



NOTICES OF PROPOSED RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Proposed Rulemakings.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, 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).

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 22. BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY

[R16-237]

PREAMBLE

- | | |
|---|---------------------------------|
| <u>1. Articles, Parts, and Sections Affected (as applicable)</u> | <u>Rulemaking Action</u> |
| R4-22-104 | Amend |
| Table 1 | Amend |
| R4-22-207 | 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. § 32-1803(C)(1)
 Implementing statute: A.R.S. §§ 32-1825, 32-1832, 41-1072
- 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: 22 A.A.R. 3251, November 18, 2016 (*in this issue*).
- 4. The agency's contact person who can answer questions about the rulemaking:**
 Name: Jenna Jones, Executive Director
 Address: Board of Examiners in Osteopathic Medicine and Surgery
 9535 E. Doubletree Ranch Road
 Scottsdale, AZ 85258
 Telephone: (480) 657-7703
 Fax: (480) 657-7715
 E-mail: Jenna.Jones@azdo.gov
 Web site: www.azdo.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 rules in response to two factors. The first is Laws 2015, Chapter 135, which amended A.R.S. § 32-1825(B) to require 40 hours of continuing education during each biennial renewal period rather than 20 hours during each year. The second is a report by the Arizona Auditor General dated June 2016 which indicated the Board should add a time frame for acting on an application to retire a license. The Board makes both of these changes in this rulemaking.

An exemption from EO2016-03 was provided by Christina Corieri, Policy Advisor for Health and Human Services in the Governor's Office, by e-mail on August 3, 2016.



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 does not intend to review or rely on a study in its evaluation of or justification for a rule in this rulemaking.

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 Board has determined the rulemaking will have minimal impact. It is statute rather than this rulemaking that enables a licensee to obtain required continuing education during a biennial renewal period rather than annually. Adding a time-frame for Board action on an application to retire a license and to renew a retired license will provide certainty to the applicant.

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

Name: Jenna Jones, Executive Director
Address: Board of Examiners in Osteopathic Medicine and Surgery
9535 E. Doubletree Ranch Road
Scottsdale, AZ 85258
Telephone: (480) 657-7703
Fax: (480) 657-7715
E-mail: Jenna.Jones@azdo.gov
Web site: www.azdo.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 rules will be held as follows:

Date: Tuesday, December 27, 2016
Time: 10:00 a.m.
Location: 9535 E. Doubletree Ranch Road
Scottsdale, AZ 85258

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:

The licenses listed in Table 1 are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals or entities to conduct activities that are substantially similar in nature.

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:

There are numerous federal laws applicable to health care. However, there is no federal law specifically applicable to the subject matter of this rulemaking. As a result, none of the rules is 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 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 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 22. BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY

ARTICLE 1. GENERAL PROVISIONS

Section R4-22-104. Licensing ~~Time-frames~~ Time Frames
Table 1. ~~Time-frames~~ Time Frames (in days)



ARTICLE 2. LICENSING

Section
R4-22-207. Continuing Medical Education; Waiver; Extension of Time to Complete

ARTICLE 1. GENERAL PROVISIONS

R4-22-104. Licensing ~~Time-frames~~ Time Frames

- A. The overall ~~time-frame~~ time frame described in A.R.S. § 41-1072(2) for each type of license issued by the Board is listed in Table 1. An applicant and the Executive Director of the Board may agree in writing to extend the substantive review and overall ~~time-frames~~ time frames by no more than 25 percent of the overall time-frame listed in Table 1.
- B. The administrative completeness review ~~time-frame~~ time frame described in A.R.S. § 41-1072(1) for each type of license issued by the Board is listed in Table 1. The administrative completeness review ~~time-frame~~ time frame for a particular license begins on the date the Board receives an application package for that license.
 - 1. If the application package is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review and overall ~~time-frames~~ time frames are suspended from the postmark date on the notice until the date the Board receives the missing document or incomplete information.
 - 2. If the application package is complete, the Board shall send to the applicant a written notice of administrative completeness.
 - 3. If the Board grants or denies a license during the administrative completeness review ~~time-frame~~ time frame, the Board shall not issue a separate written notice of administrative completeness.
- C. The substantive review ~~time-frame~~ time frame described in A.R.S. § 41-1072(3) for each type of license issued by the Board is listed in Table 1. The substantive review ~~time-frame~~ time frame begins on the postmark date of the Board’s notice of administrative completeness.
 - 1. During the substantive review ~~time-frame~~ time frame, the Board may make one comprehensive written request for additional information or documentation. The substantive review and overall ~~time-frames~~ time frames are suspended from the postmark date on the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation. The Board and applicant may agree in writing to allow the Board to submit supplemental requests for additional information.
 - 2. The Board shall send a written notice of approval to an applicant who meets the requirements of A.R.S. Title 32, Chapter 17 and this Chapter.
 - 3. The Board shall send a written notice of denial to an applicant who fails to meet the requirements of A.R.S. Title 32, Chapter 17 or this Chapter.
- D. The Board shall administratively close an applicant’s file if the applicant fails to submit the information or documentation required under subsection (B)(1) or (C)(1) within 360 days from the date on which the application package was originally submitted. If an individual whose file is administratively closed wishes to be licensed, the individual shall file another application package and pay the application fee.
- E. The Board shall grant or deny the following licenses within seven days after receipt of an application:
 - 1. Ninety-day extension of locum tenens registration;_a
 - 2. Waiver of continuing education requirements for a particular period;_a
 - 3. Extension of time to complete continuing education requirements;_a
 - 4. Five-day educational training permit;_a and_a
 - 5. Extension of one-year renewable training permit;_a and
 - 6. Renewal of retired status.
- F. In computing any ~~time-frame~~ time frame prescribed in this Section, the day of the act or event that begins the ~~time-frame~~ time frame is not included. The computation includes intermediate Saturdays, Sundays, and official state holidays. If the last day of a ~~time-frame~~ time frame falls on a Saturday, Sunday, or official state holiday, the next business day is the ~~time-frame’s~~ time frame’s last day.

