in good standing in the state;
- iv. Is known to be licensed to practice the profession of optometry in another state and if so, the name of the other state;
- v. Has been subject to any disciplinary action and if so, the date, nature of, and reason for the disciplinary action; and
- vi. Is subject to any pending investigation or complaint and if so, the nature of the investigation or complaint; and
- e. The dated, notarized signature of the individual completing the verification form; and
- 3. A letter on official letterhead, in substantially the form provided by the Board, from a representative of the accredited optometry program at the educational institution from which the applicant graduated, providing details that demonstrate the applicant's education meets the standards at R4-21-207.

**R4-21-202, R4-21-203. License Jurisprudence Examination**

- A. All applicants for licensure shall take a Jurisprudence exam. A passing To be licensed, an applicant shall obtain a score on the examination is of at least 75% and above on a jurisprudence examination that assesses knowledge of Arizona's statutes and rules relating to optometry.
- B. An applicant may take the jurisprudence examination at any time after submitting to the Board the application form required under R4-21-201(B) or R4-21-202(B).
- ~~B.C.~~ An applicant who fails the Jurisprudence jurisprudence examination may retake the examination one time within six months from the date of the original exam examination. An
- D. The Board shall further consider an applicant who fails the Jurisprudence exam jurisprudence examination a second time shall wait at least six months to submit another application with required fees only if the applicant:
  - 1. Waits at least six months from the date of the second taking of the jurisprudence examination.
  - 2. Submits a new application form under R4-21-201(B) or R4-21-202(B).
  - 3. Submits a full set of readable fingerprints taken by a criminal justice agency and a cashier's check or money order payable to the Arizona Department of Public Safety in the amount required to obtain a state and federal criminal records check.
  - 4. Submits a 2 inch by 3 inch passport-quality photograph of the applicant's head and shoulders that is taken within six months of the date of the new application and signed by the applicant in ink across the lower portion of the front side.
  - 5. Submits a self-query from the National Practitioner Data Bank-Healthcare Integrity and Protection Data Bank made within three months before the date of the new application, and
  - 6. Submits the application fee required under A.R.S. § 32-1727.

**R4-21-204. License Issuance**

- A. When the Board determines that an applicant meets all of the substantive criteria required by statute and this Chapter, the Board shall send the applicant a written notice informing the applicant that the Board shall issue the applicant a license when the applicant pays the license issuance fee required under R4-21-102(B).
- B. Under A.R.S. § 32-1725, if an applicant fails to pay the license issuance fee within 60 days after receiving notice under subsection (A), the Board considers the application withdrawn. An individual whose application is withdrawn can be further considered for licensing only by complying with R4-21-201 or R4-21-202.

**R4-21-204, R4-21-205. License Renewal**

- A. To continue practicing the profession of optometry in Arizona, a licensee shall renew the licensee's license and certificate of special qualification, if applicable, on or before the date on which the license and certificate expire. Timely renewal is a licensee's responsibility. As a courtesy, the Board may provide a licensee with notice that the licensee's license is going to expire. Failure to obtain notice of the need to renew is not good cause for failing to renew.
- ~~A.B.~~ To renew a license and, if applicable, certificate of special qualification, an applicant a licensee shall submit to the Board a license renewal application and provide the renewal fee under R4-21-103 and the following information to the Board:
  - 1. Whether the licensee wants to renew the licensee's license and, if applicable, certificate of special qualification;
  - ~~1-2.~~ Any change in the applicant's The licensee's current mailing or residential address and telephone and fax numbers;
  - ~~3-~~ A list of continuing education courses and if requested, proof of attendance and course completion; pursuant to R4-21-208;
  - 3. The licensee's current residential address, e-mail address, and residential and mobile telephone numbers;
  - ~~2-4.~~ A list of all The licensee's current permanent and temporary practice addresses and phone telephone and fax numbers;
  - 5. A statement of whether the licensee:
    - a. Has practiced the profession of optometry within the last two years;
    - ~~4-b.~~ Whether the applicant has ever Has been denied the right to take an examination for optometric licensure by any state or jurisdiction within the preceding two years and if so, the name of the state or jurisdiction, date, and reason for the denial;

