

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 2. ADMINISTRATION

CHAPTER 3. ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS

Editor's Note: The following Notice of Proposed Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1872.)

[R12-149]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**

Article 4	Amend
R2-3-401	Amend

- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. § 41-151.05(A)(7)(d)
Implementing statute: A.R.S. §§ 34-501 and 34-502

- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**

Notice of Rulemaking Docket Opening: 18 A.A.R. 1868, August 3, 2012 (*in this issue*)

- 4. The agency's contact person who can answer questions about the rulemaking:**

Name:	Janet Fisher, Acting State Librarian
Address:	Arizona State Library, Archives and Public Records 1700 W. Washington St., Room 200 Phoenix, AZ 85007
Telephone:	(602) 926-4035
Fax:	(602) 256-7983
E-mail:	jfisher@azlibrary.gov
Web site:	www.azlibrary.gov

- 5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**

This proposed rulemaking will amend the requirements to protect the public from harmful materials on public access computers in the state's libraries under Laws 2012, Ch. 166 (HB 2712) that become effective August 2, 2012. Under the proposed rules, governing bodies that operate public libraries shall develop policy to restrict access to harmful materials on the internet; and provide procedures for library patrons to disable the restriction for lawful purposes. Libraries under the jurisdiction of the governing body shall comply with the policy and post it. Libraries shall also install, deploy and enforce a technology protection measure to restrict patrons from accessing harmful materials over the internet. This proposed rulemaking includes changes to format, style and grammar that comply with the Secretary of State's rules on rulemaking.

Notices of Proposed Rulemaking

6. A reference to any study relevant to the rule that the agency reviewed and proposes either 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 rulemaking is necessary to promote a statewide interest if the rulemaking 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:

This rulemaking will have minimal economic impact because libraries are already required to have an internet service provider that filters harmful materials (previously under A.R.S. § 34-502(B)(1)). Consumers (patrons) can request that a library temporarily remove the blocking filter under A.R.S. § 34-502(C).

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:

Name: Janet Fisher, Acting State Librarian
Address: Arizona State Library, Archives and Public Records
1700 W. Washington St., Room 200
Phoenix, AZ 85007
Telephone: (602) 926-4035
Fax: (602) 256-7983
E-mail: jfisher@azlibrary.gov
Web site: www.azlibrary.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

An oral proceeding is not scheduled. Persons may request an oral proceeding by contacting the agency's contact person under item 4.

If an oral proceeding is not requested, the rulemaking record will close at 5:00 p.m. on Tuesday, September 4, 2012.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

This proposed rule is not subject to Council review.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 3. ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS

ARTICLE 4. ~~PROTECTING MINORS~~ RESTRICTING ACCESS TO ~~FROM~~ HARMFUL MATERIALS ON THE INTERNET

Section
R2-3-401. Requirements

ARTICLE 4. ~~PROTECTING MINORS~~ RESTRICTING ACCESS TO ~~FROM~~ HARMFUL MATERIALS ON THE INTERNET

R2-3-401. Requirements

- A. ~~Each library~~ A governing body that operates a public library shall have develop a local library board approved, written policy that governs for the use of its computing resources public access computers for each library in its jurisdiction under A.R.S. § 34-504(E), and that specifies whether public access computers have been equipped with software that blocks access to materials harmful to minors.
1. The policy shall:
 - a. Provide for blocking of searches by users on public access computers from gaining access to harmful materials as defined under A.R.S. § 34-502(B)(1) and (2).
 - b. Provide procedures for library patrons of legal age to request the disabling of technology protection under A.R.S. § 34-502(C) for research or other lawful purposes.
 - c. List citations to A.R.S. §§ 34-501 and 34-502.
 - d. Acknowledge the awareness of, and concern for, a safe educational internet experience for children despite the unregulated nature of the internet.
 2. The governing body shall provide a copy of this policy to each library in its jurisdiction.
- B. ~~Each library must shall:~~
1. Comply with its governing body policy.
 2. Post the policy in a conspicuous location, and
 3. ~~purchase Internet service from a company that blocks access to such materials, install~~ Install, deploy and enforce a technology protection measure software to block access to such harmful materials by users of all ages, under A.R.S. § 34-502(B)(1) and (2) establish policies and procedures to restrict minors from gaining computer access to such materials, or use a combination of these techniques.
- B. ~~Libraries shall include in the policy a list of relevant A.R.S. citations pertaining to this law and shall acknowledge the library's awareness of, and concern for, a safe educational Internet experience for children despite the unregulated nature of the Internet.~~
- C. ~~Libraries shall provide~~ A copy of the approved policy shall be:
1. Filed with the Arizona State Library, Archives and Public Records a copy of this policy within 30 days of its approval,
 2. ~~shall~~ Reviewed at least once every three years under A.R.S. § 34-502(E); and
 3. ~~If amended, filed with the Arizona State Library, Archives and Public Records within 30 days of its approval or approval of any change to the policy.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

Editor's Note: The following Notice of Proposed Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1872.)

[R12-134]

PREAMBLE

1. Article, Part, or Section Affected (as applicable) Rulemaking Action
R2-8-518 Repeal
2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):
Authorizing statute: A.R.S. § 38-714(F)(5)
Implementing statute: A.R.S. § 38-747
3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:
Notice of Rulemaking Docket Opening: 18 A.A.R. 1868, August 3, 2012 (*in this issue*)

Notices of Proposed Rulemaking

4. The agency's contact person who can answer questions about the rulemaking:

Name: Patrick Klein, Assistant Director
Address: ASRS
3300 N. Central Ave., Suite 1400
Phoenix, AZ 85012-0250
Telephone: (602) 240-2044
Fax: (602) 240-5303
E-mail: PatK@azasrs.gov
Web site: www.azasrs.gov

5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

At its May 2012 meeting, the ASRS Board voted to repeal R2-8-518, which provides those retiring under ASRS with the option of using a partial lump sum of retirement benefits to purchase service credit, because the Board determined that the partial-lump-sum methodology was having a negative impact on the ASRS trust fund. The repeal will be prospective.

Editor's Note: The Board is conducting the rulemaking under the interpretation of paragraph (4)(c) issued last year by Steve Killian, Assistant Policy Advisor to the Governor.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either 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:

The Board did not review a study relevant to this rulemaking. It relied exclusively on discussions with its staff and actuary.

7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking 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 repeal of R2-8-518 will have a positive economic impact on the ASRS trust fund and will not impact any member who has submitted a service purchase request before the effective date of the rule repeal. The only members impacted will be those who submit a service purchase request after the effective date of the rule repeal. Those members will not have the option to use partial lump sum funds as a payment method. The current methodology used to calculate the partial lump sum required to pay for service credit purchased at the time of retirement erroneously credits the retiring individual with the purchased service credit before payment is made. As a result, the partial lump sum payment received is greater and the member has a lower partial lump sum reduction factor applied against the member's annuity because fewer months of partial lump sum are required to make the service credit purchase. Rather than repeal R2-8-518, ASRS could make the methodology actuarially neutral but there is no value in doing so for either ASRS or a retiring individual.

ASRS members will still be able to purchase service credit at the time of retirement using an after-tax check, pre-tax rollover or transfer from certain qualified retirement plans, or qualified termination payments. They can also purchase the service credit before the time of retirement using a pre-tax payroll deduction authorization contract.

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:

Name: Patrick Klein, Assistant Director
Address: ASRS
3300 N. Central Ave., Suite 1400
Phoenix, AZ 85012-0250
Telephone: (602) 240-2044
Fax: (602) 240-5303
E-mail: PatK@azasrs.gov
Web site: www.azasrs.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

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

Date: Tuesday, September 4, 2012
Time: 9:00 a.m.
Location: ASRS Board Room (10th floor)
3300 N. Central Ave.
Phoenix, AZ 85012

The rulemaking record will close at 5:00 p.m. on September 7, 2012.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

No permit is required.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Federal law applies to retirement programs including those that an individual might use to purchase service credit. However, there is no federal law specifically applicable to R2-8-518.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 5. PURCHASING SERVICE CREDIT

Section

R2-8-518. ~~Purchasing Service Credit by Partial Lump Sum Retirement Distribution Repealed~~

ARTICLE 5. PURCHASING SERVICE CREDIT

~~R2-8-518. Purchasing Service Credit by Partial Lump Sum Retirement Distribution Repealed~~

- ~~**A.** An eligible member who retires may purchase service credit or pay off an Irrevocable Payroll Deduction Authorization by partial lump sum retirement distribution. Payment by partial lump sum distribution is applied after all other forms of payment are made.~~
- ~~**B.** An eligible member who requests to purchase service at retirement by partial lump sum retirement distribution shall make the request to the ASRS before the eligible member's retirement date, and in no case more than six months before retirement.~~
- ~~**C.** Within 30 days of the issue date on the SP invoice or PDA pay off letter, the member shall ensure that the ASRS receives the completed Service Purchase Payment Request form described in R2-8-502(D)(2).~~
- ~~**D.** The member shall ensure that the Partial Lump Sum Retirement Distribution section of the Application for Retirement Benefit form is completed and received by the ASRS.~~
- ~~**E.** For the purpose of purchasing service credit or paying off an Irrevocable Payroll Deduction Authorization, the information requested on the Application for Retirement Benefit form includes:~~
- ~~1. Member's full name;~~
 - ~~2. Member's Social Security number;~~
 - ~~3. Member's daytime telephone number;~~
 - ~~4. Member's date of birth;~~
 - ~~5. The number of partial lump sum months the member elects;~~
 - ~~6. Whether the member authorizes the ASRS to increase the number of elected partial lump sum months to an amount necessary to purchase all remaining service, up to a maximum of 36 months;~~

Notices of Proposed Rulemaking

- 7. Whether the member intends to transfer funds from the member's partial lump sum distribution option to purchase the service credit;
 - 8. Whether the member intends to purchase a portion of the member's service credit by rollover from another eligible plan or termination pay;
 - 9. Identification number of the irrevocable payroll deduction authorization, if applicable;
 - 10. Amount of partial lump sum to apply to each SP invoice, if applicable;
 - 11. Years of service credit to be purchased for each SP invoice, or all service credit; and
 - 12. Acknowledgement that the member knows the member may not choose to roll over to an eligible plan if the member chooses to roll over to purchase ASRS service credit.
- F. The member shall return the completed Application for Retirement Benefit form to the ASRS.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 18. NATUROPATHIC PHYSICIANS BOARD OF MEDICAL EXAMINERS

Editor's Note: The following Notice of Proposed Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1872.)

[R12-130]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**
- | | |
|-----------|-------------|
| R4-18-101 | Amend |
| R4-18-801 | Amend |
| R4-18-802 | Amend |
| Article 9 | New Article |
| R4-18-901 | New Section |
| R4-18-902 | New Section |
| R4-18-903 | New Section |
| R4-18-904 | New Section |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
- Authorizing statute: A.R.S. § 32-1504(A)(1)
- Implementing statutes: A.R.S. §§ 32-1501(15), 32-1501(31)(y), 32-1501(31)(z), 32-1501(31)(dd), 32-1504(A)(7), 32-1504(A)(8), 32-1526, 32-1527, 32-1530, 32-1581
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
- Notice of Rulemaking Docket Opening: 18 A.A.R. 1869, August 3, 2012 (*in this issue*)
- 4. The agency's contact person who can answer questions about the rulemaking:**
- Name: Dr. Craig Runbeck, Executive Director
- Address: 1400 W. Washington St., Suite 300
Phoenix, AZ 85007
- Telephone: (602) 542-8242
- Fax: (602) 542- 8804
- E-mail: craig.runbeck@aznd.gov
- 5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**
- The Board is amending its definitions in R4-18-101 to eliminate the definitions that are already provided in statute.
- The Board is amending R4-18-801 by including the requirements found in the definition of informed consent rather than keep the requirements in the definition in R4-18-101 and adding a provision that specifies when the Board considers a procedure, medication, or device experimental.

Notices of Proposed Rulemaking

A.R.S. § 32-1581(A) requires a naturopathic physician to obtain Board certification before dispensing a natural substance, drug, or device. A.R.S. § 32-1504(A)(7) requires the Board to adopt rules relating to the dispensing of natural substances, drugs, and devices. A drug is defined in A.R.S. § 32-1501(15) to include the intravenous administration of minerals and nutrients. A.R.S. § 32-1581(G) requires the Board to adopt rules for the safe administration of minerals, including Board certification before a physician prescribes or dispenses. A.R.S. § 32-1504(A)(8) requires the Board to adopt rules for the safe administration of intravenous nutrients and to identify and exclude substances that do not meet the criteria of nutrients suitable for intravenous administration. Because of these statutes the Board is making a new Article 9 that contains rules for dispensing natural substances, drugs, and devices. These rules include the requirements for qualifications, application for a dispensing certificate, renewal of a certificate, and standards for dispensing. The Board is submitting this rulemaking to the Secretary of State's office in accordance with the exemption authorization under item 4 of Executive Order 2011-05, State Regulatory Rulemaking Moratorium.

6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on or not to rely on in its evaluation of or justification for the rules, 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 or rely on any study.

7. A showing of good cause why the rulemaking is 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:

When used in the economic impact statement summary, annual cost/revenue are designated as minimal when less than \$5,000, moderate when between \$5,000 and \$10,000, and substantial when greater than \$10,000.

The Board will incur minimal expense to write the rules and enforce their requirements.

The elimination of the definitions in R4-18-101 should not result in any costs to a naturopathic physician, medical student, or medical assistant because they are already in A.R.S. § 32-1501. The same is true for moving the informed consent requirements to R4-18-801.

A naturopathic physician should not incur costs as a result of the clarifying changes in R4-18-801, which states when the Board considers a procedure, medication, or device experimental.

The requirements in R4-18-902 and R4-18-903 should not increase costs to applicants or naturopathic physicians because they are statutorily required to be certified to dispense natural substances, drugs, or devices. As a result, the rules are being made to codify the Board's current requirements for approvals to dispense. The costs for an application and the application fee are minimal. Most individuals meet the qualification requirements in R4-18-902 when they apply. However, the Board receives approximately two or three applications annually from individuals who do not meet the requirements in R4-18-902 and therefore must take a course. The course may be provided by any of the organizations in R4-18-902 and also may be available online. The costs for obtaining the course should be minimal, with the online course being offered free of charge. The application costs as stated in R4-18-903 should also be minimal to an applicant or naturopathic physician. In order to determine whether it is safe to prescribe or dispense a natural substance, drug, or device, it is standard practice for naturopathic physicians to perform physical examinations and laboratory tests as necessary. These requirements should not increase costs to naturopathic physicians.

Naturopathic physicians often form business groups of up to three persons. These businesses should not realize any increase in costs from the rules.

Consumers should not be expected to pay more for the physical examinations and laboratory tests conducted by the physicians for health and safety reasons.

