



Statutes & Rules

Revised August 27, 2023

Arizona State Board of Optometry

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MISSION STATEMENT

The mission of the Optometry Board is to protect the health, safety and welfare of Arizona citizens by regulating and achieving the highest standards in the optometry profession.

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Chapter 16
Arizona Revised Statutes
Article 1 General Provisions

32-1701. Definitions

In this chapter, unless the context otherwise requires:

1. "Board" means the state board of optometry.
2. "Conviction" means a judgment of conviction by any state or federal court of competent jurisdiction in a criminal cause, regardless of whether an appeal is pending or could be taken, and includes any judgment or order based on a plea of no contest.
3. "Licensee" means a person licensed to practice the profession of optometry pursuant to this chapter.
4. "Optometrist" or "doctor of optometry" means a person who has graduated from an accredited college of optometry.
5. "Pharmaceutical" or "pharmaceutical agent" means a prescription or nonprescription substance or a schedule III controlled substance used for examination, diagnosis or treatment of conditions of the human eye and its adnexa.
6. "Practice of the profession of optometry" means:
 - (a) The examination or refraction of the human eye and its appendages and the employment of any objective or subjective means or methods other than surgery for the purpose of diagnosing or treating any visual, muscular, neurological or anatomical anomalies of the eye.
 - (b) The use of pharmaceutical agents authorized pursuant to this chapter.
 - (c) The use of any instrument or device to train the visual system or correct any abnormal condition of the eye or eyes.
 - (d) The prescribing, fitting or employment of any lens, prism, frame or mountings for the correction or relief of or aid to the visual function, provided that superficial foreign bodies may be removed from the eye and its appendages.
 - (e) The taking of smears of the human eye and its adnexa for culture analysis and the ordering or performing of clinical tests that are appropriate to diagnose, treat or manage conditions of the human eye and its adnexa and that are limited to those CLIA-waived clinical tests approved pursuant to 42 Code of Federal Regulations section 493.15.
7. "Surgery" means, in reference to the human eye and its appendages, an invasive procedure in which in vivo human tissue is cut, burned, vaporized, removed, coagulated or photodisrupted by use of an electrical cautery, a scalpel, a cryoprobe, a laser or ionizing radiation. Surgery does not include nonsurgical procedures, including the removal of superficial foreign bodies or eyelashes or the use of lasers for diagnostic purposes.
8. "Unprofessional conduct" means:
 - (a) Wilful betrayal of a professional secret or wilful violation of a privileged communication except as otherwise required by law.
 - (b) Charging a fee for services not rendered or dividing a professional fee for patient referrals among health care providers or health care institutions or between these providers and institutions or a contractual arrangement that has the same effect. This subdivision does not prohibit a bona fide lease based on the revenues earned by a licensee.

- (c) Addiction to, or illegal use of, narcotic drugs or use of intoxicating beverages to excess or practicing or attempting to practice the profession of optometry while under the influence of intoxicating beverages or narcotic drugs.
- (d) Impersonating another licensee.
- (e) Knowingly having professional connection with or lending one's name to a person who is not a licensee.
- (f) Gross negligence, repeated or continuing acts of negligence or incompetence in the practice of optometry.
- (g) Any conduct or practice, including incompetency, that constitutes a danger to the health, welfare or safety of patients or the public.
- (h) Prescribing, dispensing or pretending to use any secret means, methods, device or instrumentality.
- (i) Refusing to divulge to the board on demand the means, methods, device or instrumentality used for optometric examination or therapy.
- (j) Representing that a manifestly not correctable condition can be permanently corrected or that a correctable condition can be corrected within a stated time if this is not accurate.
- (k) Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of the profession of optometry, including advertising.
- (l) Failing to comply with a board order or consent agreement.
- (m) Fraud, forgery, unsworn falsification, false swearing or perjury involving a matter before the board or a written instrument submitted to the board.
- (n) Wilfully and without legal justification failing to furnish in a timely manner information that is necessary for the board to conduct an investigation under this chapter and that has been requested or subpoenaed by the board.
- (o) Conduct that discredits the profession.
- (p) Sexual intimacies with a patient in the course of care or treatment.
- (q) Falsely claiming attendance at a required continuing education course.
- (r) Soliciting patients by fraudulent or misleading advertising of any kind.
- (s) Aiding the practice of optometry by an unlicensed, incompetent or impaired person.
- (t) Sharing fees with a person or organization in return for soliciting customers by that person or organization.
- (u) Issuing a prescription order contingent on the purchase of ophthalmic services or materials.

32-1702. Board of optometry; appointment; qualifications; term; removal

A. The state board of optometry is established consisting of the following members who are appointed by the governor to staggered four-year terms that end on July 1:

1. Five members who have been licensed and engaged in the active practice of optometry in this state for at least three years immediately before the appointment.
2. Two public members who do not have a direct or indirect interest in the practice of optometry, opticianry or medicine.

B. Before appointment by the governor, a prospective member of the board shall submit a full set of fingerprints to the governor for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

C. The governor may remove any professional member for incompetency or unprofessional conduct or if the member's license has been revoked or suspended or if the member has been censured or placed on probation. The governor may remove any member for neglect of duty or improper conduct. The unexcused absence of a member for more than two consecutive meetings is justification for removal. Appointment by the governor to fill a vacancy caused other than by expiration of a term is for the unexpired portion of the term.

D. A member of the board is ineligible to serve more than two consecutive full terms. The completion of the unexpired portion of a full term does not constitute a full term for purposes of this subsection.

E. The board shall conduct regular meetings at least six times each year at times and places designated by the board or the governor. Special meetings may be called that the president determines are necessary to carry out the functions of the board, including meetings using communications equipment that allows all members participating in the meetings to hear each other.

F. A majority of the members of the board constitutes a quorum and a majority vote of a quorum present at any meeting governs all actions taken by the board.

32-1703. Organization of board; compensation; immunity

A. The board shall annually elect from its members a president who shall be chief presiding officer of the board and such other officers as it deems appropriate and necessary to conduct its business. The board shall assign such duties as it deems appropriate to such other officers as it elects.

B. Members of the board are eligible to receive compensation as determined pursuant to section 38-611 for each day actually spent in the performance of their duties.

C. Members of the board, its agents and employees and members of advisory committees are personally immune from suit with respect to all acts done and actions taken in good faith and in furtherance of the purposes of this chapter.

32-1704. Powers and duties of the board

A. The board shall adopt, and may amend, rules consistent with this chapter governing the practice of the profession of optometry, for the performance of its duties under this chapter and for the examination of applicants for licenses. The board shall adopt and use a seal, administer oaths and take testimony concerning any matter within its jurisdiction.