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- 5-c. ~~Whether the applicant has ever~~ Has been ~~refused~~ denied an optometric license or renewal in any state or jurisdiction within the preceding two years and if so, the name of the state or jurisdiction, date, and reason for denial;
- 6-d. ~~Whether the applicant has~~ Has had a license or certificate of registration to practice the profession of optometry suspended or revoked by any optometric ~~licensing~~ regulatory agency, board, or equivalent within the preceding two years and if so, the name of the optometric regulatory agency, date, action taken, reason for the action, and current status;
- 7-c. ~~Whether any~~ Has had disciplinary action ~~has been~~ instituted against the ~~applicant~~ licensee by any optometric ~~licensing~~ regulatory agency or equivalent within the preceding two years and if so, the name of the optometric regulatory agency, date, nature of the disciplinary action, reason for the disciplinary action, and current status;
- f. Has had an investigation conducted within the preceding two years or has an investigation pending by an optometric regulatory agency of any state or jurisdiction and if so, name of the optometric regulatory agency and the state or jurisdiction, date, reason for the investigation, and current status;
- 8-g. ~~Whether the applicant has~~ Has been convicted of, pled guilty or no contest to, or entered into diversion in lieu of prosecution for any criminal offense in any jurisdiction of the United States or foreign country within the preceding two years, and if so, ~~an explanation~~ the name of the jurisdiction, date, offense charged, offense for which convicted, pled guilty, or no contest, and current status;
- 9-h. ~~Whether the applicant has~~ Has been addicted to narcotic substances or habitually abused alcohol within the preceding two years and if so date, steps taken to address the addiction or abuse, and current status;
- 10-i. ~~Whether the applicant is~~ Is presently addicted to narcotic substances or habitually abuses alcohol and if so, why the addiction or abuse does not amount to unprofessional conduct;
- 11. Whether the applicant has been sued for malpractice within the preceding two years;
- 12-j. ~~Whether the applicant has~~ Has had the authority to prescribe, dispense, or administer ~~medication~~ pharmaceutical agents limited, restricted, modified, denied, surrendered, or revoked by a federal or state agency within the preceding two years and if so, name of agency taking action, nature of action taken, date, reason for action, and current status; and
- k. Is in compliance with the provisions of A.R.S. § 32-3211;
- 13. A complete explanation of the details if the answer to any of the questions in subsections (A)(4) through (A)(12) is affirmative; and
- 6. The following information about each approved continuing education attended by the licensee during the preceding two years:
  - a. Name of continuing education provider,
  - b. Title,
  - c. Date of attendance,
  - d. Number of hours of attendance, and
- 14.7. A statement verifying the truthfulness of The licensee's dated signature affirming that the information provided is true and correct.
- C.** In addition to the license renewal application required under subsection (B), a licensee shall submit to the Board:
  - 1. The license renewal fee listed at R4-21-102(B), and
  - 2. The certificate of special qualification fee required under A.R.S. § 32-1727 if the licensee has a certificate of special qualification, or
  - 3. Written documentation that the licensee is currently certified in cardiopulmonary resuscitation if the licensee has a pharmaceutical agents number.
- D.** A licensee who fails to renew the licensee's license and, if applicable, certificate of special qualification within 30 days after the date of expiration, may apply for late renewal by complying with subsections (B) and (C) within four months after the date of expiration and paying the late renewal fee listed at R4-21-102(B).
- E.** A licensee who fails to renew timely and fails to comply with subsection (D) shall not engage in the practice of the profession of optometry. The holder of a license that is not renewed within four months after the date of expiration may apply under R4-21-206 for license reinstatement but is not eligible for license renewal.
- B.F.** All certificates held by an applicant remain in effect upon license renewal If a licensee timely applies for license renewal or complies with subsection (D), the licensee's license and, if applicable, certificate of special qualification remain in effect until the license renewal is granted or denied.
- C.** A license is void if an applicant does not submit a completed renewal application and renewal fee under R4-21-103 within four months from the date of expiration.
- R4-21-206. License Reinstatement; Application for Licensure following License Expiration**
  - A.** Reinstatement following license expiration. If an individual holds a license that has been expired at least four months but less than five years, the individual may apply to the Board to have the license and, if applicable, certificate of special qualification reinstated. To have an expired license reinstated, the former licensee shall:
    - 1. Submit the renewal form described in R4-21-205(B);
    - 2. Submit the renewal fee listed in R4-21-102(B) for each biennial period that the license was not renewed;

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3. Submit, if applicable, the fee for a certificate of special qualification listed at A.R.S. § 32-1727 for each biennial period that the license was not renewed;
  4. Submit the late renewal fee listed in R4-21-102(B) for each biennial period that the license was not renewed;
  5. Submit a \$50 penalty fee for each year or portion of a year that the license was not renewed; and
  6. Submit written documentation that the former licensee is currently certified in cardiopulmonary resuscitation if the former licensee had a pharmaceutical agents number.
- B.** Reinstatement following license suspension. If an individual holds a license that was suspended by the Board following a disciplinary proceeding and if the individual timely renewed the suspended license under R4-21-205, the individual may apply to the Board to have the license and, if applicable, certificate of special qualification reinstated. To have a suspended license reinstated, the suspended licensee shall submit evidence of completing all terms of suspension imposed by the Board.
- C.** Application for new license following license expiration. If an individual holds a license that has been expired for five years or more, the individual may apply for a new license:
1. Under R4-21-202 if the individual has continuously practiced the profession of optometry in another state or the military for at least four of the last five years, or
  2. Under R4-21-201 if the individual is not qualified to apply for a new license under subsection (C)(1).

**R4-21-205, R4-21-207. Course of Study Approval**

- A.** Any educational institution may apply to the Board for approval of a course of study covering didactic education, pharmacology, and clinical training in the examination, diagnosis, and treatment of conditions of the human eye and its adnexa, and prescribing, dispensing, and administering pharmaceutical agents. The institution's authorized representative shall provide the following information on the application:
1. The name and address of the educational institution;
  2. Certification that the course of study is equivalent in scope and content to the curriculum currently offered to graduating students by the educational institution;
  3. The names and qualifications of faculty and staff;
  4. A course outline that includes:
    - a. Didactic pharmacology and clinical training in the diagnosis and treatment of:
      - i. Anterior segment disease;
      - ii. Posterior segment disease;
      - iii. Glaucoma; and
      - iv. Systemic diseases and emergencies with all pharmaceutical agents and the specific agents listed in A.R.S. § 32-1706(A), (B), (C), and (E).
    - b. A minimum of 12 hours of pharmacologic principles in the side effects, adverse reactions, drug interactions, and use of systemic antibiotics, analgesics, antipyretics, antihistamines, over-the-counter medications, and medications and procedures to counter the affect of adverse reactions.
- B.** To be approved, an educational institution shall grant a certificate of completion or its equivalent for the course of study if a student obtains a score of at least 75% on a closed book, proctored, written examination. The examination shall cover prescribing, dispensing, and administering pharmaceutical agents, and be commensurate with courses of study taken by current doctoral candidates in colleges of optometry.

The Board approves a course of study that:

1. Includes didactic and clinical training in:
  - a. Examining, diagnosing, and treating conditions of the human eye and its adnexa; and
  - b. Prescribing dispensing, and administering pharmaceutical agents;
2. Includes at least 120 hours of training, at least 12 of which address prescribing, dispensing, and administering oral pharmaceutical agents; and
3. Is provided by an educational institution with an accredited optometry program.