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:

Name: Dr. Craig Runbeck, Executive Director
Address: 1400 W. Washington St., Suite 300
Phoenix, AZ 85007
Telephone: (602) 542-8242
Fax: (602) 542- 8804
E-mail: craig.runbeck@aznd.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber 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 will be conducted by the Board at the following location in the state for the purpose of taking oral and written testimony on the proposed rules from members of the public:

Date: September 10, 2012

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Time: 1:00 p.m.
Location: 1400 W. Washington St., Room 300
Phoenix, AZ 85007

The public record on the proposed rulemaking will close at 5:00 p.m. on September 10, 2012.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The Board issues a license, which falls within the definition of general permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Federal law is not applicable to the subject of the rule.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

The Board did not receive such an analysis from any person.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 18. NATUROPATHIC PHYSICIANS MEDICAL BOARD

ARTICLE 1. GENERAL PROVISIONS

Section
R4-18-101. Definitions

ARTICLE 8. EXPERIMENTAL MEDICINE

Section
R4-18-801. Experimental Medicine
R4-18-802. Informed Consent and Duty to Follow Protocols

ARTICLE 9. CERTIFICATE TO DISPENSE

Section
R4-18-901. Definitions
R4-18-902. Qualifications for a Certificate to Dispense
R4-18-903. Application for a Certificate to Dispense; Renewal
R4-18-904. Dispensing; Intravenous Nutrients

ARTICLE 1. GENERAL PROVISIONS

R4-18-101. Definitions

In addition to the definitions in A.R.S. §§ 32-1501 through 32-1581, the following definitions apply to this Chapter unless otherwise specified:

1. "Administrative completeness review" means the Board's process for determining that an applicant has provided, or caused to be provided, all of the application packet information and documentation required by statute or rule for an application for a license or a certificate.
2. "Applicant" means a person requesting from the Board an initial, temporary, or renewal license or certificate.
"Application" or "application packet" means the forms, documents, and information the Board requires to be submitted by an applicant or on behalf of an applicant.
3. "Approved Specialty College or Program" means any postdoctoral training program that awards a medical specialist certificate and is approved by one of the following:

- a. The Council on Naturopathic Medical Education,
 - b. The American Association of Naturopathic Physicians, or
 - c. The Arizona Naturopathic Medical Association.
4. "Chief medical officer" means a physician who is responsible for a clinical, preceptorship, internship, or postdoctoral training program's compliance with state and federal laws, rules, and regulations.
~~"Clinical training program" means a clinical training program operated in conjunction with an approved school of naturopathic medicine.~~
5. "Continuing medical education" means courses, seminars, lectures, programs, conferences, and workshops related to subjects listed in A.R.S. § 32-1525(B), that are offered or sanctioned by one of the organizations referenced in R4-18-205(B).
6. "Endorsement" means the procedure for granting a license in this state to an applicant who is currently licensed to practice naturopathic medicine by another state, district, or territory of the United States or by a foreign country that requires a written examination substantially equivalent to the written examination provided for in A.R.S. § 32-1525.
7. "Facility" means a health care institution as defined in A.R.S. § 36-401, office or clinic maintained by a health care institution or by an individual licensed under A.R.S. Title 32, Chapter 13, 14, 17, or 29, office or public health clinic maintained by a state or county, office or clinic operated by a qualifying community health center under A.R.S. § 36-2907.06, or an office or clinic operated by a corporation, association, partnership, or company authorized to do business in Arizona under A.R.S. Title 10.
8. "Informed consent" means a document, signed by a patient or the patient's legal guardian, ~~that verifies that the patient or legal guardian understands the type of treatment the patient is to receive, and whether the clinician is a physician, preceptee, or an intern who is treating the patient. If an experimental or investigational protocol is to be followed, the informed consent form shall clearly state that the patient understands the procedures to be carried out, the risks and benefits of the procedure, medication or device to be used, that the patient can withdraw at any time, that the patient is voluntarily complying, and that the protocol meets the requirements of the institutional review board that approves the protocol.~~ which contains the information in R4-18-802(A)(1), (2), and (3).
9. "Institutional review board" means a group of persons that reviews investigational or experimental protocols and approves its use on animals or humans within an institution for the purposes of protecting the subjects of the investigational or experimental protocol from undue harm and assures that the research and its review is carried out according to guidelines of the United States Department of Health and Human Services, Office for Human Research Protection.
10. "Internship" means clinical and didactic training by a doctor of naturopathic medicine certified by the Board, in an institution, certified by the Board.
11. "License" means a document issued by the Board that ~~entitles~~ authorizes the individual to whom it is issued to practice naturopathic medicine.
12. "National board" means any of the following:
 - a. The Federation of State Medical Licensing Boards,
 - b. The National Board of Chiropractic Examiners,
 - c. The National Board of Medical Examiners,
 - d. The National Board of Osteopathic Examiners, or
 - e. The North American Board of Naturopathic Examiners~~"Preceptorship" means clinical training of not more than 24 months duration, by a person who holds a degree of doctor of naturopathic medicine, and is certified by the Board for preceptorship training.~~
13. "Resident physician in training" means a person who holds a degree of doctor of naturopathic medicine and is certified by the Board to diagnose and treat patients under supervision in an internship, preceptorship, or a post doctoral training program.
14. "Substantive review" means the Board's process for determining whether an applicant for licensure, certification, or approval meets the requirements of A.R.S. Title 32, Chapter 14 and this Chapter.
~~"Supervise" means to be physically present and within sight or sound of a medical assistant, medical student, or an unlicensed resident physician in training, who is providing naturopathic medical care to a patient.~~
~~"Supervision" means a supervisor assumes legal responsibility and has oversight of activities relating to the diagnosis and treatment of a patient and the acquiring, preparing, and dispensing of devices and natural substances to a patient by a medical assistant, nurse, medical student, or a preceptee.~~
15. "Supervisor" means an individual licensed under A.R.S. Title 32, Chapter 13, 14, 17, or 29 who supervises a medical student or a preceptee, or a person licensed under A.R.S. Title 32, Chapter 14 who supervises a medical assistant or a nurse.

ARTICLE 8. EXPERIMENTAL MEDICINE

R4-18-801. Experimental Medicine

A procedure, medication, or device is experimental if:

1. An Institutional Review Board exists for a particular procedure, medication, or device; ~~or~~
2. The procedure, medication, or device is not generally considered to be within the accepted practice standards for the naturopathic profession; ~~or~~
3. The procedure, medication, or device is not part of the curriculum at an approved school of naturopathic medicine or approved postdoctoral training.

R4-18-802. Informed Consent and Duty to follow Protocols

A. A physician, medical student engaged in an approved clinical training program, preceptee, or intern who conducts research involving an experimental procedure, medication, or device, shall ensure that all research subjects give informed consent to participate, which states:

1. Whether a physician, preceptee, or an intern is treating the patient;
2. That the patient or legal guardian of the patient understands:
 - a. The type of treatment the patient is to receive;
 - b. Each procedure that will be provided to the patient;
 - c. The risks and benefits of each procedure, medication, or device to be provided;
 - d. That the patient can withdraw at any time; and
 - e. That the patient is voluntarily participating; and
3. The physician, medical student engaged in the approved clinical training program, preceptee, or intern has established a protocol as required by subsection (B) that meets the requirements of the institutional review board that approved the protocol.

B. A physician, medical student engaged in an approved clinical training program, preceptee, or intern, ~~that~~ who conducts research on humans involving an experimental procedure, medication, or device shall have a protocol for that research approved by an ~~Institutional Review Board~~ institutional review board.

ARTICLE 9. CERTIFICATE TO DISPENSE

R4-18-901. Definitions

The following definitions apply in this Article:

1. "Applicant" means:
 - a. An individual applying for a license and a certificate; or
 - b. A licensee requesting a certificate only.
2. "Certificate to dispense" means an approval granted by the Board to dispense a natural substance, drug, or device.
3. "Dispense" means the same as in A.R.S. § 32-1581(H).
4. "Drug" means the same as in A.R.S. § 32-1501(15).
5. "Hour" means 50 minutes or more of participation.
6. "Medical record" means the same as in A.R.S. § 12-2291.
7. "Nutrient" means the same as in A.R.S. § 32-1501(15)(a)(iii).
8. "Physical examination" means to observe, test, or inspect an individual's body to evaluate health or determine cause of illness or disease.

R4-18-902. Qualifications for a Certificate to Dispense

A. To qualify for a certificate to dispense, an applicant shall have completed before the submission date of the application, Board approved training in the safe administration of natural substances, drugs, or devices.

B. The Board approves documentation of the following as evidence of completion of Board approved training in the safe administration of natural substances, drugs, or devices:

1. Graduation from an approved school of naturopathic medicine after January 1, 2005 as referenced in A.R.S. § 32-1525(B)(4); or
2. Completion of a 60 hour or more pharmacological course on natural substances, drugs, or devices that is offered, approved, or recognized by one of the organizations in R4-18-205(B)(1) or (2).

C. If an applicant intends to administer a natural substance or drug intravenously, the Board approved training completed by the applicant shall include administration of a natural substance or drug by intravenous means.

R4-18-903. Application for a Certificate to Dispense: Renewal

A. An applicant for a certificate to dispense shall submit:

1. An application to the Board that contains:
 - a. The applicant's:
 - i. Full name;

- ii. Naturopathic license number, if known; and
 - iii. Social Security number;
 - b. If a corporation, a statement of whether the corporation holds tax exempt status;
 - c. A statement of whether the applicant holds a drug enforcement number issued by the United States Drug Enforcement Administration, and if so, the drug enforcement number;
 - d. A statement of whether the applicant has ever had the authority to prescribe, dispense, or administer a natural substance, drug, or device limited, restricted, modified, denied, surrendered or revoked by a federal or state agency or court of law, and if so, an explanation that includes:
 - i. The name and address of the federal or state agency or court having jurisdiction over the matter, and
 - ii. The disposition of the matter;
 - e. A statement, signed by the applicant, that the applicant agrees to conform to all federal and state regulations and rules; and
 - f. The date of the application; and
 - 2. Unless exempted by A.R.S. § 32-1530, the fee required by the Board.
 - B. An applicant for a naturopathic license may request a certificate to dispense as part of a license application. When this request is made, approval of the naturopathic license by the Board includes approval of the certificate to dispense.
 - C. A certificate holder shall renew a certificate to dispense on or before July 1 of each year by submitting:
 - 1. An application to the Board that contains:
 - a. The applicant's full name;
 - b. If a corporation, a statement of whether the corporation holds tax exempt status;
 - c. A statement of whether the applicant has had the authority to prescribe, dispense, or administer a natural substance, drug, device limited, restricted, modified, denied, surrendered or revoked by a federal or state agency or court of law, during the one-year period immediately preceding the renewal date and if so, an explanation that includes:
 - i. The name and address of the federal or state agency or court having jurisdiction over the matter, and
 - ii. The disposition of the matter; and
 - d. A statement, signed and dated by the applicant, verifying the information on the application is true and correct and the applicant is the licensee named on the application; and
 - 2. Unless exempted by A.R.S. § 32-1530, the fee required by the Board.
 - D. The Board shall grant or deny the certificate to dispense or renewal of certificate to dispense according to the time-frames in Table 1.

R4-18-904. Dispensing: Intravenous Nutrients

- A. To prevent toxicity due to the excessive intake of a natural substance, drug, or device, before dispensing the natural substance, drug, or device to an individual, a certified physician shall:
 - 1. Conduct a physical examination of the individual.
 - 2. Conduct laboratory tests as necessary that determine the potential for toxicity of the individual, and
 - 3. Document the results of the physical examination and laboratory tests in the individual's medical record.
- B. For the purposes of A.R.S. § 32-1504(A)(8), a substance is not considered a nutrient suitable for intravenous administration if it is:
 - 1. Not manufactured and supplied for intravenous use by a manufacturer registered with the United States Food and Drug Administration or compounded by a pharmacy licensed in Arizona, another state, or United States territory; or
 - 2. One of the following:
 - a. Silver protein, or any substance that contains silver;
 - b. Cesium chloride;
 - c. Hydrazine sulfate; or
 - d. Lipid replacement as used in total parenteral nutrition.

NOTICE OF PROPOSED RULEMAKING

TITLE 6. ECONOMIC SECURITY

CHAPTER 2. DEPARTMENT OF ECONOMIC SECURITY
EMPLOYMENT AND TRAINING

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1872.) The Governor's Office authorized the notice to proceed through the rulemaking process on May 18, 2012.

[R12-132]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**

R6-2-101	Amend
R6-2-102	Amend
R6-2-103	Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statutes: A.R.S. §§ 41-1954 (A)(3) and 46-134 (12)
Implementing statutes: A.R.S. §§ 23-645 and 23-648
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**

Notice of Rulemaking Docket Opening: 17 A.A.R. 1302, July 15, 2011
- 4. The agency's contact person who can answer questions about the rulemaking:**

Name:	Beth Broeker
Address:	Department of Economic Security P.O. Box 6123, Site Code 837A Phoenix, AZ 85005
	or
	Department of Economic Security 1789 W. Jefferson St., Site Code 837A Phoenix, AZ 85007
Telephone:	(602) 542-6555
Fax:	(602) 542-6000
Web site:	http://www.azdes.gov
- 5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

This rulemaking is in response to a five-year review report, approved by Council on January 5, 2010.
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either 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 rulemaking is necessary to promote a statewide interest if the rulemaking 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 Employment Service program is federally funded through the Wagner-Peyser Act of 1933. In FFY 2011, operation costs, including administrative costs and services, were approximately \$13.5 million. In FFY 2011, Employment Service included a total of 157 FTEs, with 5,581 clients placed in employment, and a total of 299,920 obtaining employment.

Notices of Proposed Rulemaking

The economic impact projected when the rules were adopted has proven to be accurate. As some rules in this Chapter contain outdated references, the public may interpret a minor negative economic impact from these rules.

The Department has received no written complaints about these rules, and the outdated references pose no operational impediments to the Department, its services, or its clients.

A.R.S. § 41-1954(A)(3) requires the Employment Service to adopt rules it deems necessary or desirable to further the objectives and programs of the Department.

