

## NOTICES OF PROPOSED RULEMAKING

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

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 29. ~~STRUCTURAL PEST CONTROL COMMISSION~~ OFFICE OF PEST MANAGEMENT

[R08-405]

#### PREAMBLE

- 1. Sections Affected**  
R4-29-105
- Rulemaking Action**  
Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 32-2304(A)(1)  
Implementing statute: A.R.S. §§ 32-2304(E) and 32-2317
- 3. List of all previous notices appearing in the Register addressing the proposed rules:**  
Notice of Rulemaking Docket Opening: 14 A.A.R. 4343, November 21, 2008
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Ellis Jones, Acting Director  
Address: Office of Pest Management  
9535 E. Doubletree Ranch Road  
Scottsdale, AZ 85258  
Telephone: (602) 255-3664  
Fax: (602) 255-1281  
E-mail: ejones@sb.state.az.us
- 5. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**  
The Office is increasing certain fees that licensees pay to obtain or renew a license. It is also increasing the fee that a licensee submits when filing a termite action report form (TARF). The increase in fees is necessitated by a fund sweep that the legislature put into the state's 2009 budget. At the beginning of FY2009, the Office had \$1,854,034 and anticipated collecting approximately \$1,372,968 from fees for a total of \$3,227,002. This would have been sufficient to cover the Office's appropriation of \$2,774,300. However, the legislature swept \$554,900 from the fund. The amount swept plus the amount appropriated exceeds the amount available. Even with the fee increase proposed in this rulemaking, the Office will begin FY2010 with its fund almost depleted and be in deficit by the end of FY2010. Because the amount appropriated annually exceeds the amount that the Office expects the fee levels to generate, the amount of deficit will increase every year until 2012 even with a five percent annual reduction in the amount appropriated.  
The Office expects the fee increases to generate approximately \$642,339 annually. Ten percent of the fee increases goes to the state's general fund.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not to 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
- 7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a pre-**

Notices of Proposed Rulemaking

**vious grant of authority of a political subdivision of this state:**

Not applicable

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

The increased fees will have a direct economic impact on licensees. However, the increased fees will benefit licensees by enabling the Office to continue to fulfill its statutory responsibility to protect the public's health and safety. The increased fees are a cost of doing business that probably will be passed to consumers of pest management services. Because the Office contributes 10 percent of the fees collected to the state's general fund, the rulemaking will increase state revenue.

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

Name: Ellis Jones, Acting Director  
Address: Office of Pest Management  
9535 E. Doubletree Ranch Road  
Scottsdale, AZ 85258  
Telephone: (602) 255-3664  
Fax: (602) 255-1281  
E-mail: ejones@sb.state.az.us

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

An oral proceeding regarding the proposed rules will be held as follows:

Date: Wednesday, January 14, 2009  
Time: 10:00 a.m.  
Location: Office of Pest Management  
9535 E. Doubletree Ranch Road  
Scottsdale, AZ 85258

The rulemaking record will close at 5:00 p.m. on January 16, 2009.

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

None

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

None

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 29. ~~STRUCTURAL PEST CONTROL COMMISSION~~ OFFICE OF PEST MANAGEMENT**

**ARTICLE 1. GENERAL AND ADMINISTRATIVE PROVISIONS**

Section

R4-29-105. Fees; Charges; Exemption

**ARTICLE 1. GENERAL AND ADMINISTRATIVE PROVISIONS**

**R4-29-105. Fees; Charges; Exemption**

A. Under the authority provided by A.R.S. § 32-2317, the ~~Commission~~ Office establishes and shall collect the following fees:

1. For an applicator:
  - a. License application, \$30;
  - b. License broadening application, \$10;
  - e. ~~License renewal application, active or inactive status, online, \$20;~~
  - d. License renewal application, active or inactive status, ~~on paper, \$25;~~ and
  - e. Duplicate license, \$20.
2. For a qualifying party:

- a. License application, \$150;
  - b. License broadening application, \$50;
  - e. ~~License renewal during active status, online, \$120;~~
  - ~~d.c.~~ License renewal during active status, ~~on paper, \$125~~ \$150;
  - e. ~~License renewal during inactive status, online, \$20;~~
  - ~~f.d.~~ License renewal during inactive status, ~~on paper, \$25;~~
  - ~~g.e.~~ Change from inactive to active status, \$125;
  - ~~h.f.~~ Temporary qualifying party license application, \$25;
  - ~~i.g.~~ Temporary qualifying party license renewal application, \$25; and
  - ~~j.h.~~ Duplicate license, \$20.
3. For a business:
- a. License application, ~~\$75~~ \$100;
  - b. ~~License renewal application, online, \$70;~~
  - ~~e.b.~~ License renewal application, ~~on paper, \$75~~ \$100;
  - ~~d.c.~~ Branch office registration application, ~~\$35~~ \$50;
  - ~~e.d.~~ Branch office registration renewal application, ~~\$35~~ \$50; and
  - ~~f.e.~~ Duplicate license, \$20.
- B. Under the authority provided by A.R.S. § ~~32-2304(A)(24)~~ 32-2304(A)(13), the ~~Commission Office~~ establishes and shall collect a penalty that is double the license renewal fee for any license that is not renewed timely. The penalty is in addition to the license renewal fee.
- C. If the ~~Commission Office~~ administers the examination required under A.R.S. § 32-2312(C) or 32-2314(C), the ~~Commission Office~~ shall charge \$50 to cover the cost of providing this service. If the ~~Commission Office~~ enters into a contract with an examination service or testing vendor, an applicant shall pay to the examination service or testing vendor the examination cost established in the contract.
- D. Under the authority provided by A.R.S. § ~~32-2304(C)~~ 32-2304(E), the ~~Commission Office~~ establishes and shall collect a fee of ~~\$8~~ \$15 for each TARF required to be submitted under this Chapter except there is no fee to submit timely a TARF pertaining to a final-grade treatment.
- E. Under the authority provided by A.R.S. § ~~32-2304(C)~~ 32-2304(E), the ~~Commission Office~~ establishes and shall collect a penalty of ~~\$8~~ \$50 for a TARF that is filed ~~within 180 days after it is due and a penalty of \$16 for a TARF that is filed~~ more than ~~180~~ 30 days after it is due. The penalty is in addition to the TARF filing fee under subsection (D). The penalty in this subsection applies to an untimely TARF pertaining to a final-grade treatment.
- F. Any payment to the ~~Commission Office~~ may be made by cash, credit or debit card, money order, or cashier's, certified, business, or personal check. If payment is made by money order or check, the payer shall make the money order or check payable to the ~~Structural Pest Control Commission Office of Pest Management~~. If payment is made by business or personal check, payment is not credited until the check clears the bank. The ~~Commission Office~~ does not prorate fees. Fees are not refundable unless A.R.S. § 41-1077 applies. The ~~Commission Office~~ may refuse all forms of payment other than cash, cashier's check, or money order from a person that issued an insufficient-funds payment to the ~~Commission Office~~.
- G. An employee of the ~~Commission Office~~ or the Arizona Department of Agriculture who applies for or holds a ~~Commission-issued Office-issued~~ license is exempt from the fees in subsections (A) through (C).
- H. The ~~Commission Office~~ shall reject an application or request for service that is submitted with the incorrect fee and not process the application or provide the service.

## NOTICE OF PROPOSED RULEMAKING

### TITLE 9. HEALTH SERVICES

#### CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ARIZONA LONG-TERM CARE SYSTEM

[R08-410]

#### PREAMBLE

- |   |  |
|---|--|
| <b>1. <u>Sections Affected</u></b><br>R9-28-508   | <b><u>Rulemaking Action</u></b><br>New Section |
| <b>2. <u>The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):</u></b> |  |

Notices of Proposed Rulemaking

Authorizing statute: A.R.S. § 36-2951

Implementing statute: A.R.S. § 36-2951

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

Notice of Rulemaking Docket Opening: 14 A.A.R. 4193, November 7, 2008

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

Name: Mariaelena Ugarte  
Address: AHCCCS  
Office of Legal Assistance  
701 E. Jefferson St., Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4693  
Fax: (602) 253-9115  
E-mail: AHCCCSRules@azahcccs.gov

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

The legislature in SB 1329 created A.R.S. § 36-2951 to provide requirements for self-directed attendant care (SDAC) services. The Administration is proposing rule language to describe the requirements a person must follow in order to provide or receive SDAC services.

**6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not to 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:**

A study was not referenced or relied upon when evaluating and creating regulations for the SDAC services.

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

Not applicable

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

The Administration anticipates a minimal economic impact on the implementing agency, small businesses and consumers. Other attendant care options are available to the member in addition to the Self-Directed Attendant Care services described in the proposed rule.