**R4-21-206, R4-21-208. Use of Pharmaceutical Agents Certificate of Special Qualification; Pharmaceutical Agent Number**

- A.** If a licensee does not currently hold any certificate of special qualification, the Board shall grant a licensee the authority to prescribe, administer, and dispense pharmaceutical agents pursuant to A.R.S. § 32-1706 if the licensee:
1. Takes and passes a course of study that meets the requirements of R4-21-205(A); and
  2. Provides the Board with a copy of current CPR certification;
- A.** The Board shall issue a certificate of special qualification that allows a licensee to prescribe, administer, and dispense topical diagnostic and therapeutic pharmaceutical agents or only topical diagnostic pharmaceutical agents if the licensee:
1. Was licensed by the Board before July 1, 2000;
  2. Held a comparable certificate of special qualification issued by the Board before July 1, 2000; and
  3. Pays the fee prescribed at A.R.S. § 32-1727.
- B.** Licensees holding a license issued prior to The Board shall issue a certificate of special qualification that indicates a lic-

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ensee shall not prescribe, administer, or dispense a pharmaceutical agent if the licensee:

1. Was licensed by the Board before July 1, 2000, and
2. Did not holding any hold a certificate of special qualification shall not prescribe any pharmaceutical agents pursuant to A.R.S. 32-1728. The Board shall issue a certificate of special qualification specifying use of no pharmaceutical agents to the licensee issued by the Board before July 1, 2000, and
3. Pays the fee prescribed at A.R.S. § 32-1727.

C. A licensee who is denied certification of a special qualification by the Board may appeal the decision by filing an appeal with the Board within 30 days following receipt of the notice of denial or disapproval. The hearing shall be conducted under A.R.S. Title 41, Chapter 6, Article 10. A licensee who holds a certificate of special qualification issued under subsection (A) or (B) may apply to the Board for a pharmaceutical agent number that indicates the licensee is authorized to prescribe, administer, or dispense topical diagnostic, topical therapeutic, and oral pharmaceutical agents. To apply for a pharmaceutical agent number, a licensee who holds a certificate of special qualification issued under subsection (A) or (B) shall:

1. Submit to the Board an application, using a form that is available from the Board, and provide the following information:
  - a. Name of licensee;
  - b. Social Security number;
  - c. Mailing address;
  - d. Telephone and fax numbers at the address listed under subsection (C)(1)(c);
  - e. License number;
  - f. Number of certificate of special qualification for diagnostic pharmaceutical agents, if any;
  - g. Number of certificate of special qualification for therapeutic pharmaceutical agents, if any;
  - h. Residential address;
  - i. Telephone and fax numbers at the address listed under subsection (C)(1)(h);
  - j. Name of the course of study approved under R4-21-207 that the licensee completed and date of completion; and
  - k. Applicant's dated signature affirming that the information provided is true and correct; and
2. Have a representative of the educational institution at which the licensee completed the approved course of study submit to the Board evidence that the course of study is approved and the licensee completed all course requirements; and
3. Submit written documentation that the licensee is currently certified in cardiopulmonary resuscitation.

D. The Board shall issue a pharmaceutical agent number that indicates a licensee is authorized to prescribe, administer, or dispense topical diagnostic, topical therapeutic, and oral pharmaceutical agents if the licensee is initially licensed by the Board under R4-21-201 or R4-21-202 after June 30, 2000.

**R4-21-208. R4-21-209. Continuing Education Requirements; Program Criteria and Procedures Requirement**

A. A licensee shall complete 32 hours of approved continuing education per during each biennial license renewal period as follows: The licensee shall ensure that in each biennial license renewal period:

1. The licensee shall have at At least four hours of the approved continuing education is in the area of diagnosis, treatment, and management of disease of the human eye and its adnexa and pharmaceutical use appropriate to the authority held by the licensee;
2. The licensee shall not claim No more than 12 hours by correspondence courses identified as of the approved continuing education are obtained through self-instructed continuing education media;
3. The licensee shall not claim No more than four hours of the approved continuing education are in the area of practice management;
4. The licensee may claim No more than one credit hour of approved continuing education is claimed for each day of instruction in a full-time program course of study approved under R4-21-205, or for less than a full-time program on a pro-rata basis. R4-21-207 to a maximum of four hours; and
5. No more than four hours of approved continuing education are claimed for publishing or presenting a paper, report, or book that deals with current developments, skills, procedures, or treatments related to the practice of the profession of optometry.

5-B. The If a licensee shall not carry over hours accumulated obtains more than 32 hours of approved continuing education during a biennial renewal period, the licensee shall not claim the extra hours of approved continuing education during a subsequent from any previous biennial renewal period.

C. During the biennial renewal period in which a licensee is first licensed, the licensee shall obtain a prorated number of hours of approved continuing education for each month remaining in the biennial renewal period.

6-D. A licensee shall not use courses claim as approved continuing education any educational program or course taken before graduation from an accredited optometry school as credit for continuing education requirements completed before being licensed.

7. A licensee who is licensed for the first time in the state shall obtain continuing education hours on a pro-rata basis.

E. A licensee shall obtain a certificate or other evidence of attendance from the provider of each approved continuing educa-

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tion attended that includes the following:

1. Name of the licensee;
2. License number of the licensee;
3. Name of the approved continuing education;
4. Name of the continuing education provider;
5. Date, time, and location of the approved continuing education; and
6. Number of hours of approved continuing education and number of hours relating to practice management.

- F.** A licensee shall maintain the certificates or other evidence of attendance described in subsection (E) for three years from the date of attendance.
- G.** A licensee shall submit to the Board a copy of the certificates or other evidence of attendance obtained during a biennial renewal period if subject to an audit by the Board under R4-21-211.
- B.** The Board shall grant a licensee continuing education credit for the following:
1. Participating in an internship, residency, or fellowship at a teaching institution approved by the Association of Schools and Colleges of Optometry, Accreditation Council on Optometric Education, National Board of Examiners in Optometry, or the American Optometric Association;
  2. Participating in a medical education program designed to provide understanding of current developments, skills, procedures, or treatments related to the practice of optometry that is provided by an organization or institution accredited by the Association of Schools and Colleges of Optometry or the Accreditation Council on Optometric Education or approved by the Council on Optometric Practitioner Education, or a national, regional or local Optometric association; and
  3. Publishing or presenting a paper, report, or book that deals with current developments, skills, procedures, or treatments related to the practice of Optometry. The licensee may receive one credit hour for each hour preparing, writing, and presenting materials to a maximum of four hours per renewal period.
- C.** A licensee may apply to the Board for approval of continuing education, not otherwise authorized, by submitting to the Board an application including a description of the program content, instructors and their qualifications, sponsor of the program, if any, conditions of availability, and time and place offered.