9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

Name: Beth Broeker
Address: Department of Economic Security
P.O. Box 6123, Site Code 837A
Phoenix, AZ 85005
or
Department of Economic Security
1789 W. Jefferson St., Site Code 837A
Phoenix, AZ 85007
Telephone: (602) 542-6555
Fax: (602) 542-6000
Web site: <http://www.azdes.gov>

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The Department does not plan to conduct an oral proceeding on the proposed rules unless a written request for an oral proceeding is submitted to the person named in item 4 within 30 days after this notice is published. The Department will accept written public comments on the proposed rules for 30 days after the date of this publication.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

Not applicable

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rules follows:

TITLE 6. ECONOMIC SECURITY

CHAPTER 2. DEPARTMENT OF ECONOMIC SECURITY
EMPLOYMENT AND TRAINING

ARTICLE 1. GENERAL PROVISIONS

Section
R6-2-101. Definitions
R6-2-102. Complaints
R6-2-103. Hearings and Appeals

ARTICLE 1. GENERAL PROVISIONS

R6-2-101. Definitions

The following definitions apply to this Chapter:

- ~~1.~~ “America’s Job Bank” means a nationwide computer database linking more than 1800 local Employment Service offices. The services of America’s Job Bank are available to job seekers and employers via the Internet.
- ~~2-1.~~ “Applicant” means a person who has applied to the Department for worker services and who is a United States citizen or a non-citizen who is legally authorized to work in the United States.
- ~~3-2.~~ “Apprentice” means a worker who is at least age 16 if a higher minimum age standard is otherwise fixed by law, who is employed to learn a skilled trade under standards of apprenticeship that meet the requirements of 29 CFR 29.5 (Office of the Federal Register, National Archives and Records Administration, July 1, 1998), which is incorporated by reference in this rule. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the ~~Department’s Authority Library~~ Department of Economic Security, 1789 West Jefferson, Phoenix, Arizona, and in the Office of the Secretary of State, ~~Public Service Department~~, 1700 West Washington, Phoenix, Arizona.
- ~~4-3.~~ “Apprenticeship agreement” means a written agreement between an apprentice and an employer or a committee acting on behalf of the employer, containing the terms and conditions for employment of the apprentice.
- ~~5-4.~~ “Apprenticeship program” means a plan containing all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices.
- ~~6-5.~~ “Apprenticeship program registration” means the acceptance and centralized recording of an apprenticeship program by the ESA that meets the basic standards and requirements established for apprenticeship programs under federal law.
- ~~7-6.~~ “Apprenticeship program sponsor” means a person, association, committee, or organization operating an apprenticeship program and in whose name the program is registered and approved.
- ~~8-7.~~ “BFOQ” or “bona fide occupational qualification” means a finding by an employer that age, sex, national origin, or religion is a characteristic necessary to an individual’s ability to perform the job.
- ~~9-8.~~ “Department” means the Arizona Department of Economic Security.
- ~~10-9.~~ “DOT” or “Dictionary of Occupational Titles” means the reference work published by the United States Employment Service, which contains brief, non-technical definitions of job titles, distinguishing numeric codes, and worker trait data.
- ~~11-10.~~ “Disabled veteran” means:
 - a. A veteran who is entitled to compensation under laws administered by the United States Secretary of Veterans Affairs, or
 - b. A person who is discharged or released from active military duty because of a service-connected disability.
- ~~12-11.~~ “Employer job referral services” means Department activities that help an employer obtain workers with the occupational qualifications needed by the employer.
- ~~13-12.~~ “Employment counseling” means formulation of a vocational plan that is consistent with a person’s vocational skills and interests, and advice on appropriate measures for implementation of that plan.
- ~~14-13.~~ “Employment test” means a standardized method or device for measuring a person’s possession of, interest in, or ability to acquire job skills and knowledge.
- ~~15-14.~~ “ESA” or “Employment Security Administration” means the administrative unit within the Department’s Division of Employment and Rehabilitation Services with responsibility for all worker and employer services.
- ~~16-15.~~ “Essential functions of a job” means the fundamental job duties of a particular employment position.
- ~~17-16.~~ “Geographic labor clearance” means Department efforts to facilitate labor mobility by encouraging and guiding migration of workers between geographical areas.
- ~~18-17.~~ “Industrial analysis services” means Department activities to assist employers and labor organizations in determining the cause of worker resource problems in a particular business, and provision of information developed by the USES for resolving such problems.
- ~~19-18.~~ “Job bank” means a computerized list of all currently available jobs and employment opportunities listed with the Department.
- ~~20-19.~~ “Job development” means the process by which the Department obtains a job or interview with an employer for a specific applicant for whom the local ESA office has no suitable job opening on file.
- ~~21-20.~~ “Job order” means a request by an employer for the referral of job seekers made available to job seekers via the Department’s Job Bank.
- ~~22-21.~~ “JTPA” means the federal Job Training Partnership Act found at 29 U.S.C. 1501 et seq.
- ~~23-22.~~ “Labor market area” means a geographic area consisting of a central city, or group of cities, and the surrounding territory within a reasonable commuting distance.
- ~~24-23.~~ “Major life activities” means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

- ~~25-24~~. “Occupational labor clearance” means Department efforts to facilitate labor mobility by encouraging and guiding migration of workers between occupations and industry types.
- ~~26-25~~. “Older worker” means a person age 40 or older who is working or who is unemployed and wishes to work.
- ~~27-26~~. “Person with a disability” or “disabled worker” means a person who:
- Has a physical or mental impairment that substantially limits ~~+~~ one or more of that person’s major life activities;
 - Has a record of such an impairment; or
 - Is regarded as having such impairment.
- ~~28-27~~. “Physical or mental impairment” means:
- Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting ~~+~~ one or more of the following body systems:
 - ~~neurological~~ Neurological,
 - ~~musculoskeletal~~ Musculoskeletal,
 - ~~special~~ Special sense organs,
 - ~~respiratory~~ Respiratory (including speech organs),
 - ~~cardiovascular~~ Cardiovascular,
 - ~~reproductive~~ Reproductive,
 - ~~digestive~~ Digestive,
 - ~~genito-urinary~~ Genito-urinary,
 - ~~hemie~~ Hemic and lymphatic,
 - ~~skin~~ Skin, and
 - ~~endocrine~~ Endocrine; or
 - Any mental or psychological disorder such as:
 - ~~mental~~ Mental retardation,
 - ~~organic~~ Organic brain syndrome,
 - ~~emotional~~ Emotional or mental illness, and
 - ~~specific~~ Specific learning disabilities.
- ~~29-28~~. “Placement” means that a public or private employer has hired an applicant that the Department referred to the employer for a job or interview.
- ~~30-29~~. “Qualified worker” means a worker who possesses the skills, knowledge, and abilities to perform the essential functions of a job.
- ~~31-30~~. “Reasonable accommodation” means a modification of, or an adjustment to a process, position, or term of employment, that will permit a disabled worker to enjoy the same benefits and privileges of employment as those enjoyed by persons without disabilities.
- ~~32-31~~. “Substandard work order” means a work order:
- Containing employment terms that violate employment-related laws, or
 - Offering work at wages or conditions that are substantially inferior to those generally prevailing in the labor market area for the same or similar work.
- ~~33-32~~. “Substantially limits” when used in reference to a disability, means:
- Unable to perform a major life activity that the average person in the general population can perform; or
 - Significantly restricted as to the condition, manner, or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.
- ~~34-33~~. “Targeted jobs tax credit” means an income tax credit available to businesses that hire persons whom ESA has certified as meeting certain criteria described in 26 U.S.C. 51 (Office of the Federal Register, National Archives and Records Administration, August 10, 1993), which is incorporated by reference ~~in this rule~~. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the ~~Department’s Authority Library~~ Department of Economic Security, 1789 West Jefferson, Phoenix, Arizona, and in the Office of the Secretary of State, ~~Public Service Department~~, 1700 West Washington, Phoenix, Arizona.
- ~~35-34~~. “USES” means the United States Employment Service, which is the unit in the United States Department of Labor’s Employment and Training Administration designed to promote a national system of public job service offices.
- ~~36-35~~. “Veteran” means a person who served in the active military service, and who was discharged or released from service under conditions other than dishonorable.
- ~~37-36~~. “Vocational plan” means a plan developed jointly by an ESA counselor or counselor-trainee and an applicant that describes:
- The applicant’s short-range and long-range occupational goals, and
 - The actions to be taken to implement the plan.

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38-37. "Worker" means a U.S. citizen or a non-citizen who is legally authorized to work in the United States and who is employed or who is unemployed and wishes to work.

39-38. "Worker services" means the functions the Department performs for the benefit of applicants and workers, including employment counseling, employment testing, preparation of a vocational plan, and referral for employment opportunity.

40-39. "Worker job referral services" means Department activities to help a worker promptly obtain a job for which the worker is occupationally qualified.

41-40. "Youth worker" means a worker younger than age 22.

R6-2-102. Complaints

The Department shall process all complaints related to the provision of employment services under 20 CFR 658.400 through 658.416 (Office of the Federal Register, National Archives and Records Administration, ~~April 1, 1998~~ April 1, 2010), which are incorporated by reference ~~in this rule~~. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the ~~Department's Authority Library~~ Department of Economic Security, 1789 West Jefferson, Phoenix, Arizona, ~~and in the Office of the Secretary of State, Public Service Department, 1700 West Washington, Phoenix, Arizona.~~

R6-2-103. Hearings and Appeals

The Department shall conduct any hearing or appeal to which an employer, applicant, or worker may be entitled under applicable state or federal employment services laws, and 20 CFR 658.417 and 658.418 (Office of the Federal Register, National Archives and Records Administration, ~~April 1, 1998~~ April 1, 2010), which are incorporated by reference ~~in this rule~~. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available for inspection at the ~~Department's Authority Library~~ Department of Economic Security, 1789 West Jefferson, Phoenix, Arizona, ~~and in the Office of the Secretary of State, Public Service Department, 1700 West Washington, Phoenix, Arizona.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 17. DEPARTMENT OF HEALTH SERVICES
MEDICAL MARIJUANA PROGRAM**

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1872.) The Governor's Office authorized the notice to proceed through the rulemaking process on January 30, 2012.

[R12-136]

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R9-17-101	Amend
R9-17-102	Amend
R9-17-103	Amend
R9-17-107	Amend
Table 1.1	Amend
R9-17-109	Amend
R9-17-202	Amend
R9-17-203	Amend
R9-17-302	Repeal
R9-17-303	Amend
R9-17-304	Amend
R9-17-308	Amend
R9-17-309	Amend
R9-17-310	Amend
R9-17-311	Amend
R9-17-312	Amend
R9-17-322	Amend

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statutes: A.R.S. §§ 36-104(3), 36-132(A)(1), 36-136(F)

Implementing statutes: A.R.S. §§ 36-2803, 36-2804, 36-2804.01, 36-2804.06, 36-2815, 41-1073

3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:

Notice of Rulemaking Docket Opening 18 A.A.R. 1870, August 3, 2012 (*in this issue*)

4. The agency's contact person who can answer questions about the rulemaking:

Name: Don Herrington, Assistant Director

Address: Department of Health Services
Public Health Preparedness Services
150 N. 18th Ave., Suite 520
Phoenix, AZ 85007

Telephone: (602) 542-1023

Fax: (602) 364-3266

E-mail: Don.Herrington@azdhs.gov

or

Name: Thomas Salow, Manager

Address: Department of Health Services
Administrative Counsel and Rules
1740 W. Adams St., Suite 203
Phoenix, AZ 85007

Telephone: (602) 542-1020

Fax: (602) 364-1150

E-mail: Thomas.Salow@azdhs.gov

5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

In May 2011, the Department suspended the implementation of the dispensary portion of the Medical Marijuana Act (MMA) in response to the Governor's concern about the possibility of employee liability for abetting a federal crime and her request for clarification about how the MMA interfaces with the federal Controlled Substances Act. With the recent dismissal of that case, the Department planned to implement *Arizona Administrative Code* (A.A.C.), Title 9, Chapter 17 after considering the outcomes of other lawsuits.

In July 2011, a lawsuit was filed alleging that the Department did not have authority for some provisions in the rules. The Arizona Superior Court ruled on the July 2011 lawsuit on January 17, 2012 ordering that the Department did not have authority to require three-year residency for applicants for a dispensary registration certificate, nor to set criteria that an applicant "has never filed personal or corporate bankruptcy" or "is current on court-ordered child support; is not delinquent in paying taxes, interest or penalties to the government; does not have an unpaid judgment to the government; and is not in default on a government-issued student loan." The court further ordered the Department to implement the provisions of the MMA "and, if necessary, to promulgate regulations that conform thereto."

As required by Executive Order 2011-05, the Department requested an exception from the rulemaking moratorium, under paragraph (2)(d), to revise the rules for medical marijuana in 9 A.A.C. 17. The Office of the Governor approved the Department's request on January 30, 2012. The Department plans to revise the rules in 9 A.A.C. 17 to conform to the court orders and to establish timelines for the acceptance and processing of applications and the issuing of dispensary registration certificates. In addition, the Department is repealing A.A.C. R9-17-302 that was promulgated for the initial allocation of dispensary registration certificate applications. Because this initial allocation has taken place, this Section is no longer necessary. The Department plans to make additional changes consistent with current statutory authority and Department policies.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either 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:

The Department did not review or rely on any study related to this rulemaking package.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rulemaking 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:

As used in this summary, annual costs/revenues are designated as minimal when less than \$1,000; moderate when between \$1,000 and \$10,000; and substantial when greater than \$10,000. Costs are listed as significant when meaningful or important, but not readily subject to quantification. The following economic, small business, and consumer impact summary describes effects directly attributable to this rulemaking, rather than the impact imposed by the statute or current rules.

The Department believes that the proposed rules will impose a moderate increase in cost due on the Department to the reduced time-frames allowed for the Department to complete the administrative and substantive reviews for dispensary registration certificate applications. Because of the reduced time-frames and the number of dispensary registration certificate application submissions for subsequent years is unknown, the Department is prepared to have other Department personnel ready to assist the Medical Marijuana Program to ensure that the overall required time-frame for processing a dispensary registration certificate is met. In addition, the proposed rules remove the requirements for an applicant, principal officer, or board member to submit supplementary legal documentation used to establish an evaluation criterion for an application. The Department believes the reduction in time that would have been spent verifying and evaluating the supplementary documentation will result in a moderate decrease in cost for the Department. The Department believes that further significant benefit, will result from the increased clarification to the proposed rules from amending subsection references, ensuring consistent use of terms, and removal of all references to the current requirement for supplementary documentation.

The Department anticipates that privately owned businesses (businesses) will experience a moderate-to-substantial increase in revenues due to the proposed rules allowing the Department to implement the rules to accept dispensary registration certificate applications. The Department anticipates some dispensaries to be fully operational as soon as late August to early September. Additionally, businesses will experience a moderate-to-substantial decrease in costs due to both the removal of the requirements for supplementary documentation resulting in less administrative paperwork and due to an increase in the number of applicants, principal officers, and board members accessible who were previously disqualified.

The proposed rules do not have a direct effect on private persons or private employment. The proposed rules do not impose any fees or charges that affect the general fund or any other state agencies. The Department has determined that the proposed rules achieve the greatest possible reduced costs, and that no further reduction of economic impact can be achieved at this time.

9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

Name: Don Herrington, Assistant Director
Address: Department of Health Services
Public Health Preparedness Services
150 N. 18th Ave., Suite 520
Phoenix, AZ 85007
Telephone: (602) 542-1023
Fax: (602) 364-3266
E-mail: Don.Herrington@azdhs.gov

or

Name: Thomas Salow, Manager
Address: Department of Health Services
Administrative Counsel and Rules
1740 W. Adams St., Suite 203
Phoenix, AZ 85007
Telephone: (602) 542-1020
Fax: (602) 364-1150
E-mail: Thomas.Salow@azdhs.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The Department has scheduled the following meeting:

Date and time: Wednesday, September 12, 2012, 1:00 p.m.
Location: Arizona Department of Health Services

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150 N. 18th Ave., 4th Floor Licensing Training Room
Phoenix, AZ 85007

Close of record: Wednesday, September 12, 2012, 1:00 p.m.

A person may submit written comments on the proposed rules not later than the close of record to either of the individuals listed in item 4.