B. The board may not adopt a rule that:

1. Regulates a licensee's fees or charges to a patient.
2. Regulates the place in which a licensee may practice.
3. Prescribes the manner or method of accounting, billing or collection of fees.
4. Prohibits advertising by a licensee unless the advertising is inconsistent with section 44-1481.

C. The board shall maintain its records in accordance with a retention schedule approved by the Arizona state library, archives and public records.

D. The board shall adopt rules for criteria it must use to approve continuing education programs for licensees. Programs shall be designed to assist licensees to maintain competency, to become aware of new developments in the practice of the profession of optometry and to increase management skills and administrative efficiency. The board shall approve programs that meet these criteria.

E. Subject to title 41, chapter 4, article 4, the board may hire an executive director as an employee of the board. The executive director is responsible for the performance of the regular administrative functions of the board

and such other administrative duties as the board may direct. The executive director is eligible to receive compensation in an amount as determined pursuant to section 38-611.

F. The board may hire investigators subject to title 41, chapter 4, article 4 or contract with investigators to assist in the investigation of violations of this chapter, hire other employees subject to title 41, chapter 4, article 4 required to carry out this chapter and contract with other state agencies when required to carry out this chapter.

G. The board may:

1. Appoint advisory committees.

2. Issue subpoenas for the attendance of witnesses and the production of books, records, documents and other evidence it deems relevant to an investigation or hearing.

3. Charge reasonable fees for materials it has printed at its own expense.

4. Delegate to the executive director, board staff and persons with whom the board contracts the board's licensing and regulatory duties. The board shall adopt rules for each specific licensing and regulatory duty the board delegates pursuant to this paragraph.

H. Subject to title 41, chapter 4, article 4, the board may hire consultants and professional and clerical personnel as required to perform its duties.

I. The board may contract with other state or federal agencies as required to carry out this chapter.

J. Subject to the limitations of section 41-2544, the executive director may enter into agreements to allow licensees to pay fees by alternative methods, including credit cards, charge cards, debit cards and electronic funds transfers.

K. A person who is aggrieved by an action taken by the executive director, board staff or person with whom the board contracts may request the board to review that action by filing with the board a written request within thirty days after that person is notified of the action by personal delivery or certified mail to that person's last known residence or place of business. At the next regular board meeting, the board shall review the action and approve, modify or reject the action.

L. The board shall report allegations of evidence of criminal wrongdoing to the appropriate criminal justice agency.

32-1705. Board of optometry fund

A. A board of optometry fund is established.

B. Pursuant to sections 35-146 and 35-147, the board shall deposit ten per cent of all monies from whatever source which come into the possession of the board in the state general fund and deposit the remaining ninety per cent in the board of optometry fund.

C. Monies deposited in the board of optometry fund are subject to section 35-143.01.

32-1706. Use of pharmaceutical agents

A. A licensee may prescribe, dispense and administer over-the-counter pharmaceuticals and topical prescription pharmaceuticals subject to the pharmaceutical agent classifications specified in section 32-1728.

B. Except as provided in subsection C of this section, a licensee may prescribe, dispense and administer the following oral prescription pharmaceuticals for the treatment of diseases of the eye and its adnexa for any one patient for each occurrence for a period of not more than the day limit recommended by the manufacturer or the physicians' desk reference, unless otherwise specified in this subsection, subject to the pharmaceutical agent classifications specified in section 32-1728:

1. Anti-infectives classified as tetracycline and its derivatives, cephalosporins, penicillin and its derivatives, macrolides, fluoroquinolones and antivirals.
 2. Antihistamines.
 3. Nonsteroidal anti-inflammatory agents.
 4. Agents for the treatment of angle-closure glaucoma, including carbonic anhydrase inhibitors.
 5. Steroids in an amount that does not exceed the amount packaged for a single course of therapy of not more than seven days.
- C. A licensee may not prescribe, dispense or administer an oral pharmaceutical specified in subsection B of this section or a controlled substance as specified in subsection D of this section to a person who is under six years of age.
- D. A licensee may prescribe, dispense and administer a schedule III controlled substance only if it is an analgesic and may prescribe or administer any controlled substance only if it is an analgesic that is reclassified from schedule III to schedule II after January 1, 2014.
- E. A licensee shall not prescribe, dispense or administer the following prescription substances:
1. An oral antifungal.
 2. An oral antimetabolite.
 3. An oral immunosuppressive.
 4. A substance administered intravenously.
 5. Except as provided in subsection F of this section, substances administered by injection.
 6. Except as provided in subsection D of this section, a schedule I, II, IV or V controlled substance.
- F. A licensee may use epinephrine auto-injectors to counteract an anaphylactic reaction.

Article 2 Licensing

32-1721. Persons and acts not affected by this chapter

This chapter does not apply to:

1. Physicians and surgeons duly licensed to practice medicine and surgery in this state, if they are practicing lawfully.
2. Dispensing opticians duly licensed to practice, if they are practicing lawfully in accordance with the provisions of section 32-1671.
3. The sale of complete ready-to-wear eyeglasses as merchandise from a permanently established place of business.
4. A licensed or unlicensed individual performing duties delegated under the authority of a licensee.

32-1722. Qualifications of applicant; applications

A. A person of good moral character who wishes to engage in the practice of the profession of optometry shall file with the board a verified application with the required application fee that includes:

1. The applicant's name, age and address.
2. Documentation of graduation from a university or college that teaches the profession of optometry and that is accredited by a nationally accepted accrediting body on optometric education.

3. Documentation of satisfactory completion of an equivalent course of study that is approved by the board in didactic education, pharmacology and clinical training in the examination, diagnosis and treatment of conditions of the human eye and its adnexa and that either:

(a) Meets the contemporary educational requirements at colleges of optometry in the United States.

(b) Totals at least one hundred twenty hours.

4. Documentation of the successful passage of a written examination as prescribed by the board.

5. Background information on a form prescribed by the attorney general for the purpose of conducting an investigation into the existence of prior arrests and convictions.

6. Disclosure of any investigation conducted or pending by an optometric regulatory board in another jurisdiction in the United States.

B. On receipt of an application in proper form and containing the information prescribed in subsection A of this section, the board may investigate the applicant's character, ability and experience.

C. For the purposes of an investigation that is conducted pursuant to subsection B of this section, the board may subpoena witnesses, administer oaths and take testimony with respect to the character of the applicant or to any matter affecting the application at a hearing held after sufficient notice has been given.

D. If the board finds that the applicant has passed the examination provided for under section 32-1724 and that the applicant's character, ability and experience are satisfactory, the board shall issue a license.

32-1723. Licensure by endorsement

The board shall waive the written examination requirements of this chapter if all of the following are true:

1. The applicant submits a license or a certified copy of a license to practice optometry issued by the regulatory board of another jurisdiction of the United States that has licensure requirements that the board determines meet or exceed the requirements of this chapter.