**R4-21-210. Repealed Approval of Continuing Education**

- A.** The Board approves the following as continuing education:
1. An internship, residency, or fellowship attended at an educational institution with an accredited optometry program; and
  2. An educational program designed to provide understanding of current developments, procedures, or treatments, or improve skills related to the practice of the profession of optometry; and
    - a. Provided by an educational institution with an accredited optometry program; or
    - b. Sponsored or approved by the Association of Schools and Colleges of Optometry, Council on Optometric Practitioner Education, or a local, regional, or national optometric association.
- B.** To obtain approval of a continuing education that is not approved under subsection (A), the provider of the continuing education or a licensee shall, before providing or participating in the continuing education:
1. Submit an application for approval, using a form that is available from the Board, and provide the following information:
    - a. Name of applicant,
    - b. Address and telephone number of applicant,
    - c. Provider of the continuing education,
    - d. Name and telephone number of a contact person with the continuing education provider,
    - e. Name of the continuing education,
    - f. Date and location of the continuing education,
    - g. Manner in which potential participants will be notified that the continuing education is available,
    - h. Number of hours of the continuing education and the number of hours that relate to practice management,
    - i. Name of instructor of the continuing education, and
    - j. Dated signature of the applicant;
  2. Submit a curriculum vitae for the instructor of the continuing education; and
  3. Submit a syllabus of the continuing education that identifies learning objectives, teaching methods, and content.
- C.** The provider of an approved continuing education shall provide each participant with a certificate or other evidence of attendance that meets the standards at R4-21-209(E).
- D.** The Board shall approve a continuing education if the application required under subsection (B) is submitted and the Board determines that the continuing education is designed to provide understanding of current developments, procedures, or treatments, or improve skills related to the practice of the profession of optometry.

**R4-21-211. Repealed Audit of Compliance with Continuing Education Requirement**

At the time of license renewal, the Board shall provide notice of an audit of continuing education records to a random sample



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of licensees. A licensee subject to a continuing education audit shall submit documentation that demonstrates compliance with the continuing education requirement at the same time the licensee submits the license renewal application form required under R4-21-205.

**~~R4-21-212.~~ Repealed**

**~~R4-21-209, R4-21-212.~~ Discretionary Exemption Waiver of or Extension of Time to Complete Continuing Education Requirement**

- ~~A.~~ To obtain a waiver of some or all of the hours of approved continuing education required or grant an extension of time for completion of all or part of the continuing education requirement for during a particular biennial licensure renewal period, a licensee shall submit a written request of the licensee. The Board shall grant an extension to a licensee who has suffered a serious or disabling illness that prevented the licensee from complying with the requirements of R4-21-208 during the 12 months immediately before the license renewal date to the Board that:
1. Specifies the number of hours of approved continuing education that the licensee requests the Board to waive, and
  2. Documents that the licensee suffered a serious or disabling illness or other good cause that prevented the licensee from complying with the continuing education requirement.
- ~~B.~~ The Board shall grant a waiver within seven days after receiving the request if the Board determines that the licensee demonstrated good cause.
- ~~C.~~ To obtain an extension of time to complete the continuing education requirement, a licensee shall submit to the Board a written request that includes the following:
1. Ending date of the requested extension.
  2. Continuing education completed during the biennial renewal period and the documentation required under R4-21-209(E).
  3. Proof of registration for additional approved continuing education that is sufficient to enable the licensee to fulfill the continuing education requirement before the end of the requested extension, and
  4. Licensee's attestation that the continuing education obtained under the extension will be reported only to fulfill the current renewal requirement and will not be reported on a subsequent license renewal application.
- ~~D.~~ The Board shall grant an extension of time within seven days after receiving a request for an extension of time if the request:
1. Specifies an ending date no later than four months after the date of license expiration, and
  2. Includes the required documentation and attestation.

**R4-21-213. Registration of Nonresident Contact-lens Dispenser: Renewal**

- ~~A.~~ To register with the Board as a nonresident dispenser of replacement soft contact lenses, a person shall maintain a valid license to conduct the business of a pharmacist or pharmacy in the state in which the person is domiciled.
- ~~B.~~ To register with the Board, a nonresident contact-lens dispenser that is qualified under subsection (A) shall submit to the Board:
1. An application, using a form that is available from the Board, that provides the following information:
    - a. Name of applicant.
    - b. Social Security number.
    - c. Date of applicant's birth.
    - d. Mailing address.
    - e. Telephone and fax numbers at the address listed under subsection (B)(1)(d).
    - f. State in which the applicant is licensed as a pharmacist or pharmacy.
    - g. Number of pharmacist or pharmacy license.
    - h. Whether license held is for a pharmacist or pharmacy.
    - i. Taxpayer identification number.
    - j. Primary business name.
    - k. Address of business location at which inventory and records are stored.
    - l. Telephone and fax numbers at the address listed under subsection (B)(1)(k).
    - m. Toll-free telephone number for use by Arizona customers, and
    - n. Applicant's dated signature affirming that the information provided is true and correct.
  2. The names of all corporate officers and of all general partners, if any;
  3. The fee listed at R4-21-102(C); and
  4. A certified copy of the license referenced in subsection (B)(1)(g).
- ~~C.~~ Registration as a nonresident contact-lens dispenser is valid for two years from the date issued. To renew registration, a registered nonresident contact-lens dispenser shall comply with subsection (B) before the registration expires.