A person with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Thomas Salow at Thomas.Salow@azdhs.gov or (602) 542-1020. Requests should be made as early as possible to allow time to arrange the accommodation.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rule does not require a permit. Arizona Revised Statutes, Title 36, Chapter 28.1 requires individuals or entities that wish to operate a medical marijuana dispensary to apply for a medical marijuana dispensary registration certificate. Hence, a general permit is not used.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

The rule is not more stringent than federal law.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No person has submitted an analysis to the Department that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

Not applicable

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 17. DEPARTMENT OF HEALTH SERVICES
MEDICAL MARIJUANA PROGRAM**

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ARTICLE 1. GENERAL

R9-17-101. Definitions

In addition to the definitions in A.R.S. § 36-2801, the following definitions apply in this Chapter unless otherwise stated:

1. "Acquire" means to obtain through any type of transaction and from any source.
2. "Activities of daily living" means ambulating, bathing, dressing, grooming, eating, toileting, and getting in and out of bed.
3. "Amend" means adding or deleting information on an individual's registry identification card that affects the individual's ability to perform or delegate a specific act or function.
4. "Batch" means a specific lot of medical marijuana grown from one or more seeds or cuttings that are planted and harvested at the same time.
5. "Batch number" means a unique numeric or alphanumeric identifier assigned to a batch by a dispensary when the batch is planted.
6. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
7. "CHAA" means a Community Health Analysis Area, a geographic area based on population, established by the Department for use by public health programs.
8. "Change" means adding or deleting information on an individual's registry identification card that does not substantively affect the individual's ability to perform or delegate a specific act or function.
9. "Commercial device" means the same as in A.R.S. § 41-2051.
10. "Cultivation site" means the one additional location where marijuana may be cultivated, infused, or prepared for sale by and for a dispensary.
11. "Current photograph" means an image of an individual, taken no more than 60 calendar days before the submission of the individual's application, in a Department-approved electronic format capable of producing an image that:
 - a. Has a resolution of at least 600 x 600 pixels but not more than 1200 x 1200 pixels;
 - b. Is 2 inches by 2 inches in size;
 - c. Is in natural color;
 - d. Is a front view of the individual's full face, without a hat or headgear that obscures the hair or hairline;
 - e. Has a plain white or off-white background; and
 - f. Has between 1 and 1 3/8 inches from the bottom of the chin to the top of the head.
12. "Denial" means the Department's final decision not to issue a registry identification card, a dispensary registration certificate, ~~an approval to operate a dispensary,~~ or an approval of a change of dispensary or a dispensary's cultivation site location, to an applicant because the applicant or the application does not comply with the applicable requirements in A.R.S. Title 36, Chapter 28.1 or this Chapter.
13. "Dispensary" means the same as "nonprofit medical marijuana dispensary" as defined in A.R.S. § 36-2801.
14. "Dispensary agent" means the same as "nonprofit medical marijuana dispensary agent" as defined in A.R.S. § 36-2801.
15. "Edible food product" means a substance, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.
16. "Enclosed area" when used in conjunction with "enclosed, locked facility" means outdoor space surrounded by solid, 10-foot walls, constructed of metal, concrete, or stone that prevent any viewing of the marijuana plants, and a 1-inch thick metal gate.
17. "Entity" means a "person" as defined in A.R.S. § 1-215.
18. "Generally accepted accounting principles" means the set of financial reporting standards established by the Financial Accounting Standards Board, the Governmental Accounting Standards Board, or another specialized body dealing with accounting and auditing matters.
19. "In-state financial institution" means the same as in A.R.S. § 6-101.
20. "Legal guardian" means an adult who is responsible for a minor:
 - a. Through acceptance of guardianship of the minor through a testamentary appointment or an appointment by a court pursuant to A.R.S. Title 14, Chapter 5, Article 2; or
 - b. As a "custodian" as defined in A.R.S. § 8-201.
21. "Medical record" means the same as:

- a. "Adequate records" as defined in A.R.S. § 32-1401,
 - b. "Adequate medical records" as defined in A.R.S. § 32-1501,
 - c. "Adequate records" as defined in A.R.S. § 32-1800, or
 - d. "Adequate records" as defined in A.R.S. § 32-2901.
22. "Out-of-state financial institution" means the same as in A.R.S. § 6-101.
23. "Private school" means the same as in A.R.S. § 15-101.
24. "Public place":
- a. Means any location, facility, or venue that is not intended for the regular exclusive use of an individual or a specific group of individuals;
 - b. Includes, but not is limited to:
 - i. Airports;
 - ii. Banks;
 - iii. Bars;
 - iv. Child care facilities;
 - v. Child care group homes during hours of operation;
 - vi. Common areas of apartment buildings, condominiums, or other multifamily housing facilities;
 - vii. Educational facilities;
 - viii. Entertainment facilities or venues;
 - ix. Health care institutions, except as provided in subsection (24)(c);
 - x. Hotel and motel common areas;
 - xi. Laundromats;
 - xii. Libraries;
 - xiii. Office buildings;
 - xiv. Parking lots;
 - xv. Parks;
 - xvi. Public transportation facilities;
 - xvii. Reception areas;
 - xviii. Restaurants;
 - xix. Retail food production or marketing establishments;
 - xx. Retail service establishments;
 - xxi. Retail stores;
 - xxii. Shopping malls;
 - xxiii. Sidewalks;
 - xxiv. Sports facilities;
 - xxv. Theaters; and
 - xxvi. Waiting rooms; and
 - c. Does not include:
 - i. Nursing care institutions as defined in A.R.S. § 36-401,
 - ii. Hospices as defined in A.R.S. § 36-401,
 - iii. Assisted living centers as defined in A.R.S. § 36-401,
 - iv. Assisted living homes as defined in A.R.S. § 36-401,
 - v. Adult day health care facilities as defined in A.R.S. § 36-401,
 - vi. Adult foster care homes as defined in A.R.S. § 36-401, or
 - vii. Private residences.
25. "Public school" means the same as "school" as defined in A.R.S. § 15-101.
26. "Registry identification number" means the random 20-digit alphanumeric identifier generated by the Department, containing at least four numbers and four letters, issued by the Department to a qualifying patient, designated caregiver, dispensary, or dispensary agent.
27. "Revocation" means the Department's final decision that an individual's registry identification card or a dispensary registration certificate is rescinded because the individual or the dispensary does not comply with the applicable requirements in A.R.S. Title 36, Chapter 28.1 or this Chapter.
28. "Working day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday or a statewide furlough day.

R9-17-102. Fees

- A. An applicant submitting an application to the Department shall submit the following nonrefundable fees:
1. Except as provided in ~~R9-17-303(F)~~ R9-17-303(D), for registration of a dispensary, \$5,000;
 2. To renew the registration of a dispensary, \$1,000;
 3. To change the location of a dispensary, \$2,500;

4. To change the location of a dispensary's cultivation site or add a cultivation site, \$2,500;
 5. For a registry identification card for a:
 - a. Qualifying patient, except as provided in subsection (B), \$150;
 - b. Designated caregiver, \$200; and
 - c. Dispensary agent, \$500;
 6. For renewing a registry identification card for a:
 - a. Qualifying patient, except as provided in subsection (B), \$150;
 - b. Designated caregiver, \$200; and
 - c. Dispensary agent, \$500;
 7. For amending or changing a registry identification card, \$10; and
 8. For requesting a replacement registry identification card, \$10.
- B.** A qualifying patient may pay a reduced fee of \$75 if the qualifying patient submits, with the qualifying patient's application for a registry identification card or the qualifying patient's application to renew the qualifying patient's registry identification card, a copy of an eligibility notice or electronic benefits transfer card demonstrating current participation in the U.S. Department of Agriculture, Food and Nutrition Services, Supplemental Nutrition Assistance Program.

R9-17-103. Application Submission

- A.** An applicant submitting an application for a registry identification card or to amend, change, or replace a registry identification card for a qualifying patient, designated caregiver, or dispensary agent shall submit the application electronically in a Department-provided format.
- B.** ~~A residence address or mailing address submitted as part of an application required by this Chapter shall be located in Arizona.~~ A residence address or mailing address submitted for a qualifying patient or designated caregiver as part of an application for a registry identification card is located in Arizona.
- C.** A mailing address submitted for a principal officer or board member as part of a dispensary certificate registration application or as part of an application for a dispensary agent registration identification card is located in Arizona.

R9-17-107. Time-frames

- A.** Within the administrative completeness review time-frame for each type of approval in Table 1.1, the Department shall:
1. Issue a registry identification card or dispensary registration certificate;
 2. Provide a notice of administrative completeness to an applicant; or
 3. Provide a notice of deficiencies to an applicant, including a list of the information or documents needed to complete the application.
- B.** An application for approval to operate a dispensary is not complete until the date the applicant states on a written notice provided to the Department that the dispensary is ready for an inspection by the Department.
- C.** If the Department provides a notice of deficiencies to an applicant:
1. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice of deficiencies until the date the Department receives the missing information or documents from the applicant;
 2. If the applicant does not submit the missing information or documents to the Department within the time-frame in Table 1.1, the Department shall consider the application withdrawn; and
 3. If the applicant submits the missing information or documents to the Department within the time-frame in Table 1.1, the substantive review time-frame begins on the date the Department receives the missing information or documents.
- D.** Within the substantive review time-frame for each type of approval in Table 1.1, the Department:
1. Shall issue or deny a registry identification card; or dispensary registration certificate; or issue approval to operate a dispensary;
 2. May complete an inspection that may require more than one visit to a dispensary and, if applicable, the dispensary's cultivation site; and
 3. May make one written comprehensive request for more information, unless the Department and the applicant agree in writing to allow the Department to submit supplemental requests for information.
- E.** If the Department issues a written comprehensive request or a supplemental request for information:
1. The substantive review time-frame and the overall time-frame are suspended from the date of the written comprehensive request or the supplemental request for information until the date the Department receives all of the information requested, and
 2. The applicant shall submit to the Department all of the information and documents listed in the written comprehensive request or supplemental request for information within 10 working days after the date of the comprehensive written request or supplemental request for information.
- F.** If an applicant for an initial dispensary registration certificate is allocated a dispensary registration certificate as provided in ~~R9-17-302~~ and R9-17-303, the Department shall provide a written notice to the applicant of the allocation of the dispensary registration certificate that contains the dispensary's registry identification number.

1. After the applicant receives the written notice of the allocation, the applicant shall submit to the Department for each principal officer or board member for whom fingerprints were submitted:
 - a. An application for a dispensary agent registry identification card that includes:
 - i. The principal officer's or board member's first name; middle initial, if applicable; last name; and suffix, if applicable;
 - ii. The principal officer's or board member's residence address and mailing address;
 - iii. The county where the principal officer or board member resides;
 - iv. The principal officer's or board member's date of birth;
 - v. The identifying number on the applicable card or document in subsection (F)(1)(b)(i) through ~~(F)(1)(b)(v)~~ **(v)**;
 - vi. The name and registry identification number of the dispensary;
 - vii. One of the following:
 - (1) A statement that the principal officer or board member does not currently hold a valid registry identification card, or
 - (2) The assigned registry identification number for each valid registry identification card currently held by the principal officer or board member;
 - viii. A statement signed by the principal officer or board member pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
 - ix. An attestation that the information provided in and with the application is true and correct; and
 - x. The signature of the principal officer or board member and the date the principal officer or board member signed;
 - b. A copy the principal officer's or board member's:
 - i. Arizona driver's license issued on or after October 1, 1996;
 - ii. Arizona identification card issued on or after October 1, 1996;
 - iii. Arizona registry identification card;
 - iv. Photograph page in the principal officer's or board member's U.S. passport; or
 - v. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the principal officer or board member:
 - (1) Birth certificate verifying U.S. citizenship,
 - (2) U. S. Certificate of Naturalization, or
 - (3) U. S. Certificate of Citizenship;
 - c. A current photograph of the principal officer or board member; and
 - d. The applicable fee in R9-17-102 for applying for a dispensary agent registry identification card.
 2. After receipt of the information and documents in subsection (F)(1), the Department shall review the information and documents.
 - a. If the information and documents for at least one of the principal officers or board members complies with the A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall issue:
 - i. A dispensary agent registry identification card to any principal officer or board member whose dispensary agent registry identification card application complies with A.R.S. Title 36, Chapter 28.1 and this Chapter; and
 - ii. The dispensary registration certificate.
 - b. If the information and documents for a dispensary agent registry identification card application for any principal officer or board member does not comply with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall deny the dispensary agent registry identification card application and provide notice to the principal officer or board member and to the dispensary that includes:
 - i. The specific reasons for the denial; and
 - ii. The process for requesting a judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.
- G.** The Department shall issue:
1. A registry identification card or an approval to operate a dispensary, as applicable, if the Department determines that the applicant complies with A.R.S. Title 36, Chapter 28.1 and this Chapter;
 2. For an applicant for a registry identification card, a denial that includes the reason for the denial and the process for requesting judicial review if:
 - a. The Department determines that the applicant does not comply with A.R.S. Title 36, Chapter 28.1 and this Chapter; or
 - b. The applicant does not submit all of the information and documents listed in the written comprehensive request or supplemental request for information within 10 working days after the date of the comprehensive written request or supplemental request for information;
 3. For an applicant for a dispensary registration certificate, if the Department determines that the dispensary registration

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certificate application complies with A.R.S. Title 36, Chapter 28.1 and this Chapter but the Department is not issuing a dispensary registration certificate to the applicant because all available dispensary registration certificates have been allocated according to the criteria and processes in ~~R9-17-302 and~~ R9-17-303, written notice that:

- a. The dispensary registration certificate application complies with A.R.S. Title 36, Chapter 28.1 and this Chapter;
 - b. The applicant was not allocated a dispensary registration certificate according to the criteria and processes in ~~R9-17-302 and~~ R9-17-303; and
 - c. The written notice is not a denial and is not considered a final decision of the Department subject to administrative review; or
4. For an applicant for a dispensary registration certificate, a denial that includes the reason for the denial and the process for administrative review if:
- a. The Department determines that a dispensary registration certificate application does not comply with A.R.S. Title 36, Chapter 28.1 or this Chapter; or
 - b. The applicant does not submit all of the information and documents listed in the written comprehensive request or supplemental request for information within 10 working days after the date of the comprehensive written request or supplemental request for information.

