

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 21. BOARD OF OPTOMETRY

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 on page 957.) The Governor's Office authorized the notice to proceed through the rulemaking process on May 25, 2010.

[R10-76]

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| R4-21-201 | 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. § 32-1704(A)
Implementing statute: A.R.S. §§ 32-1701 et seq.
- 3. List of all previous notices appearing in the Register addressing the proposed rules:**
Notice of Rulemaking Docket Opening: 16 A.A.R. 955, June 18, 2010 (*in this issue*)
- 4. 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., Suite 230
Phoenix, AZ 85007 |
| Telephone: | (602) 542-3095 |
| Fax: | (602) 542-3093 |
| E-mail: | Margaret.whelan@optometry.az.gov |
- 5. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**
The Board is updating its rules to amend outdated language and be consistent with statute and current agency and industry practice.
- 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 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 rulemaking makes no substantive changes. It will have minimal economic impact.
- 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: | Margaret Whelan |
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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, July 21, 2010

Time: 8:30 a.m.

Location: 1400 W. Washington St., Suite B-1
Phoenix, AZ 85007

The rulemaking record will close at 5:00 p.m. on July 22, 2010.

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 21. BOARD OF OPTOMETRY

ARTICLE 2. LICENSING PROVISIONS

Section

R4-21-201. Licensure by Examination

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).
- B.** To apply for licensure by examination, an individual who is eligible under subsection (A) shall submit an application form, which is available from the Board, and provide the following information about the applicant:
1. Full legal name;
 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;
 4. Mailing address;
 5. E-mail address, if any;
 6. Residential, business, and mobile telephone numbers;
 7. Date and place of birth;
 8. Residential addresses for the past five years;
 9. 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;
 10. Experience in the practice of the profession of optometry including the business form and location of the practice;
 11. Work experience or occupation, other than the practice of the profession of optometry, for the past five years;
 12. List of the states in which the applicant is professionally licensed 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:
 - 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;
 - b. Has ever been 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;
 - c. Has ever had a license or certificate of registration to practice the profession of optometry suspended or revoked by any optometric licensing agency 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;
 - e. Has ever had a disciplinary action instituted against the applicant by any optometric licensing agency and if so, the name of the optometric licensing agency, date, nature of the disciplinary action, reason for the disciplinary action, and current status;
 - 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;
 - 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
 - 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
 15. Dated and sworn signature of the applicant verifying that the information provided is true to the best of the applicant's knowledge, information, and belief.
- C. In addition to submitting the application form required under subsection (B), an applicant shall submit or have submitted on the applicant's behalf:
1. A two inch by three 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;
 2. A full set of readable fingerprints taken by a criminal justice agency;
 3. 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. The application fee required under A.R.S. § 32-1727;
 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~~ 10 years before the date of the application;
 6. A passing score obtained by the applicant on the jurisprudence examination described at R4-21-203;
 7. An official transcript submitted directly to the Board by the educational institution with an accredited optometry 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.