**ARTICLE 3. REGULATORY PROVISIONS STANDARDS; RECORDKEEPING; REHEARING OR REVIEW OF BOARD DECISION**

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**R4-21-301. ~~Styles of Optometric Practice; Staff Responsibility~~ Repealed**

- ~~A. A licensee shall practice the profession of optometry only as a sole practitioner, a partner with other licensees, an employee of a licensee, or an optometric professional corporation. In any of these styles of practice, a licensee may practice as an independent contractor and shall practice only under the name, which may include a trade name, under which the licensee is registered with the Board.~~
- ~~B. A licensee practicing the profession of optometry as an independent contractor shall:~~
- ~~1. Be solely responsible for patient examination, diagnosis, and treatment and the procedures used for scheduling and recordkeeping;~~
  - ~~2. Conduct the practice of optometry free of any control by a person not licensed to practice the profession of optometry; and~~
  - ~~3. Ensure that the licensee's staff complies with the requirements of this Chapter and A.R.S. Title 32, Chapter 16.~~

**~~R4-21-207, R4-21-301. Issuance and Display of License; Surrender of License~~**

- ~~A. License display. A licensee shall conspicuously display the appropriate Board-issued certificate of limited qualification or with license at each location at which the licensee practices the profession of optometry and in a manner that makes the license visible to the public.~~
- ~~B. License surrender. A Upon order by the Board, a licensee shall surrender to the Board all licenses, certificates, and duplicates upon disciplinary order of the Board copies of the license and, if applicable, certificate of special qualification issued to the licensee.~~

**R4-21-302. Advertising**

- ~~A. A licensee shall not knowingly make, publish, or use an advertisement, printed, oral, or otherwise, that contains any a false, fraudulent, deceptive, or misleading representations concerning ophthalmic goods or optometric services, or the manner of their sale or distribution representation.~~
- ~~B. A licensee shall only advertise as a specialist if the licensee has been certified by the American Academy of Optometry as a diplomate in that specialty or as a fellow in the College of Optometrists in Vision Development. A licensee may advertise that the licensee has a practice limited in some way; if the licensee does not use the term "specialist" or any derivative of that the term "specialist."~~
- ~~C. A licensee shall have knowledge of and be professionally responsible for ensure that the contents content of any an advertisement or directory that includes the name and address of the licensee is accurate.~~

**~~R4-21-303. Affirmative Disclosures in Advertising and Practice; Warranties, Service, or Ophthalmic Goods Replacement Agreements~~ Required**

- ~~A. An A licensee shall ensure that an advertisement for or by a the licensee offering optometric goods or services shall clearly indicate indicates within the advertisement:~~
- ~~1. Whether spectacle lenses or contact lenses advertised are single vision, multi-focal, or other;~~
  - ~~2. Whether the price advertised for spectacles includes both the frame and lenses for spectacles;~~
  - ~~3. Whether the price advertised includes an eye examination;~~
  - ~~4. Whether the price advertised for contact lenses includes all dispensing fees, follow-up care, and a contact lens accessory kit; and, if an accessory kit is included, the specific features of the kit;~~
  - ~~5. Whether restrictions are imposed upon delivery, if delivery time is advertised;~~
  - ~~6. The applicable refund policy if refunds are advertised; and~~
  - ~~7. If applicable, a A statement that other restrictions apply if there are other restrictions.~~
- ~~B. A licensee shall inform a patient of all professional fees before providing treatment.~~
- ~~C. A licensee who refers a patient to a facility in which the licensee or a member of the licensee's family has an ownership or employment interest shall advise the patient of the interest at the time of the referral.~~
- ~~D. A licensee who charges a patient a fee for a warranty; or a service or ophthalmic-goods-replacement agreement, shall:~~
- ~~1. give Give the patient a written copy of the warranty; or service or ophthalmic-goods-replacement agreement, that;~~
  - ~~2. Ensure that the warranty or service or ophthalmic-goods-replacement agreement explains the coverage included and any limitations limitation;~~
  - ~~3. The licensee shall document the transaction Document compliance with subsection (D)(1) by making a written entry on the patient's records; record; and~~
  - ~~4. by placing Place a copy of the warranty; or service or ophthalmic-goods-replacement agreement, signed by the patient, in the patient's records record.~~

**R4-21-304. Vision Examination Standards**

A licensee shall conduct an eye examination in accordance with the standards of care prevalent in the community and consistent with current industry practice.

**~~R4-21-304, R4-21-305. Vision Examination Standards; Records~~ Recordkeeping**

- ~~A. A licensee shall conduct all eye examinations in accordance with the current standards of care.~~
- ~~B.A. A licensee shall establish create and maintain a complete and legible record of each examination including all findings.~~

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The Board shall consider an illegible record to be an incomplete examination. A licensee shall ensure that a patient record reflects the name of the person who makes each entry, is maintained for at least seven six years after the licensee's last contact with a the patient and includes:

1. Patient's name and contact information;
2. Date on which an entry is made in the patient's record;
3. Identification of the person making the entry in the patient's record;
- ~~1-4.~~ Complete health ~~ease~~ history;
- ~~2-5.~~ Visual acuity of each eye: entering; and best corrected;
- ~~3-6.~~ Ocular health examination;
- ~~4-7.~~ Assessment of intraocular and extra-ocular muscle function;
- ~~5-8.~~ Objective or subjective refraction of the eyes;
- ~~6-9.~~ Diagnosis, treatment, and disposition;
- ~~7-10.~~ The type ~~Type~~ and dosage of each use of a pharmaceutical agent;
- ~~8-11.~~ Any final ~~Final~~ optometric ~~prescription given, if any; and~~
- ~~9-12.~~ Any corrective ~~Corrective~~ procedure program prescribed, if any; and
13. Signature of licensee providing diagnosis, treatment, and disposition.