Table 1.1. Time-frames

Type of approval	Authority (A.R.S. § or A.A.C.)	Overall Time-frame (in working days)	Time-frame for applicant to complete application (in working days)	Administrative Completeness Time-frame (in working days)	Substantive Review Time-frame (in working days)
Changing a registry identification card	36-2808	10	10	5	5
Requesting a replacement registry identification card	36-2804.06	5	5	2	3
Applying for a registry identification card for a qualifying patient or a designated caregiver	36-2804.02(A)	15	30	5	10
Amending a registry identification card for a qualifying patient or a designated caregiver	36-2808	10	10	5	5
Renewing a qualifying patient's or designated caregiver's registry identification card	36-2804.02(A) and 36-2804.06	15	15	5	10
Applying for a dispensary registration certificate	36-2804	45 <u>30</u>	10	45 <u>5</u>	30 <u>25</u>
Applying for approval to operate a dispensary	R9-17-305	45	40	15	30
Changing a dispensary location or adding or changing a dispensary's cultivation site location	36-2804 and R9-17-307	90	90	30	60
Renewing a dispensary registration certificate	36-2804.06	15	15	5	10
Applying for a dispensary agent registry identification card	36-2804.01 and 36-2804.03	15	30	5	10
Renewing a dispensary agent's registry identification card	36-2804.06	15	15	5	10

R9-17-109. Notifications and Void Registry Identification Cards

- A. The Department shall provide written notice that a cardholder's registry identification card is void and no longer valid under A.R.S. Title 36, Chapter 28.1 and this Chapter to a:
1. Qualifying patient when the Department receives notification from:
 - a. The qualifying patient that the qualifying patient no longer has a debilitating medical condition; or
 - b. The physician who provided the qualifying patient's written certification that the:
 - i. Qualifying patient no longer has a debilitating medical condition,
 - ii. Physician no longer believes that the qualifying patient would receive therapeutic or palliative benefit from the medical use of marijuana, or
 - iii. Physician believes that the qualifying patient is not using the medical marijuana as recommended;
 2. Designated caregiver when:
 - a. The Department receives notification from the designated caregiver's qualifying patient that the designated caregiver no longer assists the qualifying patient with the medical use of marijuana, or
 - b. The registry identification card for the qualifying patient that is listed on the designated caregiver's registry identification card is no longer valid; or
 3. Dispensary agent when:
 - a. The Department receives the written notification, required in R9-17-310(A)(9), that the dispensary agent:
 - i. No longer serves as a principal officer, board member, or medical director for the dispensary;
 - ii. Is no longer employed by ~~or contracted with~~ the dispensary; or
 - iii. No longer provides volunteer service at or on behalf of the dispensary; or
 - b. The registration certificate for the dispensary that is listed on the dispensary agent's registry identification card is no longer valid.
- B. The Department shall void a qualifying patient's registry identification card:
1. When the Department receives notification that the qualifying patient is deceased; or
 2. For a qualifying patient under 18 years of age, when the qualifying patient's designated caregiver's registry identification card is revoked.
- C. The written notice required in subsection (A) that a registry identification card is void is not a revocation and is not considered a final decision of the Department subject to judicial review.

ARTICLE 2. QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS

R9-17-202. Applying for a Registry Identification Card for a Qualifying Patient or a Designated Caregiver

- A. Except for a qualifying patient who is under 18 years of age, a qualifying patient is not required to have a designated caregiver.
- B. A qualifying patient may have only one designated caregiver at any given time.
- C. Except for a qualifying patient who is under 18 years of age, if the information submitted for a qualifying patient complies with A.R.S. Title 36, Chapter 28.1 and this Chapter but the information for the qualifying patient's designated caregiver does not comply with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall issue the registry identification card for the qualifying patient separate from issuing a registry identification card for the qualifying patient's designated caregiver.
- D. If the Department issues a registry identification card to a qualifying patient under subsection (C), the Department shall continue the process for issuing or denying the qualifying patient's designated caregiver's registry identification card.
- E. The Department shall not issue a designated caregiver's registry identification card before the Department issues the designated caregiver's qualifying patient's registry identification card.
- F. Except as provided in subsection (G), to apply for a registry identification card, a qualifying patient shall submit to the Department the following:
1. An application in a Department-provided format that includes:
 - a. The qualifying patient's:
 - i. First name; middle initial, if applicable; last name; and suffix, if applicable;
 - ii. Date of birth; and
 - iii. Gender;
 - b. Except as provided in subsection (F)(1)(i), the qualifying patient's residence address and mailing address;
 - c. The county where the qualifying patient resides;
 - d. The qualifying patient's e-mail address;
 - e. The identifying number on the applicable card or document in subsection (F)(2)(a) through (e);
 - f. The name, address, and telephone number of the physician providing the written certification for medical marijuana for the qualifying patient;
 - g. Whether the qualifying patient is requesting authorization for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient believes that the qualifying patient resides at least 25 miles

- from the nearest operating dispensary;
 - h. If the qualifying patient is requesting authorization for cultivating marijuana plants, whether the qualifying patient is designating the qualifying patient's designated caregiver to cultivate marijuana plants for the qualifying patient's medical use;
 - i. If the qualifying patient is homeless, an address where the qualifying patient can receive mail;
 - j. Whether the qualifying patient would like notification of any clinical studies needing human subjects for research on the medical use of marijuana;
 - k. An attestation that the information provided in the application is true and correct; and
 - l. The signature of the qualifying patient and date the qualifying patient signed;
2. A copy of the qualifying patient's:
- a. Arizona driver's license issued on or after October 1, 1996;
 - b. Arizona identification card issued on or after October 1, 1996;
 - c. Arizona registry identification card;
 - d. Photograph page in the qualifying patient's U.S. passport; or
 - e. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the qualifying patient:
 - i. Birth certificate verifying U.S. citizenship,
 - ii. U.S. Certificate of Naturalization, or
 - iii. U.S. Certificate of Citizenship;
3. A current photograph of the qualifying patient;
4. A statement in a Department-provided format signed by the qualifying patient pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
5. A physician's written certification in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's application that includes:
- a. The physician's:
 - i. Name,
 - ii. License number including an identification of the physician license type,
 - iii. Office address on file with the physician's licensing board,
 - iv. Telephone number on file with the physician's licensing board, and
 - v. E-mail address;
 - b. The qualifying patient's name and date of birth;
 - c. A statement that the physician has made or confirmed a diagnosis of a debilitating medical condition as defined in A.R.S. § 36-2801 for the qualifying patient;
 - d. An identification, initialed by the physician, of + one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
 - e. If the debilitating medical condition identified in subsection (F)(5)(d) is a condition in:
 - i. R9-17-201(9) through (13), the underlying chronic or debilitating disease or medical condition; or
 - ii. R9-17-201(14), the debilitating medical condition;
 - f. A statement, initialed by the physician, that the physician:
 - i. Has established a medical record for the qualifying patient, and
 - ii. Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
 - g. A statement, initialed by the physician, that the physician has conducted an in-person physical examination of the qualifying patient within the previous 90 calendar days appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed or confirmed by the physician;
 - h. The date the physician conducted the in-person physical examination of the qualifying patient;
 - i. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
 - i. Medical records including medical records from other treating physicians from the previous 12 months,
 - ii. Response to conventional medications and medical therapies, and
 - iii. Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
 - j. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient;
 - k. A statement, initialed by the physician, that in the physician's professional opinion, the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
 - l. A statement, initialed by the physician, that if the physician has referred the qualifying patient to a dispensary, the physician has disclosed to the qualifying patient any personal or professional relationship the physician has with the dispensary;
 - m. An attestation that the information provided in the written certification is true and correct; and

- n. The physician's signature and the date the physician signed;
6. If the qualifying patient is designating a caregiver, the following in a Department-provided format:
 - a. The designated caregiver's first name; middle initial, if applicable; last name; and suffix, if applicable;
 - b. The designated caregiver's date of birth;
 - c. The designated caregiver's residence address and mailing address;
 - d. The county where the designated caregiver resides;
 - e. The identifying number on the applicable card or document in subsection (F)(6)(i)(i) through (v);
 - f. One of the following:
 - i. A statement that the designated caregiver does not currently hold a valid registry identification card, or
 - ii. The assigned registry identification number for the designated caregiver for each valid registry identification card currently held by the designated caregiver;
 - g. An attestation signed and dated by the designated caregiver that the designated caregiver has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
 - h. A statement signed by the designated caregiver:
 - i. Agreeing to assist the qualifying patient with the medical use of marijuana; and
 - ii. Pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
 - i. A copy of the designated caregiver's:
 - i. Arizona driver's license issued on or after October 1, 1996;
 - ii. Arizona identification card issued on or after October 1, 1996;
 - iii. Arizona registry identification card;
 - iv. Photograph page in the designated caregiver's U.S. passport; or
 - v. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the designated caregiver:
 - (1) Birth certificate verifying U.S. citizenship,
 - (2) U.S. Certificate of Naturalization, or
 - (3) U.S. Certificate of Citizenship;
 - j. A current photograph of the designated caregiver; and
 - k. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
 - i. The designated caregiver's fingerprints on a fingerprint card that includes:
 - (1) The designated caregiver's first name; middle initial, if applicable; and last name;
 - (2) The designated caregiver's signature;
 - (3) If different from the designated caregiver, the signature of the individual physically rolling the designated caregiver's fingerprints;
 - (4) The designated caregiver's address;
 - (5) If applicable, the designated caregiver's surname before marriage and any names previously used by the designated caregiver;
 - (6) The designated caregiver's date of birth;
 - (7) The designated caregiver's Social Security number;
 - (8) The designated caregiver's citizenship status;
 - (9) The designated caregiver's gender;
 - (10) The designated caregiver's race;
 - (11) The designated caregiver's height;
 - (12) The designated caregiver's weight;
 - (13) The designated caregiver's hair color;
 - (14) The designated caregiver's eye color; and
 - (15) The designated caregiver's place of birth; or
 - ii. If the designated caregiver's fingerprints and information required in subsection (F)(6)(k)(i) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application; and
7. The applicable fees in R9-17-102 for applying for:
 - a. A qualifying patient registry identification card; and
 - b. If applicable, a designated caregiver registry identification card.
- G. To apply for a registry identification card for a qualifying patient who is under 18 years of age, the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient shall submit to the Department the following:
 1. An application in a Department-provided format that includes:
 - a. The qualifying patient's:

- i. First name; middle initial, if applicable; last name; and suffix, if applicable;
 - ii. Date of birth; and
 - iii. Gender;
 - b. The qualifying patient's residence address and mailing address;
 - c. The county where the qualifying patient resides;
 - d. The qualifying patient's custodial parent's or legal guardian's first name; middle initial, if applicable; last name; and suffix, if applicable;
 - e. The identifying number on the applicable card or document in subsection (G)(5)(a) through (e);
 - f. The qualifying patient's custodial parent's or legal guardian's residence address and mailing address;
 - g. The county where the qualifying patient's custodial parent or legal guardian resides;
 - h. The qualifying patient's custodial parent's or legal guardian's e-mail address;
 - i. The name, address, and telephone number of a physician who has a physician-patient relationship with the qualifying patient and is providing the written certification for medical marijuana for the qualifying patient;
 - j. The name, address, and telephone number of a second physician who has conducted a comprehensive review of the patient's medical record maintained by other treating physicians, and is providing a written certification for medical marijuana for the qualifying patient;
 - k. The qualifying patient's custodial parent's or legal guardian's date of birth;
 - l. Whether the qualifying patient's custodial parent or legal guardian is requesting authorization for cultivating medical marijuana plants for the qualifying patient's medical use because the qualifying patient's custodial parent or legal guardian believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
 - m. Whether the qualifying patient's custodial parent or legal guardian would like notification of any clinical studies needing human subjects for research on the medical use of marijuana;
 - n. Whether the individual submitting the application on behalf of the qualifying patient under 18 years of age is the qualifying patient's custodial parent or legal guardian;
 - o. One of the following:
 - i. A statement that the qualifying patient's custodial parent or legal guardian does not currently hold a valid registry identification card, or
 - ii. The assigned registry identification number for the qualifying patient's custodial parent or legal guardian for each valid registry identification card currently held by the qualifying patient's custodial parent or legal guardian;
 - p. An attestation that the information provided in the application is true and correct; and
 - q. The signature of the qualifying patient's custodial parent or legal guardian and the date the qualifying patient's custodial parent or legal guardian signed;
2. A current photograph of the:
 - a. Qualifying patient, and
 - b. Qualifying patient's custodial parent or legal guardian serving as the qualifying patient's designated caregiver;
3. An attestation in a Department-provided format signed and dated by the qualifying patient's custodial parent or legal guardian that the qualifying patient's custodial parent or legal guardian has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
4. A statement in a Department-provided format signed by the qualifying patient's custodial parent or legal guardian who is serving as the qualifying patient's designated caregiver:
 - a. Allowing the qualifying patient's medical use of marijuana;
 - b. Agreeing to assist the qualifying patient with the medical use of marijuana; and
 - c. Pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
5. A copy of one of the following for the qualifying patient's custodial parent or legal guardian:
 - a. Arizona driver's license issued on or after October 1, 1996;
 - b. Arizona identification card issued on or after October 1, 1996;
 - c. Arizona registry identification card;
 - d. Photograph page in the qualifying patient's custodial parent or legal guardian U.S. passport; or
 - e. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the qualifying patient's custodial parent or legal guardian:
 - i. Birth certificate verifying U.S. citizenship,
 - ii. U. S. Certificate of Naturalization, or
 - iii. U. S. Certificate of Citizenship;
6. If the individual submitting the application on behalf of a qualifying patient is the qualifying patient's legal guardian, a copy of documentation establishing the individual as the qualifying patient's legal guardian;
7. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:

- a. The qualifying patient's custodial parent or legal guardian's fingerprints on a fingerprint card that includes:
 - i. The qualifying patient's custodial parent or legal guardian's first name; middle initial, if applicable; and last name;
 - ii. The qualifying patient's custodial parent or legal guardian's signature;
 - iii. If different from the qualifying patient's custodial parent or legal guardian, the signature of the individual physically rolling the qualifying patient's custodial parent's or legal guardian's fingerprints;
 - iv. The qualifying patient's custodial parent's or legal guardian's address;
 - v. If applicable, the qualifying patient's custodial parent's or legal guardian's surname before marriage and any names previously used by the qualifying patient's custodial parent or legal guardian;
 - vi. The qualifying patient's custodial parent's or legal guardian's date of birth;
 - vii. The qualifying patient's custodial parent's or legal guardian's Social Security number;
 - viii. The qualifying patient's custodial parent's or legal guardian's citizenship status;
 - ix. The qualifying patient's custodial parent's or legal guardian's gender;
 - x. The qualifying patient's custodial parent's or legal guardian's race;
 - xi. The qualifying patient's custodial parent's or legal guardian's height;
 - xii. The qualifying patient's custodial parent's or legal guardian's weight;
 - xiii. The qualifying patient's custodial parent's or legal guardian's hair color;
 - xiv. The qualifying patient's custodial parent's or legal guardian's eye color; and
 - xv. The qualifying patient's custodial parent's or legal guardian's place of birth; or
 - b. If the qualifying patient's custodial parent's or legal guardian's fingerprints and information required in subsection (G)(7)(a) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the qualifying patient's custodial parent or legal guardian as a result of the application;
8. A written certification from the physician in subsection (G)(1)(i) and a separate written certification from the physician in (G)(1)(j) in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's application that includes:
- a. The physician's:
 - i. Name,
 - ii. License number including an identification of the physician license type,
 - iii. Office address on file with the physician's licensing board,
 - iv. Telephone number on file with the physician's licensing board, and
 - v. E-mail address;
 - b. The qualifying patient's name and date of birth;
 - c. An identification of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
 - d. If the debilitating medical condition identified in subsection (G)(9)(c) is a condition in:
 - i. R9-17-201(9) through (13), the underlying chronic or debilitating disease or medical condition; or
 - ii. R9-17-201(14), the debilitating medical condition;
 - e. For the physician listed in subsection (G)(1)(i):
 - i. A statement that the physician has made or confirmed a diagnosis of a debilitating medical condition as defined in A.R.S. § 36-2801 for the qualifying patient;
 - ii. A statement, initialed by the physician, that the physician:
 - (1) Has established a medical record for the qualifying patient, and
 - (2) Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
 - iii. A statement, initialed by the physician, that the physician has conducted an in-person physical examination of the qualifying patient within the previous 90 calendar days appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed or confirmed by the physician;
 - iv. The date the physician conducted the in-person physical examination of the qualifying patient;
 - v. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
 - (1) Medical records including medical records from other treating physicians from the previous 12 months,
 - (2) Response to conventional medications and medical therapies, and
 - (3) Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database; and
 - vi. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the use of medical marijuana to the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient;

- f. For the physician listed in subsection (G)(1)(j), a statement, initialed by the physician, that the physician conducted a comprehensive review of the qualifying patient's medical records from other treating physicians;
 - g. A statement, initialed by the physician, that, in the physician's professional opinion, the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
 - h. A statement, initialed by the physician, that if the physician has referred the qualifying patient's custodial parent or legal guardian to a dispensary, the physician has disclosed to the qualifying patient any personal or professional relationship the physician has with the dispensary;
 - i. An attestation that the information provided in the written certification is true and correct; and
 - j. The physician's signature and the date the physician signed; and
9. The applicable fees in R9-17-102 for applying for a:
- a. Qualifying patient registry identification card, and
 - b. Designated caregiver registry identification card.
- H.** For purposes of this Article, "25 miles" includes the area contained within a circle that extends for 25 miles in all directions from a specific location.
- I.** For purposes of this Article, "residence address" when used in conjunction with a qualifying patient means:
- 1. The street address including town or city and zip code assigned by a local jurisdiction; or
 - 2. For property that does not have a street address assigned by a local jurisdiction, the legal description of the property on the title documents recorded by the assessor of the county in which the property is located.