2. The license of the applicant has not been suspended or revoked by any other licensing jurisdiction of the United States for any cause that is a ground for suspension or revocation of a license under this chapter.

3. The applicant has been engaged in the practice of the profession of optometry continuously in the other licensing jurisdiction or in a United States military branch of service for not less than four of the five years immediately preceding the application.

4. The information provided by national data banks designated by the board has successfully verified the applicant.

5. The applicant meets the requirements of section 32-1722 concerning good moral character.

32-1724. Examination of applicants; time of examination

A. Licensing examinations shall be conducted and graded according to rules prescribed by the board. The board shall not grade examinations on a curve.

B. The board may give applicants a written examination on subjects currently being taught in universities or colleges of optometry as well as on this state's statutes and rules relating to the practice of optometry. In lieu of its written examination for licensure, the board may accept documentation from the national board of examiners in optometry that shows that an applicant has passed board designated parts of the national board's examination. To receive a passing grade on a written examination administered by the board, an applicant shall receive a grade of not less than seventy-five per cent on the whole written examination and not less than fifty per cent in any one subject.

C. The board may give applicants a practical examination on subjects currently being taught in universities or colleges of optometry and shall give an examination on this state's statutes and rules relating to optometry. In lieu of its practical examination for licensure, the board may accept documentation from the national board of examiners in optometry that shows that the applicant has passed board designated parts of the national board's examination. To receive a passing grade on a practical examination, an applicant shall receive a grade of not less than seventy-five per cent.

D. Examinations shall be held at least once each year. Notice of examinations shall be given not less than sixty days before the date of examination. The board shall adopt rules to establish conditions under which an applicant who is unable to take the examination and who notifies the board before the date fixed for the examination may take the next examination.

32-1725. Issuance and display of license and certificate

A. The board shall issue to each applicant who satisfactorily passes the examination and who pays the license issuance fee pursuant to section 32-1727 a license under the seal and signatures of the members of the board. An applicant who does not pay the issuance fee within sixty days must submit a new application and all applicable fees pursuant to section 32-1727.

B. A person who holds a license or certificate pursuant to this chapter must display the current, original document in a conspicuous place that is accessible to the public.

C. A person who practices, conducts business or is employed at more than one location and who maintains a continuing activity as authorized by the license or certificate must display a board-issued duplicate of that document at each location.

32-1726. Renewal of license; continuing education; failure to renew

A. Except as provided in section 32-4301, beginning on September 1, 2001, a licensee who wishes to renew a license must do so every other year on or before the licensee's birthday by submitting a completed renewal form and the renewal fee prescribed by the board. A licensee who does not renew a license within thirty days after the licensee's birthday must also pay a late fee as prescribed by the board. A license expires if the licensee does not renew the license within four months after the licensee's birthday. A person who practices optometry in this state after that person's license has expired is in violation of this chapter.

B. As a condition of renewal or reinstatement each licensee shall complete thirty-two hours of continuing education as prescribed by the board. The board shall require continuing education on the subject of pharmaceutical use for doctors who are authorized by the board to prescribe, dispense, and administer pharmaceuticals. The board may waive or adjust the continuing education requirements for good cause shown.

C. To reinstate an expired license a person must submit a written application and pay all delinquent biennial fees, all late fees and a fifty dollar penalty fee for each year the license remains unrenewed. The board shall not require the applicant to pass an initial licensing examination if the applicant meets the requirements of this subsection within five years after the license expired.

D. A person holding a license to practice the profession of optometry in this state who has not engaged in the practice of the profession of optometry within a five year period shall pass an initial licensing examination before the license is renewed.

32-1727. Fees

A. The following fees shall be paid to the board:

1. Filing an application for examination, one hundred fifty dollars.

2. License issuance fee as established by the board.
 3. Renewal of a license to practice the profession of optometry as established by the board.
 4. Late renewal of a license as established by the board.
 5. Application for a license by endorsement, three hundred dollars.
 6. Duplicate license fee, thirty dollars.
 7. Certificates of special qualification, twenty dollars.
 8. Duplicate certificates of special qualification, twenty dollars.
 9. Optometry statute pamphlet fee, five dollars.
- B. Fees are not refundable.

32-1728. Pharmaceutical agents; certification; use; course of study

A. A licensee initially licensed after the effective date of the amendment to this section, a licensee licensed by endorsement after the effective date of the amendment to this section or a licensee who passed an examination conducted by the board for the use of oral pharmaceutical agents before the effective date of the amendment to this section may prescribe, dispense and administer a pharmaceutical agent subject to the limitations provided in this chapter.

B. The board may reissue a certificate for renewal for the use of pharmaceutical agents for topical diagnostic or topical therapeutic pharmaceutical agents, or both, to a person who holds an existing certificate issued on or before the effective date of the amendment to this section and who pays the certificate of special qualification fee prescribed in section 32-1727. The certificate may specify the following:

1. Use of no drugs.
2. Use of topical diagnostic agents.
3. Use of topical diagnostic and therapeutic agents.

C. The board may issue a certificate of special qualification to practice optometry without the use of pharmaceutical agents to a person who holds a current license as of July 1, 2000 and who pays the certificate of special qualification fee prescribed in section 32-1727.

D. The board shall adopt a course of study for certification to use oral pharmaceuticals after consultation with colleges of optometry accredited by a nationally accepted accrediting body on optometric education and with the college of pharmacy at the university of Arizona. The board shall design and implement the course in a manner that requires a licensee who wishes to have the privilege of dispensing, prescribing and administering topical and oral pharmaceutical agents pursuant to this chapter meet the contemporary educational requirements related to pharmaceuticals authorized for licensees pursuant to this chapter at colleges of optometry in the United States and to demonstrate competence in dispensing, prescribing and administering those topical or oral pharmaceutical agents by passing examinations in those areas commensurate with doctoral candidates in colleges of optometry in the United States. The course of study shall teach and certify competence in the prescription and administration of topical or oral pharmaceutical agents pursuant to this chapter. The board shall adopt the course of study and completion requirements to reflect the current course of study and demonstrated competence level of pharmacy programs in colleges of optometry in the United States. The board may offer a course and examination that otherwise meets the requirements of this subsection and that is limited to oral pharmaceuticals for licensees who hold a valid diagnostic and therapeutic topical pharmaceutical permit issued pursuant to subsection A of this section.

E. The board shall adopt a uniform prescription form for use by all licensees who have the privilege to prescribe, dispense and administer topical pharmaceuticals or oral pharmaceuticals. The prescription form shall

indicate the prescribing authority of the licensees and whether the authority includes oral pharmaceuticals, topical pharmaceuticals or both oral pharmaceuticals and topical pharmaceuticals. The form shall include the name, address, telephone number, fax number and professional license number of the licensee.