- B.** A licensee may create and maintain any record required under A.R.S. Title 32, Chapter 16 or this Chapter in electronic format. A licensee may convert any record maintained under A.R.S. Title 32, Chapter 16 or this Chapter to electronic format. A licensee who converts a record to electronic format shall ensure that the record contains all the information required under A.R.S. Title 32, Chapter 16 and this Chapter.
- C.** A licensee who discontinues practice for any reason shall arrange for ~~patient records~~ a patient's record to be available to a the patient for seven six years from the date the licensee's practice is discontinued licensee discontinues practice. ~~And~~ Before discontinuing practice, a licensee shall notify the Board of the permanent location of at which patient records from that the practice before discontinuing practice will be maintained.
- D.** A licensee who acquires or succeeds to a practice or the patient records of another a licensee who has discontinued practice, either with or without succeeding to the practice of the other licensee, shall maintain the records or make arrangements for ensure that the records to be are available to a patient the patients for seven six years after the licensee from whom the records were acquired discontinued practice was discontinued.
- ~~D-E.~~ E.** A licensee shall, upon written request of a patient, transmit provide a tangible or electronic copy of the a patient's requested records record within five business days of the after receiving a written request, from the patient. The licensee shall provide the copy to any person designated by the patient. The licensee may charge a fee to cover clerical and mailing the costs of providing the copy. The licensee shall maintain a record of the transfer or transmittal providing the copy for seven six years from the date of the release of the records.
- E.** Any record required to be maintained by a licensee may be maintained in an electronic format if:
1. The electronic record accurately reflects the information contained in the written record as the record was first generated and in its final form as an electronic record or otherwise; and
  2. The electronic record remains accessible.
- F.** Regardless of the form in which a licensee creates and maintains patient records, the licensee shall comply with all law regarding security, confidentiality, and release of the records.

**~~R4-21-305-R4-21-306.~~ R4-21-306. Optometric Prescription Standards; Release to Patients**

- A.** A When a licensee completes an eye examination and generates an optometric prescription, the licensee shall not charge a patient a fee in addition to the examination fee as a condition for release of provide the patient with a copy of the patient's optometric prescription without charging a fee other than the examination fee.
- B.** The A licensee shall ensure that an optometric prescription written by the licensee includes:
1. For ophthalmic lenses other than contact lenses:
    - a. Name of the patient;
    - ~~a-b.~~ The refractive ~~Refractive~~ power of the lenses;
    - ~~b-c.~~ The interpupillary ~~Interpupillary~~ distance;
    - ~~e-d.~~ The printed ~~Printed~~ name of the licensee, the location of the office address, telephone number, and the signature of the licensee; and
    - ~~d-e.~~ The date ~~Date~~ of the examination and the expiration date of the prescription;
  2. For contact lenses, including plano lenses:
    - a. Name of the patient;
    - ~~a-b.~~ For a patient who has not completed a trial period appropriate under the circumstances and desires to have a prescription, the information required for the patient to purchase the trial lenses at another optical establishment or location;
    - ~~b-c.~~ For a patient who has completed a trial period appropriate under the circumstances for the lenses prescribed, all information necessary to accurately reproduce the contact lenses accurately;
    - ~~e-d.~~ The printed ~~Printed~~ name, practice office address, telephone number, ~~facsimile number~~ license number, and sig-

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- nature of the licensee; ~~and~~
- ~~d-e.~~ The name of the patient, date Date of the examination, and the issue and expiration date of the prescription; and
- ~~f.~~ Information regarding the prescribed contact lenses:
  - ~~i.~~ the Refractive power;
  - ~~ii.~~ Base curve or other appropriate designation;
  - ~~iii.~~ Diameter, if appropriate;
  - ~~iv.~~ Tint, if applicable;
  - ~~v.~~ material, or Material, manufacturer, or both, of the prescribed contact lens, the base curve or appropriate designation of the prescribed contact lens, the diameter, when appropriate, of the prescribed contact lens; and
  - ~~vi.~~ In the case of a private-label contact lens lenses, the name of the manufacturer, trade name, of the private label brand and, if applicable, trade name of equivalent brand name; and

- 3. For pharmaceutical agents:
  - ~~b-a.~~ Name and address of the patient;
  - ~~a-b.~~ The date of issuance Date the prescription is issued;
  - ~~c.~~ The name Name, strength, and quantity of the pharmaceutical agent prescribed;
  - ~~d.~~ The directions Directions for use of the pharmaceutical agent prescribed;
  - ~~e.~~ The name and Name, office address, and telephone number of the prescribing licensee;
  - ~~f.~~ The written signature of the prescribing licensee;
  - ~~g-f.~~ DEA number of the prescribing licensee; and
  - ~~h-g.~~ Two adjacent signature lines, with the following under the left of which are the printed words:
    - ~~i.~~ “dispense “Dispense as written;” under the left signature line, and under the right, the printed words “substitution
    - ~~ii.~~ “Substitution permissible;” under the right signature line; and
  - ~~h.~~ Original signature of the prescribing licensee on one of the signature lines; and
- 4. ~~A prescription may include any additional~~ Additional information ~~that~~ the licensee considers necessary.

~~B-C.~~ A licensee who dispenses or directs the dispensing of ophthalmic materials shall ensure that a prescription is filled accurately.

~~C-D.~~ A licensee shall be available to verify that a prescription written by the licensee but ~~dispensed~~ filled by another provider of ophthalmic goods is accurately filled. The licensee may charge a fee for ~~verification of~~ verifying the accuracy or quality of ophthalmic goods dispensed by another provider.

**~~R4-21-307.~~ Repealed**

**~~R4-21-306.~~R4-21-307. Low vision Vision Rehabilitation and Vision Therapy**

- ~~A.~~ A licensee may employ use any objective or subjective means or methods method other than surgery; to diagnose or treat with pharmaceutical agents any visual, muscular, neurological, or anatomical anomaly of the eye.
- ~~B.~~ The A licensee may use any instrument or device to train the visual system or correct any abnormal condition of the eye, including low vision rehabilitation and vision therapy.