R9-17-203. Amending a Qualifying Patient's or Designated Caregiver's Registry Identification Card

- A.** To add a designated caregiver or to request a change of a qualifying patient's designated caregiver, the qualifying patient shall submit to the Department, within 10 working days after the addition or the change, the following:
- 1. An application in a Department-provided format that includes:
 - a. The qualifying patient's name and the registry identification number on the qualifying patient's current registry identification card;
 - b. If applicable, the name of the qualifying patient's current designated caregiver and the date the designated caregiver last provided or will last provide assistance to the qualifying patient;
 - c. The name of the individual that the qualifying patient is designating as caregiver; and
 - d. The signature of the qualifying patient and date the qualifying patient signed;
 - 2. For the caregiver the qualifying patient is designating:
 - a. The designated caregiver's first name; middle initial, if applicable; last name; and suffix, if applicable;
 - b. The designated caregiver's date of birth;
 - c. The designated caregiver's residence address and mailing address;
 - d. The county where the designated caregiver resides;
 - e. The identifying number on the applicable card or document in subsection (A)(2)(i)(i) through (v);
 - f. One of the following:
 - i. A statement that the designated caregiver does not currently hold a valid registry identification card, or
 - ii. The assigned registry identification number for the designated caregiver for each valid registry identification card currently held by the designated caregiver;
 - g. An attestation in a Department-provided format signed and dated by the designated caregiver that the designated caregiver has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
 - h. A statement in a Department-provided format signed by the designated caregiver:
 - i. Agreeing to assist the qualifying patient with the medical use of marijuana; and
 - ii. Pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
 - i. A copy the designated caregiver's:
 - i. Arizona driver's license issued on or after October 1, 1996;
 - ii. Arizona identification card issued on or after October 1, 1996;
 - iii. Arizona registry identification card;
 - iv. Photograph page in the designated caregiver's U.S. passport; or
 - v. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the designated caregiver:
 - (1) Birth certificate verifying U.S. citizenship,
 - (2) U. S. Certificate of Naturalization, or
 - (3) U. S. Certificate of Citizenship;
 - j. A current photograph of the designated caregiver; and
 - k. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
 - i. The designated caregiver's fingerprints on a fingerprint card that includes:

- (1) The designated caregiver's first name; middle initial, if applicable; and last name;
 - (2) The designated caregiver's signature;
 - (3) If different from the designated caregiver, the signature of the individual physically rolling the designated caregiver's fingerprints;
 - (4) The designated caregiver's address;
 - (5) If applicable, the designated caregiver's surname before marriage and any names previously used by the designated caregiver;
 - (6) The designated caregiver's date of birth;
 - (7) The designated caregiver's Social Security number;
 - (8) The designated caregiver's citizenship status;
 - (9) The designated caregiver's gender;
 - (10) The designated caregiver's race;
 - (11) The designated caregiver's height;
 - (12) The designated caregiver's weight;
 - (13) The designated caregiver's hair color;
 - (14) The designated caregiver's eye color; and
 - (15) The designated caregiver's place of birth; or
- ii. If the designated caregiver's fingerprints and information required in subsection (A)(2)(k)(i) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent within the previous six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application; and
3. The applicable fee in R9-17-102 for applying for a designated caregiver registry identification card.
- B.** To amend a qualifying patient's address on the qualifying patient's registry identification card when the qualifying patient or the qualifying patient's designated caregiver is authorized to cultivate marijuana, the qualifying patient shall submit to the Department, within 10 working days after the change in address, the following:
1. The qualifying patient's name and the registry identification number on the qualifying patient's current registry identification card;
 2. The qualifying patient's new address;
 3. The county where the new address is located;
 4. The name of the qualifying patient's designated caregiver, if applicable;
 5. Whether the qualifying patient is requesting authorization for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
 6. If the qualifying patient is requesting authorization for cultivating marijuana plants, whether the qualifying patient is designating the qualifying patient's designated caregiver to cultivate marijuana plants for the qualifying patient's medical use;
 7. The effective date of the qualifying patient's new address; and
 8. The applicable fee in R9-17-102 for applying to:
 - a. Amend a qualifying patient's registry identification card; and
 - b. If the qualifying patient is designating a designated caregiver for cultivation authorization, amend a designated caregiver's registry identification card.
- C.** To request authorization to cultivate marijuana based on a qualifying patient's current address or a new address, the qualifying patient shall submit to the Department, if applicable within 10 working days after the change in address, the following:
1. The qualifying patient's name and the registry identification number on the qualifying patient's current registry identification card;
 2. If the qualifying patient's address is a new address, the qualifying patient's:
 - a. Current address,
 - b. New address,
 - c. The county where the new address is located, and
 - d. The effective date of the qualifying patient's new address;
 3. The name of the qualifying patient's designated caregiver, if applicable;
 4. Whether the qualifying patient is requesting authorization for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
 5. If the qualifying patient is requesting authorization for cultivating marijuana plants, whether the qualifying patient is designating the qualifying patient's designated caregiver to cultivate marijuana plants for the qualifying patient's medical use; and
 6. The applicable fee in R9-17-102 for applying to:

- a. Amend a qualifying patient's registry identification card; and
- b. If the qualifying patient is designating a designated caregiver for cultivation authorization, amend a designated caregiver's registry identification card.

ARTICLE 3. DISPENSARIES AND DISPENSARY AGENTS

R9-17-302. Evaluation of Dispensary Registration Certificate Applications Repealed

- A.** If more than one dispensary registration certificate application, that is complete and in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter, is received for a single CHAA, the Department shall review the dispensary registration certificate applications for the CHAA to determine if:
1. Each applicant, principal officer, or board member associated with a dispensary registration certificate application has submitted Arizona resident personal income tax returns for the previous three years with the dispensary registration certificate application;
 2. Each applicant, principal officer, or board member associated with a dispensary registration certificate application:
 - a. Is current on paying court-ordered child support;
 - b. Is not delinquent paying taxes, interest, or penalties due to a governmental agency;
 - c. Does not have an unpaid judgment due to a governmental agency; and
 - d. Is not in default on a government-issued student loan;
 3. Each individual who has 20% or more interest in the dispensary is the applicant or a principal officer or board member of the dispensary;
 4. Each applicant, principal officer, or board member has never:
 - a. Filed for personal bankruptcy; or
 - b. Been a principal officer of a business entity that filed for bankruptcy; and
 5. Documentation was submitted with the dispensary registration certificate application that:
 - a. Is from an in-state financial institution or an out-of-state financial institution;
 - b. Is dated within 30 days before the date the dispensary registration certificate application was submitted; and
 - c. Demonstrates that the entity applying for the dispensary registration certificate or a principal officer of the entity:
 - i. Has at least \$150,000 under the control of the entity or principal officer to begin operating the dispensary; and
 - ii. Has had control of the \$150,000 in subsection (A)(5)(c)(i) (A)(2)(c)(i) for at least 30 calendar days before the date the dispensary registration certificate application was submitted.
- B.** The Department shall process the dispensary registration certificate applications to allocate a dispensary registration certificate in a CHAA for each dispensary registration certificate assigned to the CHAA as follows:
1. The Department shall review all dispensary registration certificate applications received for the CHAA to determine if each application meets the criteria in subsection (A)(1);
 2. If the Department determines that only one of the reviewed dispensary registration certificate applications meets the criteria in subsection (A)(1), the Department shall allocate a dispensary registration certificate to that applicant;
 3. If the Department determines that none of the reviewed dispensary registration certificate applications meets the criteria in subsection (A)(1), the Department shall randomly select one dispensary registration certificate application and allocate a dispensary registration certificate to that applicant;
 4. If the Department determines that more than one or all of the reviewed dispensary registration certificate applications meet the criteria in subsection (A)(1), the Department shall review those applications that meet the criteria in subsection (A)(1) for the criteria in subsection (A)(2);
 5. If the Department determines that only one of the reviewed dispensary registration certificate applications meets the criteria in subsection (A)(2), the Department shall allocate a dispensary registration certificate to that applicant;
 6. If the Department determines that none of the reviewed dispensary registration certificate applications meets the criteria in subsection (A)(2), the Department shall randomly select one dispensary registration certificate application that meets the criteria in subsection (A)(1) and allocate a dispensary registration certificate to that applicant; and
 7. If the Department determines that more than one or all of the reviewed dispensary registration certificate applications meet the criteria in subsection (A)(2), the Department shall review those applications that meet the criteria in subsection (A)(2) for the criteria in subsection (A)(3) randomly select one of the dispensary registration certificate applications that meet the criteria in subsection (A)(2) and allocate a dispensary registration certificate to that applicant;
 8. If the Department determines that only one of the reviewed dispensary registration certificate applications meets the criteria in subsection (A)(3), the Department shall allocate a dispensary registration certificate to that applicant;
 9. If the Department determines that none of the reviewed dispensary registration certificate applications meets the criteria in subsection (A)(3), the Department shall randomly select one dispensary registration certificate application that meets the criteria in subsection (A)(2) and allocate a dispensary registration certificate to that applicant;

10. If the Department determines that more than one or all of the reviewed dispensary registration certificate applications meet the criteria in subsection (A)(3), the Department shall review those applications that meet the criteria in subsection (A)(3) for the criteria in subsection (A)(4);
 11. If the Department determines that only one of the reviewed dispensary registration certificate applications meets the criteria in subsection (A)(4), the Department shall allocate a dispensary registration certificate to that applicant;
 12. If the Department determines that none of the reviewed dispensary registration certificate applications meets the criteria in subsection (A)(4), the Department shall randomly select one dispensary registration certificate application that meets the criteria in subsection (A)(3) and allocate a dispensary registration certificate to that applicant;
 13. If the Department determines that more than one or all of the reviewed dispensary registration certificate applications meet the criteria in subsection (A)(4), the Department shall review those applications that meet the criteria in subsection (A)(4) for the criteria in subsection (A)(5);
 14. If the Department determines that only one of the reviewed dispensary registration certificate applications meets the criteria in subsection (A)(5), the Department shall allocate a dispensary registration certificate to that applicant;
 15. If the Department determines that none of the reviewed dispensary registration certificate applications or all of the dispensary registration certificate applications meet the criteria in subsection (A)(5), the Department shall randomly select one dispensary registration certificate application that meets the criteria in subsection (A)(4) and allocate a dispensary registration certificate to that applicant; and
 16. If the Department determines that more than one of the reviewed dispensary registration certificate applications meet the criteria in subsection (A)(5), the Department shall randomly select one of the dispensary registration certificate applications that meet the criteria in subsection (A)(5) and allocate a dispensary registration certificate to that applicant.
- ~~C.~~ If an applicant submits more than one dispensary registration certificate application, the documentation in subsection (A)(5)(A)(2) needs to demonstrate there is at least \$150,000 available for each dispensary registration certificate application submitted.

R9-17-303. Dispensary Registration Certificate Allocation Process

- ~~A.~~ The Department shall review dispensary registration certificate applications and issue dispensary registration certificates according to the requirements in R9-17-107 and R9-17-302 this Section.
- ~~B.~~ Except as provided in subsection (C), the Department shall assign only one dispensary registration certificate allocation for each CHAA.
- ~~C.~~ A city or town that contains more than one CHAA may request the reassignment of a dispensary registration certificate allocation from one CHAA to another CHAA under the jurisdiction of the city or town by submitting a written request to the Department by June 1, 2011 30 calendar days after the posting in subsection (D) that contains:
1. The CHAAs involved in the reassignment;
 2. The reassignment requested; and
 3. The signature of the individual authorized to submit the request.
- ~~D.~~ The Department shall accept dispensary registration certificate applications for 30 calendar 10 working days beginning June 1, 2011 30 calendar days after the Department posts on the Department's website that the Department will be accepting dispensary registration certificate applications.
- ~~E.~~ If the Department receives:
1. Only one dispensary registration certificate application for a dispensary located in a CHAA that the Department determines is complete and is in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter by 60 calendar working days after June 1, 2011 the Department begins accepting applications, the Department shall allocate the dispensary registration certificate for the CHAA to that applicant; or
 2. More than one dispensary registration certificate application for a dispensary located in a CHAA that the Department determines are complete and are in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter, by 60 calendar working days after June 1, 2011 the Department begins accepting applications, the Department shall allocate a dispensary registration certificate according to R9-17-302 this Section.
- ~~F.A.~~ In May of each Each calendar year beginning in May 2012 2013, the Department shall review current valid dispensary registration certificates to determine if the Department may issue additional dispensary registration certificates pursuant to A.R.S. § 36-2804(C).
1. If the Department determines that the Department may issue additional dispensary registration certificates, the Department shall post, on the Department's web site, the information that the Department is accepting dispensary registration certificate applications, including the deadline for accepting dispensary registration certificate applications.
 - a. The Department shall post the information in subsection (F)(1) by the last working day of the month (A)(1) at least 30 calendar days before the date the Department begins accepting applications.
 - b. The deadline for submission of dispensary registration certificate applications is 30 calendar 10 working days after the date of posting in the Department begins accepting applications in subsection (F)(1)(a).
 - c. Sixty calendar working days after the date of posting in subsection (F)(1)(a) the Department begins accepting

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applications, the Department shall determine if the Department received more dispensary registration certificate applications that are complete and in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter to participate in the allocation process than the Department is allowed to issue.

- i. If the Department received more dispensary registration ~~certificates~~ certificate applications than the Department is allowed to issue, the Department shall allocate any available dispensary registration certificates according to the priorities established in subsection ~~(G)~~ (B).
 - ii. If the Department is allowed to issue a dispensary registration certificate for each dispensary registration certificate application the Department received, the Department shall allocate the dispensary registration certificates to those applicants.
2. If the Department determines that the Department is not allowed to issue additional dispensary registration certificates, the Department shall, on the Department's web site:
- a. Post the information that the Department is not accepting dispensary registration certificate applications, and
 - b. Maintain the information until the next review.