F. Annually on or before January 1 the state board of optometry shall mail to the Arizona state board of pharmacy the list of all licensees who have been certified to prescribe, dispense and administer either oral pharmaceuticals or topical pharmaceuticals, or both. Within thirty days of any additional certification by the state board of optometry, the state board of optometry shall provide updated lists to the Arizona state board of pharmacy. At the same time the state board of optometry shall send the list to each licensed pharmacy in Arizona, excluding hospital pharmacies, long-term care pharmacies and infusion pharmacies.

32-1730. Fingerprinting

A. Each applicant for licensure and license reinstatement pursuant to this chapter shall submit a full set of fingerprints to the board for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

B. If the board does not have any evidence or reasonable suspicion that the applicant has a criminal history, the board may issue a license before it receives the results of a criminal records check.

C. The board shall suspend a license of a person who submits an unreadable set of fingerprints and does not submit a new readable set of fingerprints within twenty days after being notified by the board to do so.

D. This section does not affect the board's authority to otherwise issue, deny, cancel, terminate, suspend or revoke a license.

Article 3 Regulation

32-1741. Practicing optometry without a license prohibited

It is unlawful for a person to practice the profession of optometry or to hold himself out to be or assume or attempt to act as a doctor of optometry without a valid license to practice the profession of optometry.

32-1742. Registering with board; public registry file; current information

A. Each licensee shall provide the board in writing the addresses of all permanent and extended temporary locations in which the licensee practices and the licensee's office telephone numbers, mailing address and residence address. Any notice required to be given by the board to a licensee shall be sent by mail to the licensee's most current mailing address shown on the records of the board. The board may attempt to give or serve notice at any other address or location on file with the board if service to the mailing address is unsuccessful. Service of a required notice is complete on the date of mailing to the licensee's mailing address.

B. The board shall maintain a current registry of each licensee's name, office locations and mailing address. The registry is open to the public.

C. Each licensee shall give written notice to the board within ten days following each change in the licensee's residence address, mailing address, office location or office telephone number.

32-1743. Grounds for censure, civil penalty, probation, suspension, revocation, denial or renewal of license, certificate or registration

A. After notice and a hearing the board in its discretion may censure, impose a civil penalty, prescribe probation, suspend or revoke the license of a doctor of optometry or refuse to issue or renew a license, certificate or registration for any of the following reasons:

1. Being convicted of a felony or any offense involving moral turpitude.
2. Procuring or attempting to procure a license to practice optometry or a certificate to use pharmaceutical agents by fraud, deceit, misrepresentation or knowingly taking advantage of the mistake of another person or agency.
3. Committing conduct likely to deceive or defraud the public.
4. Committing unprofessional conduct.
5. Employing a solicitor to solicit business or soliciting from house to house or person to person.
6. Obtaining a fee or compensation by fraud or misrepresentation.
7. Employing a person to engage in the practice of the profession of optometry who does not hold a license to practice the profession of optometry in this state.
8. Using any device to evade or defeat the provisions of this chapter, such as a profit sharing plan or partnership with a person not licensed to practice the profession of optometry in this state.
9. Committing the practice of the profession of optometry under a false or assumed name.
10. Violating any provision of this chapter or any board order.
11. Violating any of the rules adopted by the board pursuant to this chapter.
12. Violating any statutes, laws or rules regulating the practice of optometry in this state or any other jurisdiction in the United States.
13. Providing any controlled substance or pharmaceutical agent that is not authorized by this chapter or providing any controlled substance or prescription-only drug for other than accepted therapeutic purposes for diagnosis and treatment of conditions of the human eye and its adnexa.
14. Dispensing a schedule II controlled substance that is an opioid.
15. Committing gross malpractice or repeated acts constituting malpractice.
16. Failing to maintain or submit records as required by this chapter.

B. To determine the appropriate disciplinary action pursuant to this section, the board may consider any previous nondisciplinary and disciplinary actions against a licensee.

32-1744. Board investigations; duty to report violations; hearing; decision of board; informal settlement conference

A. The board on its own motion shall investigate any evidence that appears to show that a licensee may be guilty of a violation of section 32-1743. Any person may report to the board information the person may have that appears to show that a licensee may be guilty of unprofessional conduct or of practice without regard for the safety and welfare of the public. A person who reports or provides information to the board in good faith is not subject to civil damages as a result. The name of the person reporting information pursuant to this subsection is subject to the disclosure requirements prescribed in section 41-1010.

B. The board or its designee shall register and investigate all complaints. On receipt of a complaint, the board or its designee shall send the licensee a copy of the complaint for a response. The board shall review the complaint and response and may dismiss the complaint, investigate it further or bring its own complaint against the licensee. The board may resolve a disciplinary matter informally or after a formal hearing. The board or its designee shall inform the complainant of the findings of the investigation and the resolution of the complaint.

C. The board, its designee or the executive director shall require a licensee to provide a written response to a complaint within twenty days after the licensee receives the notification of complaint.

D. Except as provided in subsection F of this section, if in the opinion of the board it appears that information provided under subsection A of this section may be accurate and a violation of this chapter, the board shall request an informal interview with the licensee before proceeding to a formal hearing. If the licensee refuses an invitation for an informal interview, or if the licensee accepts the invitation and if the results of the interview indicate suspension or revocation of license may be in order, a complaint shall be issued and a formal hearing held pursuant to title 41, chapter 6, article 10. If at the informal interview the board finds the information provided under subsection A of this section is accurate but not of sufficient seriousness to merit suspension exceeding thirty days or revocation of the license, it may take any or all of the following actions:

1. Issue a decree of censure or written reprimand.
2. Fix a period and terms of probation best adapted to protect the public health and safety and rehabilitate the licensee. Probation may include a requirement for a refund of fees and charges to professional services clients resulting from services performed in violation of this chapter or rules adopted pursuant to this chapter, restriction of a license to practice or temporary suspension not to exceed thirty days. Failure to comply with probation is cause for filing a complaint and holding a formal hearing pursuant to title 41, chapter 6, article 10.
3. Impose a civil penalty of not more than five thousand dollars for each violation of this chapter.
4. Issue a nondisciplinary order requiring the licensee to complete a prescribed number of hours of continuing education in an area or areas prescribed by the board to provide the licensee with the necessary understanding of current developments, skills, procedures or treatment.

E. If the board determines that a reasonable basis exists to believe that a violation of this chapter or rules adopted pursuant to this chapter has occurred and the violation is not sufficiently serious to warrant disciplinary action, it may send a letter of concern to the licensee. The letter of concern shall advise the licensee of the possible violation and the board's decision not to initiate proceedings. If violations occur after the board sends a letter of concern, the board may initiate proceedings on all violations, including the violation that was the subject of the letter of concern.