**~~R4-21-308.~~ Anaphylactic-related Supplies**

- ~~A.~~ If a patient to whom a licensee administers a pharmaceutical agent experiences an anaphylactic reaction, the licensee may, as provided by A.R.S. § 32-1706(E), use an epinephrine auto-injector to counteract the anaphylactic reaction.
- ~~B.~~ A licensee who maintains epinephrine auto-injectors at the licensee’s practice location shall also maintain the following medically necessary supportive equipment and supplies:
  - ~~1.~~ Diphenhydramine in injectable, capsule or tablet, and syrup forms;
  - ~~2.~~ Syringes for injecting diphenhydramine;
  - ~~3.~~ Wristwatch with a second hand;
  - ~~4.~~ Sphygmomanometer with both adult and extra-large cuffs;
  - ~~5.~~ Stethoscope;
  - ~~6.~~ Adult-size pocket mask with one-way valve;
  - ~~7.~~ Tongue depressors; and
  - ~~8.~~ Telephone.

**~~R4-21-308.~~R4-21-309. Rehearing or Review of Administrative Board Decision**

- ~~A.~~ The Board shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10 and the rules established by the Office of Administrative Hearings.
- ~~B.~~ The Board may reconsider all or any of the issues decided for any of the reasons in subsection (A).
- ~~C.~~ The Board may on its own initiative, within 30 days, reconsider its decision.
- ~~B.~~ Except as provided in subsection (H), a party is required to file a motion for rehearing or review of a decision of the Board to exhaust the party’s administrative remedies.

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- C. A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- ~~A.D.~~ Under A.R.S. Title 41, Chapter 6, Article 10, Uniform Administrative Appeals Procedures, the The Board may, upon written request, reconsider a decision grant a rehearing or review for any of the following ~~causes~~ reasons materially affecting the moving a party's rights:
1. Irregularity in the ~~administrative~~ proceedings of the Board, ~~hearing officer, or prevailing party,~~ or any order or abuse of discretion; that deprived the moving party of a fair hearing;
  2. Misconduct of the Board, ~~hearing officer, or prevailing party~~ its staff, or the administrative law judge;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. ~~Material~~ Newly discovered material evidence ~~newly discovered;~~ that could not, with reasonable diligence, ~~could not~~ have been discovered and produced at the ~~original~~ hearing;
  5. Excessive or insufficient penalties;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or in the course of ~~an administrative hearing~~ the proceedings; or and
  7. The findings of fact or decision is not justified by the evidence or is contrary to law.
- E. The Board may affirm or modify a decision or grant a rehearing or review to all or some of the parties on all or some of the issues for any of the reasons listed in subsection (D). An order modifying a decision or granting a rehearing or review shall specify with particularity the grounds for the order. If a rehearing or review is granted, the rehearing or review shall cover only the matters specified in the order.
- F. Not later than 30 days after the date of a decision and after giving the parties notice and an opportunity to be heard, the Board may, on its own initiative, order a rehearing or review of its decision for any reason it might have granted a rehearing or review on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion. An order granting a rehearing or review shall specify with particularity the grounds on which the rehearing or review is granted.
- G. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. This period may be extended by the Board for a maximum of 20 days for good cause or by written stipulation of the parties. Reply affidavits may be permitted.
- ~~D.H.~~ If, in a particular decision, the Board makes a specific finding in a decision that the immediate effectiveness of the decision is necessary for the preservation of the public peace, health, or safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the Board may issue the decision as a final decision without opportunity for a rehearing or review.
- E. The terms "contested case and party" have the same meaning as in A.R.S. Title 41, Chapter 6.

**ARTICLE 5. EXECUTIVE DIRECTOR DUTIES REPEALED**

**R4-21-501. Issuing Licenses Repealed**

- ~~A.~~ The executive director or the Board's designee may decide whether to approve an application to practice the profession of optometry and shall issue a license if all of the requirements for licensure have been met as evidenced by the application and governing statutes.
- ~~B.~~ The executive director or the Board's designee shall report to the Board at each regularly scheduled Board meeting a summary of the number and type of applications approved and licenses issued.

**R4-21-502. Denial of License Repealed**

- ~~A.~~ The executive director or the Board's designee shall deny a license to an applicant who does not meet the minimum requirements to practice the profession of optometry in Arizona.
- ~~B.~~ The executive director or the Board's designee shall provide to the Board at each regularly scheduled Board meeting a list of applicants who were denied a license.

**R4-21-503. Issuing Subpoenas Repealed**

- ~~A.~~ The executive director or the Board's designee may issue a subpoena for the attendance of witnesses and the production of books, records, documents or any other evidence relevant to an investigation or hearing.
- ~~B.~~ The executive director or the Board's designee shall report to the Board at each regularly scheduled Board meeting a summary of the number and type of subpoenas issued.

**R4-21-504. Continuing Education Approval Repealed**

- ~~A.~~ The executive director or the Board's designee may approve continuing education programs under R4-21-208.
- ~~B.~~ The executive director or the Board's designee shall provide to the Board at each regularly scheduled Board meeting a list of approved continuing education programs.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. BOARD OF APPRAISAL

[R07-422]

PREAMBLE

- 1. Sections Affected** **Rulemaking Action**  
R4-46-401 Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**  
Authorizing statute: A.R.S. § 32-3605(A)  
Implementing statutes: A.R.S. §§ 32-3605(B)(1) and 32-3635(A)
- 3. The effective date of the rule:**  
December 4, 2007

The Board is requesting that the rule be filed with the Secretary of State with an immediate effective date to avoid violation of federal law (Title XI of the Financial Institution Reform, Recovery, and Enforcement Act of 1989, and rules promulgated under that Act), which requires that each state's appraiser licensing and certification regulatory program recognize and enforce the *Uniform Standards of Professional Appraisal Practice* (USPAP) prescribed by Title XI. Because the 2008-2009 edition of the *Uniform Standards of Professional Appraisal Practice* (USPAP) is effective on January 1, 2008, the rule must be effective immediately upon filing with the Secretary of State to ensure the Board remains in compliance.
- 4. A list of all previous notices appearing in the Register addressing the final rule:**  
Notice of Rulemaking Docket Opening: 13 A.A.R. 3045, August 31, 2007  
Notice of Proposed Rulemaking: 13 A.A.R. 3004, August 31, 2007
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Deborah G. Pearson Executive Director
Address:	1400 W. Washington St., Suite 360 Phoenix, AZ 85007
Telephone:	(602) 542-1593
Fax:	(602) 542-1598
E-mail:	deborah.pearson@appraisal.state.az.us
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**