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

Name: Mariaelena Ugarte  
Address: AHCCCS  
Office of Legal Assistance  
701 E. Jefferson St., Mail Drop 6200  
Phoenix, AZ 85034  
Telephone: (602) 417-4693  
Fax: (602) 253-9115  
E-mail: AHCCCSRules@azahcccs.gov

Proposed rule language will be available on the AHCCCS web site [www.azahcccs.gov](http://www.azahcccs.gov) the week of November 24, 2008. Please send written comments to the above address by 5:00 p.m., January 15, 2009. E-mail comments will also be accepted during this time-frame.

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

Date: January 15, 2009  
Time: 3:00 p.m.  
Location: AHCCCS  
701 E. Jefferson St.  
Phoenix, AZ 85034  
Nature: Public Hearing

Notices of Proposed Rulemaking

Date: January 15, 2009  
Time: 3:00 p.m.  
Location: ALTCS: Arizona Long-term Care System  
1010 N. Finance Center Drive, Suite 201  
Tucson, AZ 85710  
Nature: Public Hearing

Date: January 15, 2009  
Time: 3:00 p.m.  
Location: ALTCS: Arizona Long-term Care System  
3480 E. Route 66  
Flagstaff, AZ 86004  
Nature: Public Hearing

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

None

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

None

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

**TITLE 9. HEALTH SERVICES**

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM  
ARIZONA LONG-TERM CARE SYSTEM**

**ARTICLE 5. PROGRAM CONTRACTOR AND PROVIDER STANDARDS**

Section

R9-28-508. ~~Repealed~~ Self Directed Attendant Care (SDAC)

**ARTICLE 5. PROGRAM CONTRACTOR AND PROVIDER STANDARDS**

**R9-28-508. ~~Repealed~~ Self Directed Attendant Care (SDAC)**

**A. For purposes of this Article the following terms are defined:**

“Competent member” means a person who is oriented, has evidence of logical thought and can provide directions.

“Fiscal and Employer Agent” or “FEA” is a company specified by the program contractor or the Administration that serves as an employment/payroll processing center for the attendant care workers employed by the member to provide SDAC services.

“Medically stable” means the member’s skilled care medical needs are routine and not subject to frequent change because of health issues.

“Personal Care” means activities of daily life such as dressing, bathing, eating and mobility.

**B. In lieu of receiving other attendant care services a competent member or legal guardian may choose to employ through the FEA a person to provide Self Directed Attendant Care (SDAC) services. A paid caregiver described under R9-28-506 and a parent of a minor child is not authorized to receive reimbursement for SDAC services.**

**C. The attendant care worker chosen to provide SDAC services does not need to be a registered provider. The attendant care worker must have at a minimum training in First Aid, CPR, Universal Precautions and state and federal laws regarding privacy and health information.**

**D. SDAC services shall be provided to a member who resides in the member’s home, the member must not be institutionalized or residing in an alternative residential setting. If the member has a legal guardian the legal guardian must be present when SDAC services are provided.**

**E. The member who has chosen to receive SDAC services is not precluded from receiving medically necessary, cost effective home health services from other agencies or providers as long as the services provided are non-duplicative of the specific attendant care or skilled services already received through the program contractor.**

- E.** A competent member or legal guardian may employ an SDAC attendant care worker to provide personal care, homemaker and general supervision services.
- G.** A competent member, who is medically stable, or the member's legal guardian may employ an attendant care worker to also provide the following skilled services:
1. Bowel care, including suppositories, enemas, manual evacuation and digital stimulation.
  2. Bladder catheterizations (non-indwelling) that does not require a sterile procedure.
  3. Wound care; (non-sterile).
  4. Glucose monitoring.
  5. Glucagon as directed by the health care provider.
  6. Insulin; subcutaneous injection only if the member is not able to self-inject. Sliding scale dosing for insulin.
  7. Permanent gastrostomy tube feeding.
  8. Additional services with the approval of the Director and the Arizona State Board of Nursing.
- H.** For each SDAC attendant care worker employed by a member or legal guardian, a registered nurse licensed under A.R.S. Title 32, Chapter 15 shall visit the member and SDAC attendant care worker before skilled services are provided to assess, educate, and train the member and SDAC attendant care worker regarding the specific skilled service(s) that the member requires. The registered nurse must also determine that the attendant care worker understands how and demonstrates the skill to perform the processes or procedures required to provide the specific skilled service.