F. If in the opinion of the board it appears that information provided under subsection A of this section may be accurate, the board may issue a complaint and hold a formal hearing pursuant to title 41, chapter 6, article 10 without first holding an informal interview if the probable violation involves one or more of the following:

1. Gross negligence.
2. Fraud, forgery, unsworn falsification, false swearing or perjury.
3. Three or more repeated offenses.
4. Conviction of a felony.
5. Conviction of an offense involving moral turpitude.
6. Incompetence.
7. Failing to comply with a board order or consent agreement.
8. Wilfully and without legal justification failing to furnish in a timely manner information necessary for the board to conduct an investigation under this chapter that has been requested or subpoenaed by the board.

G. The board shall serve on the licensee a notice fully setting forth the conduct or inability concerned and returnable at a hearing to be held before the board or an administrative law judge in not less than thirty days, stating the time and place of the hearing. A licensee who has been notified of a complaint pursuant to this subsection must file with the board a written response not more than twenty days after service of the complaint and notice of hearing. If the licensee fails to answer in writing, it is deemed an admission of the act or acts charged in the complaint and notice of hearing. The board may then take disciplinary action pursuant to this chapter without a hearing.

H. At the expense of the licensee, the board may require a medical, mental or physical examination and make an investigation, including, if necessary, the issuance of subpoenas, the appointment of advisory committees, the employment of expert witnesses or otherwise, as may be required fully to inform itself with respect to the complaint.

I. A person may file a motion with the board for an expedited hearing pursuant to section 41-1092.05.

J. If the licensee wishes to be present at the hearing in person or by representation, or both, the licensee shall file with the board an answer to the charges in the complaint. The answer shall be in writing, verified under oath and filed within twenty days after service of the summons and complaint.

K. At the hearing held in compliance with subsection G of this section, a licensee may be present in person together with any counsel and witnesses the licensee chooses.

L. The board shall issue subpoenas for witnesses it may need and, at the respondent's expense, for witnesses the respondent may request. All provisions of law compelling a person under subpoena to testify are applicable to a hearing held pursuant to this section.

M. The board shall serve every notice or decision under this article by any method reasonably calculated to effect actual notice on the board and every other party to the action to the party's last address of record with the board. Each party shall inform the board of any change of address within five days after the change.

N. A licensee who, after a hearing, is found to be guilty by the board of a violation of this chapter is subject to censure, probation or civil penalty as provided in subsection D of this section, suspension of license or revocation of license, or any combination of these, and for the period of time or permanently and under the conditions the board deems appropriate for the protection of the public health and safety and just in the circumstances. The board may charge the costs of formal hearings to the licensee who is in violation of this chapter.

O. The board shall issue a written decision within twenty days after the hearing is concluded. The written decision shall contain a concise explanation of the reasons supporting the decision. The board shall serve a copy of the decision on the licensee. On the licensee's request, the board shall also transmit to the licensee the record of the hearing.

P. Except as provided in this subsection, all materials, documents and evidence associated with a pending or resolved complaint or investigation are confidential and are not public records. The following materials, documents and evidence are not confidential and are public records if they are related to resolved complaints and comply with subsection A of this section:

1. The complaint.
2. The response and any rebuttal statements submitted by the licensee.
3. Written or recorded board discussions of the complaint.
4. Written reports of an investigation of a complaint.
5. Disposition of the complaint, including any written comments of the board.

Q. This section or any other law making communications between a licensee and the licensee's patient a privileged communication does not apply to investigations or proceedings conducted pursuant to this chapter.

The board and its employees, agents and representatives shall keep in confidence the names of any patients whose records are reviewed during the course of investigations and proceedings pursuant to this chapter.

R. Any action of the board shall be included in the minutes of the meeting at which the action is taken, including any determination by the board not to proceed under this section. The person reporting information to the board shall receive a copy of any final decision.

S. Pursuant to sections 35-146 and 35-147, the board shall deposit civil penalties collected pursuant to this chapter in the state general fund.

T. A licensee who is the subject of a disciplinary action may request an informal settlement conference. The licensee must submit a request for an informal settlement conference to the board in writing. The board shall hold an informal settlement conference within fifteen days after it receives a request to do so from the licensee. Only a person with the authority to act on behalf of the board may represent the board at the informal settlement conference. The board representative shall notify the licensee in writing that any written or oral statement made by the licensee at the informal settlement conference, including statements for the purpose of settlement negotiations, is inadmissible in any subsequent hearing. A licensee who participates in an informal settlement conference waives the right to object to the participation of the board representative in the final administrative decision.

32-1745. Prehearing conferences; orders

A. On the written request of a licensee, the board may schedule a prehearing conference at least ten days before the hearing date scheduled pursuant to section 32-1744. The board shall notify the licensee who requested a prehearing conference of its decision within five business days. If the board agrees to hold a prehearing conference the notification shall include the date, time and place of the conference.

B. To promote the orderly and prompt conduct of the hearing, the board may use a prehearing conference for the purposes prescribed in section 41-1092.05, subsection F and for any other matter related to the hearing.

C. The board may conduct all or part of the prehearing conference by electronic means if each party in the prehearing conference can hear and has an opportunity to participate during the entire conference.

D. After a prehearing conference and before the hearing, the board shall enter an order verbally on the record or in writing. The order shall state the stipulations and admissions made, actions taken and other matters resolved. The board shall modify this order only to prevent manifest injustice, as determined by the board.

E. Whether or not a prehearing conference is held, the board may issue an order to regulate the conduct of the hearing and to limit the issues to those raised in the pleadings.

32-1746. Records; maintenance; confidentiality

A. A licensee must allow the board to inspect patient records during normal business hours. Before a licensee may change the location of patient records, the licensee must file a signed statement with the board that discloses the new address where the licensee will maintain the records.

B. All patient records, examination materials, records of examination grading and performance and transcripts of educational institutions concerning applicants and licensees are confidential and are not public records.

32-1747. Right to examine and copy evidence

In connection with the investigation by the board on its own motion or as the result of information received pursuant to section 32-1744, the board or its duly authorized agents or employees may examine and copy during normal business hours any documents, reports, records or other physical evidence of any person being investigated, or the reports, the records and any other documents maintained by and in possession of any

hospital, clinic, physician's office, laboratory, pharmacy or other public or private agency, and any health care institution as defined in section 36-401, if the documents, reports, records or evidence relates to competence, unprofessional conduct or the mental or physical ability of a licensee to safely practice the profession of optometry.

32-1747.01. Medical, physical or mental examinations; duty to report; immunity

A. If the board believes, based on its own information or a complaint or inquiry directed to the board, that a licensee is suffering from a medical, physical or mental condition that might impede the licensee's ability to practice competently, the board may order the licensee to undergo a medical, physical or mental examination by persons designated by the board, at the licensee's expense.