~~G.B.~~ B. Beginning in ~~May 2012~~ 2013, if the Department receives, by 60 ~~calendar~~ working days after the date the Department begins accepting applications ~~posted the notice in subsection (F)(1)(a)~~, more dispensary registration certificate applications that are complete and are in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter to participate in the allocation process than the Department is allowed to issue, the Department shall allocate the dispensary registration certificates according to the following criteria:

1. If dispensary registration certificate applications are received for a county that does not contain a dispensary:
 - a. If only one dispensary registration certificate application for a dispensary located in the county is received, the Department shall allocate the dispensary registration certificate to that applicant; or
 - b. If more than one dispensary registration certificate application for a dispensary located in the county is received, the Department shall prioritize and allocate a dispensary registration certificate to an applicant whose proposed dispensary location will provide dispensary services to the most qualifying patients based on:
 - i. The number of registry identification cards issued to qualifying patients who reside within 10 miles of the applicant's proposed dispensary location, and
 - ii. The number of dispensaries operating within 10 miles of the applicant's proposed dispensary location;
2. If there are additional dispensary registration certificates available after dispensary registration certificates are allocated according to subsection ~~(G)(1)~~ (B)(1), ~~and if dispensary registration certificate applications are received for a location in a CHAA that does not contain a dispensary and whose dispensary registration certificate has not been reassigned under subsection (C)~~, the Department shall allocate the dispensary registration certificates as follows:
 - ~~a.~~ a. If the Department receives dispensary registration certificate applications for a dispensary in more CHAAs, ~~that do not contain a dispensary and whose dispensary registration certificates have not been reassigned under subsection (C), than there are dispensary registration certificates available~~, the Department shall prioritize and assign a dispensary registration certificate allocation to a CHAA based on which CHAA has the most registry identification cards issued to qualifying patients who reside within the CHAA;
 - ~~b.a.~~ b.a. If the Department receives only one dispensary registration certificate application for a dispensary located in ~~the~~ a CHAA is received assigned a dispensary registration certificate allocation under subsection (B)(2), the Department shall allocate the dispensary registration certificate to that applicant; ~~or~~
 - ~~e.b.~~ b. If the Department receives more than one dispensary registration certificate application for a dispensary located in ~~the~~ a CHAA assigned a dispensary registration certificate allocation under subsection (B)(2), the Department shall prioritize and allocate dispensary registration certificates to an applicant whose proposed dispensary location will provide dispensary services to the most qualifying patients based on:
 - i. The number of registry identification cards issued to qualifying patients who reside within 10 miles of the applicant's proposed dispensary location, and
 - ii. The number of dispensaries operating within 10 miles of the applicant's proposed dispensary location;
3. If there are additional dispensary registration certificates available after dispensary registration certificates are allocated according to subsections ~~(G)(1)~~ (B)(1) and (2), for all dispensary registration certificate applications not allocated a dispensary registration certificate pursuant to subsections ~~(G)(1)~~ (B)(1) and (2) and any other dispensary registration certificate applications received, the Department shall prioritize and allocate a dispensary registration certificate to an applicant whose proposed dispensary location will provide dispensary services to the most qualifying patients based on:
 - a. The number of registry identification cards issued to qualifying patients who reside within 10 miles of the applicant's proposed dispensary location, and
 - b. The number of dispensaries operating within 10 miles of the applicant's proposed dispensary location; and
4. If there is a tie or a margin of 0.1% or less in the scores generated by applying the criteria in subsection ~~(G)~~ (B)(3), the Department shall randomly select one dispensary registration certificate application from the dispensary registration certificate applicant that had tied scores or had scores that were within a margin of 0.1% or less and allocate a dispensary registration certificate to that applicant.

- ~~H.C.~~ For purposes of subsection ~~(G)~~ (B), “10 miles” includes the area contained within a circle that extends for 10 miles in all directions from a specific location.
- ~~H.D.~~ If the Department does not allocate a dispensary registration certificate to an applicant that had submitted a dispensary registration certificate application that the Department determined was complete and in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter to participate in the allocation process, the Department shall:
1. Provide a written notice to the applicant that states that, although the applicant’s dispensary registration certificate application was complete and complied with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department did not allocate the applicant a dispensary registration certificate under the processes in ~~R9-17-302~~ and this Section; and
 2. Return \$1,000 of the application fee to the applicant.
- ~~H.E.~~ If the Department receives a dispensary registration certificate application at a time other than the time stated in subsection ~~(D)~~ ~~or (F)~~ (B), the Department shall return the dispensary registration certificate application, including the application fee, to the entity that submitted the dispensary registration certificate application.

R9-17-304. Applying for a Dispensary Registration Certificate

- A.** An individual shall not be an applicant, principal officer, or board member on:
1. More than one dispensary registration certificate application for a location in a single CHAA, or
 2. More than five dispensary registration certificate applications for locations in different CHAAs.
- B.** If the Department determines that an individual is an applicant, principal officer, or board member on more than one dispensary registration certificate application for a CHAA or more than five dispensary registration certificate applications, the Department shall review the applications and provide the applicant on each of the dispensary registration certificate applications with a written comprehensive request for more information that includes the specific requirements in A.R.S. Title 36, Chapter 28.1 and this Chapter that the dispensary registration certificate application does not comply with.
1. If an applicant withdraws an application to comply with this Chapter and submits information demonstrating compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall process the applicant’s remaining dispensary registration certificate applications according to this Chapter.
 2. If an applicant does not withdraw an application or submit information demonstrating compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall issue a denial to the applicant according to R9-17-322.
 3. An application fee submitted with a dispensary registration certificate application in subsection (B) that is withdrawn is not refunded.
- ~~C.~~ ~~Each principal officer or board member of a dispensary is an Arizona resident and has been an Arizona resident for the three years immediately preceding the date the dispensary submits a dispensary registration certificate application.~~
- ~~D.C.~~ To apply for a dispensary registration certificate, an entity shall submit to the Department the following:
1. An application in a Department-provided format that includes:
 - a. The legal name of the dispensary;
 - b. The physical address of the proposed dispensary;
 - c. The following information for the entity applying:
 - i. Name,
 - ii. Type of business organization,
 - iii. Mailing address,
 - iv. Telephone number, and
 - v. E-mail address;
 - d. The name of the individual designated to submit dispensary agent registry identification card applications on behalf of the dispensary;
 - e. The name and license number of the dispensary’s medical director;
 - f. ~~Whether:~~
 - i. ~~Any individual who has 20% or more interest in the dispensary is not the applicant or a principal officer or board member of the dispensary; or~~
 - ii. ~~The applicant has submitted documentation that:~~
 - (1) ~~Is from an in state financial institution or an out of state financial institution;~~
 - (2) ~~Is dated within 30 calendar days before the date the dispensary registration certificate application was submitted; and~~
 - (3) ~~Demonstrates that the entity applying for the dispensary registration certificate or a principal officer of the entity has at least \$150,000 under the control of the entity or principal officer to begin operating the dispensary and has had control of the \$150,000 for at least 30 calendar days before the date the dispensary registration certificate application was submitted;~~
 - g.f. The name, residence address, and date of birth of each:
 - i. Principal officer, and
 - ii. Board member;
 - h.g. For each principal officer or board member, whether the principal officer or board member:

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- i. Has served as a principal officer or board member for a dispensary that had the dispensary registration certificate revoked;
 - ii. Is a physician currently providing written certifications for qualifying patients;
 - iii. Is a law enforcement officer; or
 - iv. Is employed by or a contractor of the Department;
 - v. ~~Has submitted Arizona resident personal income tax returns for the previous three years with the dispensary registration certificate application;~~
 - vi. ~~Is current on paying court-ordered child support;~~
 - vii. ~~Is delinquent paying taxes, interest, or penalties due to a governmental agency;~~
 - viii. ~~Has an unpaid judgment due to a governmental agency;~~
 - ix. ~~Is in default on a government-issued student loan;~~
 - x. ~~Has ever filed for personal bankruptcy; or~~
 - xi. ~~Has ever been a principal officer of a business entity that filed for bankruptcy;~~
 - i-h. Whether the ~~dispensary entity~~ agrees to allow the Department to submit supplemental requests for information;
 - j-l. A statement that, if the dispensary is issued a dispensary registration certificate, the dispensary will not operate until the dispensary is inspected and obtains an approval to operate from the Department;
 - k-j. An attestation that the information provided to the Department to apply for a dispensary registration certificate is true and correct; and
 - l-k. The signatures of the principal officers of the dispensary according to R9-17-301(A) and the date the principal officers signed;
2. If the entity applying is one of the business organizations in R9-17-301(A)(2) through (7), a copy of the business organization's articles of incorporation, articles of organization, or partnership or joint venture documents that include:
 - a. The name of the business organization,
 - b. The type of business organization, and
 - c. The names and titles of the individuals in R9-17-301(A) and (B);
 3. For each principal officer and board member:
 - a. An attestation signed and dated by the principal officer or board member that the principal officer or board member has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801; and
 - b. ~~An attestation signed and dated by the principal officer or board member that the principal officer or board member is an Arizona resident and has been an Arizona resident for at least three consecutive years immediately preceding the date the dispensary submitted the dispensary certificate application;~~
 - e-b. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
 - i. The principal officer's or board member's fingerprints on a fingerprint card that includes:
 - (1) The principal officer's or board member's first name; middle initial, if applicable; and last name;
 - (2) The principal officer's or board member's signature;
 - (3) If different from the principal officer or board member, the signature of the individual physically rolling the principal officer's or board member's fingerprints;
 - (4) The principal officer's or board member's residence address;
 - (5) If applicable, the principal officer's or board member's surname before marriage and any names previously used by the principal officer or board member;
 - (6) The principal officer's or board member's date of birth;
 - (7) The principal officer's or board member's Social Security number;
 - (8) The principal officer's or board member's citizenship status;
 - (9) The principal officer's or board member's gender;
 - (10) The principal officer's or board member's race;
 - (11) The principal officer's or board member's height;
 - (12) The principal officer's or board member's weight;
 - (13) The principal officer's or board member's hair color;
 - (14) The principal officer's or board member's eye color; and
 - (15) The principal officer's or board member's place of birth; or
 - ii. If the fingerprints and information required in subsection ~~(D)(3)(e)(i)~~ (C)(3)(b)(i) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the principal officer or board member as a result of the application; and
 - d. A copy of one of the following containing the principal officer's or board member's name and current residence address:
 - i. A non-expired Arizona driver's license;
 - ii. A non-expired Arizona identification card;

- iii. A current lease agreement;
 - iv. A mortgage statement for the most recent tax year;
 - v. A tax statement issued by a governmental agency for the most recent tax year;
 - vi. A utility bill dated within 60 calendar days before the date of the dispensary application;
 - vii. A paycheck or statement of direct deposit issued by an employer dated within 60 calendar days before the date of the dispensary application;
 - viii. Current motor vehicle, life, or health insurance policy; or
 - ix. Any other document that demonstrates that the principal officer or board member is an Arizona resident;
4. Policies and procedures that comply with the requirements in this Chapter for:
 - a. Inventory control,
 - b. Qualifying patient recordkeeping,
 - c. Security, and
 - d. Patient education and support;
 5. As required in A.R.S. § 36-2804(B)(1)(d), a sworn statement signed and dated by the individual or individuals in R9-17-301(A) certifying that the dispensary is in compliance with any local zoning restrictions;
 6. Documentation from the local jurisdiction where the dispensary's proposed physical address is located that:
 - a. There are no local zoning restrictions for the dispensary's location, or
 - b. The dispensary's location is in compliance with any local zoning restrictions;
 7. Documentation of:
 - a. Ownership of the physical address of the proposed dispensary, or
 - b. Permission from the owner of the physical address of the proposed dispensary for the entity applying for a dispensary registration certificate to operate a dispensary at the physical address;
 8. The dispensary's by-laws including:
 - a. The names and titles of individuals designated as principal officers and board members of the dispensary;
 - b. Whether the dispensary plans to:
 - i. Cultivate marijuana;
 - ii. Acquire marijuana from qualifying patients, designated caregivers, or other dispensaries;
 - iii. Sell or provide marijuana to other dispensaries;
 - iv. Transport marijuana;
 - v. Prepare, sell, or dispense marijuana-infused edible food products;
 - vi. Prepare, sell, or dispense marijuana-infused non-edible products;
 - vii. Sell or provide marijuana paraphernalia or other supplies related to the administration of marijuana to qualifying patients and designated caregivers;
 - viii. Deliver medical marijuana to qualifying patients; or
 - ix. Provide patient support and related services to qualifying patients;
 - c. Provisions for the disposition of revenues and receipts to ensure that the dispensary operates on a not-for-profit basis; and
 - d. Provisions for amending the dispensary's by-laws;
 9. A business plan demonstrating the on-going viability of the dispensary on a not-for-profit basis that includes:
 - a. A description of and total dollar amount of expenditures already incurred to establish the dispensary or to secure a dispensary registration certificate by the individual or business organization applying for the dispensary registration certificate,
 - b. A description and total dollar amount of monies or tangible assets received for operating the dispensary from entities other than the individual applying for the dispensary registration certificate or a principal officer or board member associated with the dispensary including the entity's name and the interest in the dispensary or the benefit the entity obtained,
 - c. Projected expenditures expected before the dispensary is operational,
 - d. Projected expenditures after the dispensary is operational, and
 - e. Projected revenue; and
 10. The applicable fee in R9-17-102 for applying for a dispensary registration certificate.
- ~~E.D.~~** Before an entity with a dispensary registration certificate begins operating a dispensary, the entity shall apply for and obtain an approval to operate a dispensary from the Department.

R9-17-308. Renewing a Dispensary Registration Certificate

- A. An entity with a dispensary registration certificate that has not submitted an application for approval to operate a dispensary to the Department at least 60 calendar days before the expiration date of the dispensary registration certificate or has not obtained an approval to operate a dispensary issued by the Department is prohibited from renewing the dispensary registration certificate.