Table 1. ~~Time-frames~~ Time Frames (in days)

Type of License	Statutory Authority	Overall Time-frame <u>Time Frame</u>	Administrative Completeness Time-frame <u>Time Frame</u>	Substantive Review Time-frame <u>Time Frame</u>
License	A.R.S. § 32-1822	120	30	90
License Renewal	A.R.S. § 32-1825	120	30	90
90-day Locum Tenens Registration	A.R.S. § 32-1823	60	30	30
One-year Renewable Training Permit	A.R.S. § 32-1829(A)	60	30	30
Short-term Training Permit	A.R.S. § 32-1829(C)	60	30	30



One-year Training Permit at Approved School or Hospital	A.R.S. § 32-1830	60	30	30
Two-year Teaching License	A.R.S. § 32-1831	60	30	30
Registration to Dispense Drugs and Devices	A.R.S. § 32-1871	90	30	60
Renewal of Registration to Dispense Drugs and Devices	A.R.S. §§ 32-1826(A)(11) and 32-1871	60	30	30
Approval of Educational Program for Medical Assistants	A.R.S. § 32-1800(17)	60	30	30
<u>Retired Status</u>	<u>A.R.S. § 32-1832</u>	<u>90</u>	<u>30</u>	<u>60</u>

ARTICLE 2. LICENSING

R4-22-207. Continuing Medical Education; Waiver; Extension of Time to Complete

- A. Under A.R.S. § 32-1825(B), a licensee is required to obtain ~~20~~ 40 hours of Board-approved CME in ~~each~~ of the two years before license renewal. The Board shall approve the CME of a licensee if the CME complies with the following:
 - 1. At least ~~12~~ 24 hours are obtained ~~annually~~ by completing CME classified by the AOA as Category 1A; and
 - 2. No more than ~~eight~~ 16 hours are obtained ~~annually~~ by completing CME classified as American Medical Association Category 1 approved by an ACCME-accredited CME provider.
- B. A licensee may fulfill ~~20~~ 40 hours of the CME requirement for a ~~particular year~~ license renewal period by participating in an approved ~~residency, internship, fellowship, postgraduate training program~~ or preceptorship during that ~~year~~ license renewal period.
- C. The Board shall accept the following documentation as evidence of compliance with the CME requirement:
 - 1. For a CME under subsection (A)(1):
 - a. The AOA printout of the licensee’s CME, or
 - b. A copy of the certificate of attendance from the provider of the CME showing:
 - i. Licensee’s name,
 - ii. Title of the CME,
 - iii. Name of the provider of the CME,
 - iv. Category of the CME,
 - v. Number of hours in the CME, and
 - vi. Date of attendance;
 - 2. For a CME under subsection (A)(2):
 - a. A copy of the certificate of attendance from the provider of the CME showing the information listed in subsection (C)(1)(b); or
 - b. A specialty board’s printout showing a licensee’s completion of CME.
 - 3. For a CME under subsection (B), either a letter from the Director of Medical Education or a certificate of completion for the approved ~~internship, residency, fellowship, postgraduate training program~~ or preceptorship.
- D. Waiver of CME requirements. To obtain a waiver under A.R.S. § 32-1825(C) of the CME requirements, a licensee shall submit to the Board a written request that includes the following:
 - 1. The period for which the waiver is requested,
 - 2. CME completed during the current license period and the documentation required under subsection (C), and
 - 3. Reason that a waiver is needed and the applicable documentation:
 - a. For military service. A copy of current orders or a letter on official letterhead from the licensee’s commanding officer;
 - b. For absence from the United States. A copy of pages from the licensee’s passport showing exit and reentry dates;
 - c. For disability. A letter from the licensee’s treating physician stating the nature of the disability; or
 - d. For circumstances beyond the licensee’s control:
 - i. A letter from the licensee stating the nature of the circumstances, and
 - ii. Documentation that provides evidence of the circumstances.
- E. The Board shall grant a request for waiver of CME requirements that:
 - 1. Is based on a reason listed in subsection (D)(3),
 - 2. Is supported by the required documentation,
 - 3. Is filed no sooner than 60 days before and no later than 30 days after the license renewal date, and
 - 4. Will promote the safe and professional practice of osteopathy in this state.
- F. Extension of time to complete CME requirements. To obtain an extension of time under A.R.S. § 32-1825(C) to com-



plete the CME requirements, a licensee shall submit to the Board a written request that includes the following:

1. Ending date of the requested extension,
 2. CME completed during the current license period and the documentation required under subsection (C),
 3. Proof of registration for additional CME that is sufficient to enable the licensee to complete all CME required for license renewal before the end of the requested extension, and
 4. Licensee's attestation that the CME obtained under the extension will be reported only to fulfill the current license renewal requirement and will not be reported on a subsequent license renewal application.
- G. The Board shall grant a request for an extension that:
1. Specifies an ending date no later than May 1 following the license renewal date,
 2. Includes the required documentation and attestation,
 3. Is submitted no sooner than 60 days before and no later than 30 days after the license renewal date, and
 4. Will promote the safe and professional practice of osteopathy in this state.