B. A licensee's failure to submit to an examination directed by the board is an admission of the allegations, and the board may take appropriate action to protect the public health and safety.

C. The board, at reasonable intervals, shall allow a licensee whose license has been suspended, limited or revoked pursuant to this section to demonstrate that the licensee is able to resume the competent practice of optometry with reasonable skill and safety to patients.

D. If a licensee has reason to believe that another licensee has engaged in unprofessional conduct, the licensee must report the licensee to the board. The board shall not disclose the identity of the reporting licensee until the board completes its investigation. The board shall not disclose the name of the licensee under investigation until it completes its investigation.

E. The board shall record and assign a case number to each complaint or allegation it receives.

F. A licensee who reports information to the board pursuant to this section or testifies in any related investigation in good faith is not subject to civil liability.

32-1748. Reinstatement; definition

A. On written application and for good cause shown, the board may issue a new license to a doctor of optometry whose license has been revoked, reissue a license or modify the suspension of any license to practice optometry that has been suspended.

B. A person applying for reinstatement of a revoked license, in addition to the requirements of this section, shall comply with all initial licensing requirements in existence at the time of the application for reinstatement, except those requirements that are inconsistent with this section.

C. The board shall not issue a new license or reissue a license to a doctor of optometry whose license has been revoked until two years after the effective date of the revocation, except that if the revocation is based only on section 32-1743, subsection A, paragraph 1 and the conviction is ultimately reversed on appeal, the board shall enter an order vacating the revocation.

D. For the purposes of this section, "good cause shown" means that the person making application for reinstatement or reissuance shall demonstrate through substantial evidence presented to the board that the person is completely rehabilitated with respect to the conduct that was the basis of the revocation or suspension of the license. Demonstration of rehabilitation shall include:

1. Evidence that the person has not engaged in any conduct during the revocation or suspension period that, if the person had been licensed during that period, would have constituted a basis for revocation or suspension pursuant to section 32-1743.

2. Evidence that, with respect to any criminal conviction that constituted any part of the basis for the previous revocation or suspension, the person's civil rights have been fully restored pursuant to statute or other applicable recognized judicial or gubernatorial order.

3. Evidence that restitution has been made to any aggrieved party as ordered by a court of competent jurisdiction.

4. Other evidence of rehabilitation the board deems appropriate.

32-1749. Judicial review

Except as provided in section 41-1092.08, subsection H, a doctor of optometry aggrieved by a final decision of the board in a disciplinary proceeding is entitled to judicial review pursuant to title 12, chapter 7, article 6 in superior court in Maricopa county.

32-1750. Allegations sufficient to charge violation

In charging a person in a complaint for an injunction or in an affidavit, information or indictment with a violation of this chapter by practicing the profession of optometry without a license, it is sufficient to charge that he did upon a certain day and in a certain county engage in the practice of the profession of optometry, not having a valid license to do so, without averring any more particular facts concerning the act.

32-1751. Cease and desist orders; injunctive relief

A. In addition to all other remedies, if after conducting an investigation, either on complaint or otherwise, and for good cause shown it appears to the board that any person has engaged in or is engaging in an act, practice or transaction that violates this chapter or any rule or order of the board, the board may do either of the following:

1. Serve on the person by certified mail or personal service a cease and desist order requiring the person to cease and desist immediately, on receipt of the notice, from engaging in the act, practice or transaction. If the board issues a cease and desist order it shall conduct a hearing within thirty days to determine whether the order should be continued or eliminated and to determine whether the board should take other appropriate action.

2. Through the attorney general or the county attorney of the county in which the violation is alleged to have occurred apply to the superior court in that county for an injunction restraining that person from engaging in the violation.

B. The court shall issue a temporary restraining order, a preliminary injunction or a permanent injunction without requiring the board to post a bond.

C. Service of process may be on the defendant in any county of this state where the defendant is found.

D. Violation of an injunction is punishable as contempt of court.

E. An injunction does not relieve a person practicing the profession of optometry without a license from criminal prosecution but is in addition to any remedy provided for the criminal prosecution.

32-1752. Violation; classification

A person who practices the profession of optometry without at the time having a valid license to practice, or who files or attempts to file with the board of optometry practice locations under a license issued to another, claiming to be the person entitled to practice under such license, is guilty of a class 2 misdemeanor.

32-1753. Practice designations; definition

A. A licensee must practice the profession of optometry only as either:

1. A sole practitioner.

2. A partner with other health professionals.
 3. A professional limited liability company in which health professionals collectively possess at least fifty-one per cent of the ownership interest.
 4. A professional corporation in which health professionals collectively possess at least fifty-one per cent of the ownership interest.
 5. An employee or independent contractor in any of the categories listed in this subsection.
- B. A licensee must practice only under the name under which the licensee is registered with the board, which may include a trade name.
- C. For purposes of this section, "health professional" means a currently licensed member of the health professions as defined in section 32-3101.

Article 4 Referral

32-1761. Referral of patient to licensed physician required on finding of certain symptomatic conditions

An optometrist licensed pursuant to this chapter and providing service to any person shall refer such person to a physician licensed pursuant to chapter 13 or 17 of this title when such optometrist finds an indication of the presence of a disease or condition of the eye requiring treatment outside the scope of practice of the profession of optometry as defined in section 32-1701.

Article 5 Dispensers of Contact Lenses

32-1771. Dispensing contact lenses; conformity with federal law; requirements

- A. All sales of and prescriptions for contact lenses in this state must conform to the federal fairness to contact lens consumers act (15 United States Code sections 7601 through 7610).
- B. Contact lenses used to determine a prescription for contact lenses are considered to be diagnostic lenses. After the diagnostic and trial period and after the contact lenses have been adequately fitted and the patient has been released from immediate follow-up care by a person who is licensed pursuant to this chapter or chapter 13 or 17 of this title, the prescribing optometrist shall provide a prescription for contact lenses at no cost to the patient.
- C. Contact lenses may not be sold or dispensed except pursuant to a prescription order that conforms to state and federal regulations governing prescriptions.

OTHER RELATED STATUTES:

32-3101. Definitions

In this chapter, unless the context otherwise requires:

1. "Certification" means a voluntary process by which a regulatory entity grants recognition to an individual who has met certain prerequisite qualifications specified by that regulatory entity and who may assume or use the word "certified" in a title or designation to perform prescribed health professional tasks.
2. "Grandfather clause" means a provision applicable to practitioners actively engaged in the regulated health profession before the effective date of a law that exempts the practitioners from meeting the prerequisite qualifications set forth in the law to perform prescribed occupational tasks.