The rule is written to comply with the provisions of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Title XI), and state statutes applicable to real estate appraisers. The change in the existing rule is to comply with Title XI, which requires state appraiser licensing boards to recognize and enforce the *Uniform Standards of Professional Appraisal Practice* (USPAP) for federally-related transactions; and A.R.S. § 32-3605(B)(1), which requires the Board to adopt standards for professional appraisal practice that are at least equal to the USPAP. The amended rule incorporates by reference the 2008-2009 edition of USPAP. The key features of the 2008-2009 edition are: (1) Deletion of the Supplemental Standards Rule, edits to the definition of Supplemental Standards, and associated changes to the Scope of Work Rule, the Conduct section of the Ethics Rule and the Competency Rule. The edits do not change the requirements when performing assignments subject to laws, regulations, or guidelines that constitute ethical and competent appraisal practice. (2) Retirement of Statement 10, Assignments for Use by a Federally Insured Depository Institution in a Federally Related Transaction and adoption of Advisory Opinion 30, Appraisals for Use by a Federally Regulated Financial Institution. The revisions were made to offer advice regarding application of USPAP in assignments for use by a federally regulated financial institution. (3) Edits to the Conduct section of the Ethics Rule related to advocacy, and deletion of the term "advocacy." The edits do not diminish the prohibition against advocacy in appraisal practice; advocacy remains unacceptable. (4) Revisions to report certification requirements in Standards Rules 2-3, 3-3, 5-3, 6-9, 8-3 and 10-3 relating to the signing appraiser's reliance on work done by others who do not sign the certification. The revisions clarify an appraiser's obligations when relying on work done by both appraisers and others who do not sign the certification. (5) Revisions to Standard 7, Personal Property Appraisal, Development, Standard 8, Personal Property Appraisal, Reporting, and Standard 6, Mass Appraisal Development and Reporting, related to the requirements to identify and report the highest and best use. The edit does

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not change the substance of the requirement, but better aligns the language with terminology more commonly used in personal property appraisal. (6) Revisions to the requirements for reconciliation of the approaches in Standards Rules 1-6(b), 6-7(a), 7-6(b) and 9-5(b), shortening of the term “property use conditions” to “property” in Standards Rules 2-2(a)(vi), 2-2(b)(vi), 2-2(c)(vi), 6-8(g), 8-2(a)(vi), 8-2(b)(vi) and 8-2(c)(vi), and deletion of the portion of the Comment to Standards Rules 2-2(a)(vi), 2-2(b)(vi), 6-8(g), 8-2(a)(vi) and 8-2(b)(vi) requiring reiteration of the report date and effective date of the appraisal. The edits were made to increase clarity and consistency. (7) Retirement of Advisory Opinion 5, Assistance in the Preparation of an Appraisal and adoption of Advisory Opinion 31, Assignments Involving More than One Appraiser to offer advice on recordkeeping, signature and certification requirements in assignments that involve more than one appraiser. The action was intended to update and expand the guidance related to assignments involving more than one appraiser. (8) Adoption of Advisory Opinion 32, Ad Valorem Property Tax Appraisal and Mass Appraisal Assignments. The purpose of the Advisory Opinion is to illustrate the application of USPAP in assignments performed by appraisers for ad valorem taxation. NOTE: USPAP and the Advisory Opinions were edited for conformity with the adopted changes. Administrative edits were also made to improve consistency. (9) The inclusion of Frequently Asked Questions has been added to offer guidance in the application of USPAP.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on 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:**

The Board did not review any study relevant to the rule.

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

Not applicable

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

The rule is being amended to adopt the latest standards of practice in the profession, as required by federal and state law. The primary groups that will be affected are the Board, licensed or certified appraisers, trainees and the public. The Board adopts the latest standards for professional appraisal practice on a biennial basis and there should be no appreciable changes in the economic impact. The cost for the new edition is \$50. The cost is a deductible business expense.

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

Minor grammatical and formatting changes were made by the Secretary of State.

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

The Board held a stakeholders meeting on the proposed rule change on October 5, 2007. No oral or written public comments were received. The Board held a public hearing on the proposed rule change on October 18, 2007. No oral or written public comments were received. At that time the Board voted to close the record, adopt the proposed rule change to become effective immediately upon filing with the Secretary of State, and proceed with the Notice of Final 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. Any material incorporated by reference and its location in the text:**

The *Uniform Standards of Professional Appraisal Practice* (USPAP), 2008-2009 Edition, published by The Appraisal Foundation, 1155 15th St., NW, Suite 1111, Washington, DC 20005, phone (202) 347-7722, fax (202) 347-7727, or web site [www.appraisalfoundation.org](http://www.appraisalfoundation.org). The location in the rules is R4-46-401.

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

No

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 46. BOARD OF APPRAISAL**

**ARTICLE 4. STANDARDS OF PRACTICE**

Section

R4-46-401. Standards of Appraisal Practice

**ARTICLE 4. STANDARDS OF PRACTICE**

**R4-46-401. Standards of Appraisal Practice**

Every appraiser, in performing the acts and services of an appraiser, shall comply with the Uniform Standards of Professional Appraisal Practice (USPAP), ~~2006~~ 2008-2009 edition, published by The Appraisal Foundation, which is incorporated by reference and on file with the Board. This incorporation by reference contains no future editions or amendments. A copy of the USPAP ~~2006~~ 2008-2009 edition may be obtained from The Appraisal Foundation, 1155 15th ~~Street St.~~, NW, Suite 1111, Washington, ~~D.C.~~ DC 20005; (202) 347-7722; fax (202) 347-7727; or web site [www.appraisalfoundation.org](http://www.appraisalfoundation.org).