

## NOTICES OF RULEMAKING DOCKET OPENING

The Administrative Procedure Act (APA) requires the publication of Notices of Rulemaking Docket Opening when an agency opens a rulemaking docket to consider rulemaking. Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process.

### NOTICE OF RULEMAKING DOCKET OPENING

#### BOARD OF PHARMACY

*Editor's Note: The following Notice of Rulemaking Docket Opening was exempt from Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 1799.)*

[R12-126]

- 1. Title and its heading:** 4, Professions and Occupations  
**Chapter and its heading:** 23, Board of Pharmacy  
**Articles and their headings:** 6, Permits and Distribution of Drugs  
**Section numbers:** R4-23-611, R4-23-612 (Sections may be added, deleted, or modified as necessary.)

**2. Subject matter of the proposed rule:**

The Board staff has seen several instances where a pharmacy just misses the 50 walking feet requirement for toilet facilities upon opening inspection. Usually it is just a few feet, but there have been a few where the distance was 25 or more feet over the requirement. The Board is unable to waive this requirement, because it is not technological or experimental. This has caused pharmacies to spend additional funds to fix the issue, including delays in opening a pharmacy. Since the required distance is an arbitrary number set by the Board, the staff is requesting an increase in the distance from 50 feet to 100 feet. R4-23-611(A)(4)(b) will be amended to increase the walking distance from 50 feet to 100 feet.

The Board staff gets numerous questions about the equipment requirements, specifically from pharmacies that do not compound, but must purchase a prescription balance, mortar and pestle, and ointment tile that set unused, collecting dust. A prescription balance can cost up to \$1500. The pharmacies feel this is an unnecessary expense. R4-23-612 (Equipment) could be amended by adding language stating that certain equipment is not required if the pharmacy states in the pharmacy application that compounding will not be performed in the pharmacy. The proposed rule would amend the requirements for one mortar and pestle, a prescription balance, Class A, and one ointment tile by adding the following language: "not required if the pharmacy states in the application that compounding will not be performed in the pharmacy."

The rule will include format, style, and grammar necessary to comply with the current rules of the Secretary of State and the Governor's Regulatory Review Council.

**The agency docket number, if applicable:**

R1203

**3. A citation to all published notices relating to the proceeding:**

None

**4. Name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Dean Wright, Compliance Officer

Address: Arizona Board of Pharmacy  
P.O. Box 18520  
Phoenix, AZ 85005

Telephone: (602) 771-2744

Fax: (602) 771-2749

E-mail: dwright@azpharmacy.gov

**5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**

The Board will accept written comments Monday through Friday, 8:00 a.m. to 5:00 p.m. Oral comments may be made at the Board office Monday through Friday, 8:00 a.m. to 4:30 p.m.

Location: Arizona Board of Pharmacy  
1616 W. Adams St., Suite 120  
Phoenix, AZ 85007

---

**Notices of Rulemaking Docket Opening**

Mail: P.O. Box 18520  
Phoenix, AZ 85005

Written and oral comments will be accepted until the close of record on a date and time as yet undetermined.

**6. A timetable for agency decisions or other action in the proceeding:**

None