3. "Health professional group" means any health professional group or organization, any individual or any other interested party that proposes that any health professional group not presently regulated be regulated or that proposes to increase the scope of practice of a health profession.
4. "Health professions" means professions that are regulated pursuant to chapter 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25, 28, 29, 33, 34, 35, 39 or 41 of this title, title 36, chapter 6, article 7 or title 36, chapter 17.
5. "Increase the scope of practice" means to engage in conduct beyond the authority granted to a health profession by law.
6. "Inspection" means the periodic examination of practitioners by a state agency in order to ascertain whether the practitioners' occupation is being carried out in a fashion consistent with the public health, safety and welfare.
7. "Licensure" or "license" means an individual, nontransferable authorization to carry on a health activity that would otherwise be unlawful in this state in the absence of the permission and that is based on qualifications that include graduation from an accredited or approved program and acceptable performance on a qualifying examination or a series of examinations.
8. "Practitioner" means an individual who has achieved knowledge and skill by practice and who is actively engaged in a specified health profession.
9. "Public member" means an individual who is not and never has been a member or spouse of a member of the health profession being regulated and who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.
10. "Registration" means the formal notification that, before rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner, the location, nature and operation of the health activity to be practiced and, if required by a regulatory entity, a description of the service to be provided.
11. "Regulatory entity" means any board, commission, agency or department of this state that regulates one or more health professions in this state.
12. "State agency" means any department, board, commission or agency of this state.

32-3102. Nonapplicability of chapter

This chapter does not:

1. Apply to any regulatory entity or increase in scope of practice legislatively enacted before the effective date of this chapter, except as provided in this chapter.
2. Apply to or interfere in any way with the practice of religion or any kind of treatment by prayer.
3. Apply to any remedial or technical amendments to any legislation.

32-3103. Regulation of health professions; legislation; criteria

A. Regulation shall not be imposed on any unregulated health profession for the purpose of prohibiting competition, but only for the exclusive purpose of protecting the public interest. All proposed legislation to regulate a health profession for the first time shall be reviewed according to the following criteria. A health profession shall be regulated by this state only if:

1. There is credible evidence that the unregulated practice of that health profession can clearly harm or endanger the public health, safety or welfare and the potential for harm is easily recognizable and not remote or dependent on tenuous argument.

2. The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability.

3. The public cannot be effectively protected by other means in a more cost-beneficial manner.

B. After evaluating the criteria prescribed in subsection A of this section and considering governmental and societal costs and benefits, if the legislature finds that it is necessary to regulate a health profession not previously regulated by law, the legislature shall implement the least restrictive alternative method of regulation to address the specific harm or danger identified, consistent with the public interest and the following:

1. If existing common law and statutory civil actions and criminal prohibitions are not sufficient to eradicate existing harm, the regulation shall provide for stricter civil actions and criminal prohibitions.

2. If a service is being performed for individuals that involves a hazard to the public health, safety or welfare, the regulation shall impose inspection requirements and enable an appropriate state agency to enforce violations by injunctive relief in court.

3. If the threat to the public health, safety or economic well-being is relatively small as a result of the operation of the health profession, the regulation shall implement a system of registration.

4. If the consumer may have a substantial basis for relying on the services of a practitioner, the regulation shall implement a system of certification.

5. If it is apparent that adequate regulation cannot be achieved by means other than licensing, the regulation shall implement a system of licensing.

32-3104. Health professional groups; written report; legislative informational hearings; proposed legislation

A. A health professional group shall submit a written report explaining the factors prescribed in section 32-3105 or 32-3106 to the president of the senate and the speaker of the house of representatives. The report shall be submitted on or before November 1 before the start of the legislative session for which the legislation is proposed, and the health professional group may request informational hearings pursuant to this section. The president of the senate or the speaker of the house of representatives shall assign the written report to the health committee of the house of representatives and the health and human services committee of the senate, or their respective successor committees, and the legislative committees may conduct informational hearings on the written report before the legislative session convenes. The report may be amended after it has been filed but before any hearing on the report. The committees shall study the written report and may take public comment on the report at the informational hearings but shall not vote whether to accept or reject the report filed by the health professional group. If a health professional group proposes to increase the scope of practice of its profession, the health professional group may send copies of the written report to the regulatory board of the health profession and the department of health services for review and comment. A health professional group may seek to introduce legislation in the legislative session regardless of comments, if any, from the informational hearings.

B. If a health professional group's report is not heard by a legislative committee pursuant to subsection A of this section, the health professional group may seek to have legislation introduced in the legislative session for certification, registration or licensure or to increase the scope of practice of an existing regulated health profession. The lack of a hearing shall not be considered as either support or rejection of the health professional group's proposed legislation.

C. Unless there is a material change in the proposed increased scope of practice, a health professional group is not required to refile a report if the health professional group filed the report within the previous five years. On or before November 1, the health professional group shall notify in writing the speaker of the house of representatives, the president of the senate and the chairpersons of the respective health committees if the health professional group intends to pursue the proposed increased scope of practice during the next legislative session

and shall reference the specific report that was previously filed on which the health professional group is relying.

32-3105. Health professional groups; proposed regulation; factors

A health professional group that is seeking regulation shall explain each of the following factors to the extent requested by the legislative committees:

1. Why regulation is necessary, including:

(a) The nature of the potential harm to the public if the health profession is not regulated and the extent to which there is a threat to public health and safety.

(b) The extent to which consumers need and will benefit from a method of regulation, identifying competent practitioners and indicating typical employers, if any, of practitioners in the health profession.

(c) The extent of autonomy a practitioner has, as indicated by the following:

(i) The extent to which the health profession calls for independent judgment and the extent of skill or experience required in making the independent judgment.

(ii) The extent to which practitioners are supervised.

2. The efforts made to address the problem, including:

(a) Voluntary efforts, if any, by members of the health profession to either:

(i) Establish a code of ethics.

(ii) Help resolve disputes between health practitioners and consumers.

(b) Recourse to and the extent of use of applicable law and whether it could be amended to control the problem.

3. The alternatives considered, including:

(a) Regulation of business employers or practitioners rather than employee practitioners.

(b) Regulation of the program or service rather than the individual practitioners.

(c) Registration of all practitioners.

(d) Certification of all practitioners.

(e) Other alternatives.

(f) Why the use of the alternatives specified in this paragraph would not be adequate to protect the public interest.

(g) Why licensing would serve to protect the public interest.

4. The benefit to the public if regulation is granted, including:

(a) The extent to which the incidence of specific problems present in the unregulated health profession can reasonably be expected to be reduced by regulation.

(b) Whether the public can identify qualified practitioners.