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- B. To renew a dispensary registration certificate, a dispensary that has an approval to operate a dispensary issued by the Department, shall submit to the Department, at least 30 calendar days before the expiration date of the dispensary's current dispensary registration certificate, the following:
1. An application in a Department-provided format that includes:
 - a. The legal name of the dispensary;
 - b. The registry identification number for the dispensary;
 - c. The physical address of the dispensary;
 - d. The name of the entity applying;
 - e. The name of the individual designated to submit dispensary agent registry identification card applications on behalf of the dispensary;
 - f. The name and license number of the dispensary's medical director;
 - g. The dispensary's hours of operation during which the dispensary is available to dispense medical marijuana to qualifying patients and designated caregivers;
 - h. The name, address, date of birth, and registry identification number of each:
 - i. Principal officer,
 - ii. Board member, and
 - iii. Dispensary agent;
 - i. For each principal officer or board member, whether the principal officer or board member:
 - i. Has served as a principal officer or board member for a dispensary that had the dispensary registration certificate revoked,
 - ii. Is a physician currently providing written certifications for qualifying patients,
 - iii. Is a law enforcement officer, or
 - iv. Is employed by or a contractor of the Department;
 - j. The dispensary's Transaction Privilege Tax Number issued by the Arizona Department of Revenue;
 - k. Whether the dispensary agrees to allow the Department to submit supplemental requests for information;
 - l. An attestation that the information provided to the Department to renew the dispensary registration certificate is true and correct; and
 - m. The signature of the individual or individuals in R9-17-301(A) and the date the individual or individuals signed;
 - ~~2. An attestation from each principal officer and board member, signed and dated by the principal officer or board member, that the principal officer or board member is an Arizona resident and has been an Arizona resident for at least three consecutive years immediately preceding the date the dispensary submitted the application to renew the dispensary registration certificate;~~
 - ~~3-2.~~ If the application is for renewing a dispensary registration certificate that was initially issued within the previous 12 months, a copy of the dispensary's approval to operate a dispensary issued by the Department;
 - ~~4-3.~~ A copy of an annual financial statement for the previous year, or for the portion of the previous year the dispensary was operational, prepared according to generally accepted accounting principles;
 - ~~5-4.~~ A report of an audit by an independent certified public accountant of the annual financial statement required in subsection ~~(B)(4)~~ ~~(B)(3)~~; and
 - ~~6-5.~~ The applicable fee in R9-17-102 for applying to renew a dispensary registration certificate.

R9-17-309. Inspections

- A. Submission of an application for a dispensary registration certificate constitutes permission for entry to and inspection of the dispensary and, if applicable, the dispensary's cultivation site.
- B. Except as provided in subsection (D), an onsite inspection of a dispensary or the dispensary's cultivation site shall occur at a date and time agreed to by the dispensary and the Department that is no later than five working days after the date the Department submits a written request to the dispensary to schedule the certification or compliance inspection, unless the Department agrees to a later date and time.
- C. The Department shall not accept allegations of a dispensary's noncompliance with A.R.S. Title 36, Chapter 28.1 or this Chapter from an anonymous source.
- D. If the Department receives an allegation of a dispensary's or a dispensary's cultivation site's noncompliance with A.R.S. Title 36, Chapter 28.1 or this Chapter, the Department may conduct an unannounced inspection of the dispensary or the dispensary's cultivation site.
- E. If the Department identifies a violation of ~~statute or rule of~~ A.R.S. Title 36, Chapter 28.1 or this Chapter during an inspection of a dispensary or the dispensary's cultivation site:
 1. The Department shall provide the dispensary with a written notice that includes the specific rule or statute that was violated; and
 2. The dispensary shall notify the Department in writing, with a postmark date within 20 working days after the date of the notice of violations, identifying the corrective actions taken and the date of the correction.

R9-17-310. Administration

A. A dispensary shall:

1. Ensure that the dispensary is operating and available to dispense medical marijuana to qualifying patients and designated caregivers at least 30 hours weekly between the hours of 7:00 a.m. and 10:00 p.m.;
2. Develop, document, and implement policies and procedures regarding:
 - a. Job descriptions and employment contracts, including:
 - i. Personnel duties, authority, responsibilities, and qualifications;
 - ii. Personnel supervision;
 - iii. Training in and adherence to confidentiality requirements;
 - iv. Periodic performance evaluations; and
 - v. Disciplinary actions;
 - b. Business records, such as manual or computerized records of assets and liabilities, monetary transactions, journals, ledgers, and supporting documents, including agreements, checks, invoices, and vouchers;
 - c. Inventory control, including:
 - i. Tracking;
 - ii. Packaging;
 - iii. Accepting marijuana from qualifying patients and designated caregivers;
 - iv. Acquiring marijuana from other dispensaries; and
 - v. Disposing of unusable marijuana, which may include submitting any unusable marijuana to a local law enforcement agency;
 - d. Qualifying patient records, including purchases, denials of sale, any delivery options, confidentiality, and retention; and
 - e. Patient education and support, including:
 - i. Availability of different strains of marijuana and the purported effects of the different strains;
 - ii. Information about the purported effectiveness of various methods, forms, and routes of medical marijuana administration;
 - iii. Methods of tracking the effects on a qualifying patient of different strains and forms of marijuana; and
 - iv. Prohibition on the smoking of medical marijuana in public places;
3. Maintain copies of the policies and procedures at the dispensary and provide copies to the Department for review upon request;
4. Review dispensary policies and procedures at least once every 12 months from the issue date of the dispensary registration certificate and update as needed;
5. Employ or contract with a medical director;
6. Ensure that each dispensary agent has the dispensary agent's registry identification card in the dispensary agent's immediate possession when the dispensary agent is:
 - a. ~~Is working~~ Working or providing volunteer services at the dispensary or the dispensary's cultivation site, or
 - b. ~~Is transporting~~ Transporting marijuana for the dispensary;
7. Ensure that a dispensary agent accompanies any individual other than another dispensary agent associated with the dispensary when the individual is present in the enclosed, locked facility where marijuana is cultivated by the dispensary;
8. Not allow an individual who does not possess a dispensary agent registry identification card issued under the dispensary registration certificate to:
 - a. Serve as a principal officer or board member for the dispensary,
 - b. Serve as the medical director for the dispensary,
 - c. Be employed by the dispensary, or
 - d. Provide volunteer services at or on behalf of the dispensary;
9. Provide written notice to the Department, including the date of the event, within 10 working days after the date, when a dispensary agent no longer:
 - a. Serves as a principal officer or board member for the dispensary,
 - b. Serves as the medical director for the dispensary,
 - c. Is employed by the dispensary, or
 - d. Provides volunteer services at or on behalf of the dispensary;
10. Document and report any loss or theft of marijuana from the dispensary to the appropriate law enforcement agency;
11. Maintain copies of any documentation required in this Chapter for at least 12 months after the date on the documentation and provide copies of the documentation to the Department for review upon request;
12. Post the following information in a place that can be viewed by individuals entering the dispensary:
 - a. If applicable, the dispensary's approval to operate;₂
 - b. The dispensary's registration certificate;₂

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- c. The name of the dispensary's medical director and the medical director's license number on a sign at least 20 centimeters by 30 centimeters; and
 - d. The hours of operation during which the dispensary will dispense medical marijuana to a qualifying patient or a designated caregiver;
13. Not lend any part of the dispensary's income or property without receiving adequate security and a reasonable rate of interest;
 14. Not purchase property for more than adequate consideration in money or cash equivalent;
 15. Not pay compensation for salaries or other compensation for personal services that is in excess of a reasonable allowance;
 16. Not sell any part of the dispensary's property or equipment for less than adequate consideration in money or cash equivalent; and
 17. Not engage in any other transaction that results in a substantial diversion of the dispensary's income or property.
- B.** If a dispensary cultivates marijuana, the dispensary shall cultivate the marijuana in an enclosed, locked facility.

R9-17-311. Submitting an Application for a Dispensary Agent Registry Identification Card

Except as provided in R9-17-107(F), to obtain a dispensary agent registry identification card for an individual serving as a principal officer or board member for the dispensary, employed by ~~or contracted with~~ the dispensary, or providing volunteer services at or on behalf of the dispensary, the dispensary shall submit to the Department the following for each dispensary agent:

1. An application in a Department-provided format that includes:
 - a. The dispensary agent's first name; middle initial, if applicable; last name; and suffix, if applicable;
 - b. The dispensary agent's residence address and mailing address;
 - c. The county where the dispensary agent resides;
 - d. The dispensary agent's date of birth;
 - e. The identifying number on the applicable card or document in subsection (5)(a) through (e);
 - f. The name and registry identification number of the dispensary; and
 - g. The signature of the individual in ~~R9-17-304(D)(1)(d)~~ R9-17-304(C)(1)(d) designated to submit dispensary agent applications on the dispensary's behalf and the date the individual signed;
2. An attestation signed and dated by the dispensary agent that the dispensary agent has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
3. One of the following:
 - a. A statement that the dispensary agent does not currently hold a valid registry identification card, or
 - b. The assigned registry identification number for the dispensary agent for each valid registry identification card currently held by the dispensary agent;
4. A statement in a Department-provided format signed by the dispensary agent pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
5. A copy of the dispensary agent's:
 - a. Arizona driver's license issued on or after October 1, 1996;
 - b. Arizona identification card issued on or after October 1, 1996;
 - c. Arizona registry identification card;
 - d. Photograph page in the dispensary agent's U.S. passport; or
 - e. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the dispensary agent:
 - i. Birth certificate verifying U.S. citizenship,
 - ii. U. S. Certificate of Naturalization, or
 - iii. U. S. Certificate of Citizenship;
6. A current photograph of the dispensary agent;
7. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
 - a. The dispensary agent's fingerprints on a fingerprint card that includes:
 - i. The dispensary agent's first name; middle initial, if applicable; and last name;
 - ii. The dispensary agent's signature;
 - iii. If different from the dispensary agent, the signature of the individual physically rolling the dispensary agent's fingerprints;
 - iv. The dispensary agent's address;
 - v. If applicable, the dispensary agent's surname before marriage and any names previously used by the dispensary agent;
 - vi. The dispensary agent's date of birth;
 - vii. The dispensary agent's Social Security number;
 - viii. The dispensary agent's citizenship status;

- ix. The dispensary agent's gender;
 - x. The dispensary agent's race;
 - xi. The dispensary agent's height;
 - xii. The dispensary agent's weight;
 - xiii. The dispensary agent's hair color;
 - xiv. The dispensary agent's eye color; and
 - xv. The dispensary agent's place of birth; or
- b. If the dispensary agent's fingerprints and information required in subsection (7)(a) were submitted to the Department within the previous six months as part of an application for a designated caregiver registry identification card or a dispensary agent registry identification card for another dispensary, the registry identification number on the registry identification card issued to the dispensary agent as a result of the application; and
8. The applicable fee in R9-17-102 for applying for a dispensary agent registry identification card.

R9-17-312. Submitting an Application to Renew a Dispensary Agent's Registry Identification Card

To renew a dispensary agent's registry identification card for an individual serving as a principal officer or board member for the dispensary, employed by ~~or contracted with~~ the dispensary, or providing volunteer services at or on behalf of the dispensary, the dispensary shall submit to the Department, at least 30 calendar days before the expiration of the dispensary agent's registry identification card, the following:

1. An application in a Department-provided format that includes:
 - a. The dispensary agent's first name; middle initial, if applicable; last name; and suffix, if applicable;
 - b. The dispensary agent's residence address and mailing address;
 - c. The county where the dispensary agent resides;
 - d. The dispensary agent's date of birth;
 - e. The registry identification number on the dispensary agent's current registry identification card;
 - f. The name and registry identification number of the dispensary; and
 - g. The signature of the individual in ~~R9-17-304(D)(1)(d)~~ R9-17-308(B)(1)(e) designated to submit dispensary agent applications on the dispensary's behalf and the date the individual signed;
2. If the dispensary agent's name in subsection (1)(a) is not the same name as on the dispensary agent's current registry identification card, one of the following with the dispensary agent's new name:
 - a. An Arizona driver's license,
 - b. An Arizona identification card, or
 - c. The photograph page in the dispensary agent's U.S. passport;
3. A statement in a Department-provided format signed by the dispensary agent pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
4. A current photograph of the dispensary agent;
5. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
 - a. The dispensary agent's fingerprints on a fingerprint card that includes:
 - i. The dispensary agent's first name; middle initial, if applicable; and last name;
 - ii. The dispensary agent's signature;
 - iii. If different from the dispensary agent, the signature of the individual physically rolling the dispensary agent's fingerprints;
 - iv. The dispensary agent's address;
 - v. If applicable, the dispensary agent's surname before marriage and any names previously used by the dispensary agent;
 - vi. The dispensary agent's date of birth;
 - vii. The dispensary agent's Social Security number;
 - viii. The dispensary agent's citizenship status;
 - ix. The dispensary agent's gender;
 - x. The dispensary agent's race;
 - xi. The dispensary agent's height;
 - xii. The dispensary agent's weight;
 - xiii. The dispensary agent's hair color;
 - xiv. The dispensary agent's eye color; and
 - xv. The dispensary agent's place of birth; or
 - b. If the dispensary agent's fingerprints and information required in subsection (5)(a) were submitted to the Department within the previous six months as part of an application for a designated caregiver registry identification card or a dispensary agent registry identification card for another dispensary, the registry identification number on the registry identification card issued to the dispensary agent as a result of the application; and
6. The applicable fee in R9-17-102 for applying to renew a dispensary agent's registry identification card.

R9-17-322. Denial or Revocation of a Dispensary Registration Certificate

- A.** The Department shall deny an application for a dispensary registration certificate or a renewal if:
1. For an application for a dispensary registration certificate, the physical address of the building or, if applicable, the physical address of the dispensary's cultivation site is within 500 feet of a private school or a public school that existed before the date the dispensary submitted the initial dispensary registration certificate application;
 2. A principal officer or board member:
 - ~~a.~~ Is not a resident of Arizona or has not been a resident of Arizona for at least three consecutive years immediately preceding the date the application for the dispensary registration certificate was submitted;
 - ~~b.~~a. Has been convicted of an excluded felony offense;
 - ~~e.~~b. Has served as a principal officer or board member for a dispensary that:
 - i. Had the dispensary registration certificate revoked, or
 - ii. Did not obtain an approval to operate the dispensary within the first year after the dispensary registration certificate was issued;
 - ~~d.~~c. Is under 21 years of age;
 - ~~e.~~d. Is a physician currently providing written certifications for medical marijuana for qualifying patients;
 - ~~f.~~e. Is a law enforcement officer; or
 - ~~g.~~f. Is an employee or contractor of the Department; or
 3. The application or the dispensary does not comply with the requirements in A.R.S. Title 36, Chapter 28.1 and this Chapter.
- B.** The Department may deny an application for a dispensary registration certificate if a principal officer or board member of the dispensary provides false or misleading information to the Department.
- C.** The Department shall revoke a dispensary's registration certificate if:
1. The dispensary:
 - a. Operates before obtaining approval to operate a dispensary from the Department;
 - b. Dispenses, delivers, or otherwise transfers marijuana to an entity other than another dispensary with a valid dispensary registration certificate issued by the Department, a qualifying patient with a valid registry identification card, or a designated caregiver with a valid registry identification card; or
 - c. Acquires usable marijuana or mature marijuana plants from any entity other than another dispensary with a valid dispensary registration certificate issued by the Department, a qualifying patient with a valid registry identification card, or a designated caregiver with a valid registry identification card; or
 2. A principal officer or board member has been convicted of an excluded felony offense.
- D.** The Department may revoke a dispensary registration certificate if the dispensary does not:
1. Comply with the requirements in A.R.S. Title 36, Chapter 28.1 and this Chapter; or
 2. Implement the policies and procedures or comply with the statements provided to the Department with the dispensary's application.
- E.** If the Department denies a dispensary registration certificate application, the Department shall provide notice to the applicant that includes:
1. The specific reason or reasons for the denial, and
 2. All other information required by A.R.S. § 41-1076.
- F.** If the Department revokes a dispensary registration certificate, the Department shall provide notice to the dispensary that includes:
1. The specific reason or reasons for the revocation; and
 2. The process for requesting a judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.