(c) The extent to which the public can be confident that qualified practitioners are competent, including:

(i) Whether the proposed regulatory entity would be a board composed of members of the profession and public members or a state agency, or both, and, if appropriate, their respective responsibilities in administering the system of registration, certification or licensure, including the composition of the board and the number of public members, if any, the powers and duties of the board or state agency regarding examinations and for cause revocation, suspension and nonrenewal of registrations, certificates or licenses, the adoption of rules and canons

of ethics, the conduct of inspections, the receipt of complaints and disciplinary action taken against practitioners and how fees would be levied and collected to pay for the expenses of administering and operating the regulatory system.

(ii) If there is a grandfather clause, whether grandfathered practitioners will be required to meet the prerequisite qualifications established by the regulatory entity at a later date.

(iii) The nature of the standards proposed for registration, certification or licensure as compared with the standards of other jurisdictions.

(iv) Whether the regulatory entity would be authorized to enter into reciprocity agreements with other jurisdictions.

(v) The nature and duration of any training, including whether the training includes a substantial amount of supervised field experience, whether training programs exist in this state, if there will be an experience requirement, whether the experience must be acquired under a registered, certified or licensed practitioner, whether there are alternative routes of entry or methods of meeting the prerequisite qualifications, whether all applicants will be required to pass an examination, and if an examination is required, by whom it will be developed and how the costs of development will be met.

(d) Assurance of the public that practitioners have maintained their competence, including:

(i) Whether the registration, certification or licensure will carry an expiration date.

(ii) Whether renewal will be based only on payment of a fee or whether renewal will involve reexamination, peer review or other enforcement.

5. The extent to which regulation might harm the public, including:

(a) The extent to which regulation will restrict entry into the health profession, including:

(i) Whether the proposed standards are more restrictive than necessary to ensure safe and effective performance.

(ii) Whether the proposed legislation requires registered, certified or licensed practitioners in other jurisdictions who relocate to this state to qualify in the same manner as state applicants for registration, certification and licensure if the other jurisdiction has substantially equivalent requirements for registration, certification or licensure as those in this state.

(b) Whether there are professions similar to that of the health professional group that should be included in, or portions of the health professional group that should be excluded from, the proposed legislation.

6. The maintenance of standards, including:

(a) Whether effective quality assurance standards exist in the health profession, such as legal requirements associated with specific programs that define or enforce standards or a code of ethics.

(b) How the proposed legislation will ensure quality, including:

(i) The extent to which a code of ethics, if any, will be adopted.

(ii) The grounds for suspension or revocation of registration, certification or licensure.

7. A description of the group proposed for regulation, including a list of associations, organizations and other groups representing the practitioners in this state, an estimate of the number of practitioners in each group and whether the groups represent different levels of practice.

8. The expected costs of regulation, including:

(a) The impact that registration, certification or licensure will have on the costs of the services to the public.

(b) The cost to this state and to the public of implementing the proposed legislation.

32-3106. Health professional groups; proposed increased scope of practice; factors; legislation

A. A health professional group that is seeking an increased scope of practice shall explain each of the following factors:

1. Why an increased scope of practice is beneficial, including the extent to which health care consumers need and will benefit from safe, quality care from practitioners with this scope of practice.
2. Whether those health professionals seeking an increased scope of practice currently have or will be required to have didactic and clinical education from accredited professional schools or training from recognized programs that prepare them to perform the proposed scope of practice, and details on what that education or training includes for that proposed scope of practice.
3. Whether the subject matter of the proposed increased scope of practice is currently tested by nationally recognized and accepted examinations for applicants for professional licensure and the details of the examination relating to the increased scope of practice.
4. The extent to which the proposed increased scope of practice will impact the practice of those who are currently licensed in this state or the entry into practice of those individuals who have relocated from other states with substantially equivalent requirements for registration, certification or licensure as this state.
5. The extent to which implementing the proposed increased scope of practice may result in savings or a cost to this state and to the public.
6. The relevant health profession licensure laws, if any, in this or other states.
7. Recommendations, if any, from the applicable regulatory entity or entities, from the department of health services and from accredited educational or training programs.

B. The legislature shall review any legislation to increase the scope of practice according to the following criteria:

1. Any limit on a health profession's scope of practice must be only for the purpose of protecting the public from a specific harm or danger.
2. Whether the addition of adequately trained health professionals providing an expanded range of professional health care services will have a beneficial effect to the public and increase access to safe, quality care.
3. Whether any changes in the health profession's regulatory entity are necessary to adequately protect the public.

C. The legislature shall not consider either of the following in its review of legislation to increase the scope of practice:

1. Competition from or with other licensed professions.
2. The ability or inability to obtain health insurance coverage for the proposed increased scope of practice.

32-3107. Continuing education requirements; evidence of effectiveness

Any legislative proposal which contains a continuing education requirement for a health profession shall be accompanied by evidence that such a requirement has been proven effective for the health profession.

32-3108. Grievance process; public testimony

Notwithstanding any law to the contrary, a regulatory entity shall allow a person or a representative of a person who has made a complaint or a person or a representative of a person against whom a complaint has been made attending a board disciplinary meeting open to the public to address the board on that complaint on the agenda by filling out a request form before or at the time of the meeting.

32-3121. Definitions

In this article, unless the context otherwise requires:

1. "Health profession regulatory board" has the same meaning prescribed in section 32-3201.
2. "Temporary license" means a short-term license issued to a qualified individual to work in this state on a short-term basis by teaching a course, seminar or class, working during the process of receiving a full and active license, working while traveling with a sports or athletic team or providing free services during a declared state or national disaster.

32-3122. Rules

A health profession regulatory board may adopt rules to carry out this article.

32-3123. Board delegation; executive director

Notwithstanding any other provision of this title, a health profession regulatory board may grant authority to the board's executive director to issue and approve licenses, certifications, registrations, preceptorships, reinstatements or waivers to an applicant or licensee who meets all of the following requirements:

1. Fulfills all requirements of the applicable chapter under this title for licensure, certification, registration, preceptorship, reinstatement or waivers.
2. Has not had a license suspended or revoked by a health profession regulatory board in this or any other jurisdiction.
3. Is not currently under investigation by a health profession regulatory board in this or any other jurisdiction.
4. Has not surrendered a license in lieu of disciplinary action by a health profession regulatory board in this or any other jurisdiction.
5. Has not engaged in any criminal or civil conduct that could be considered unprofessional conduct.
6. Has no disciplinary action on a license issued by a health profession regulatory board in this or any other jurisdiction.

32-3124. Temporary licensure; rules; fee; applicability

A. A health profession regulatory board in this state may issue a temporary license to allow an applicant who is not a licensee to practice in this state if the applicant meets all of the following requirements:

1. Holds an active and unrestricted health profession license in a state, territory or possession of the United States.
2. Has never had a health profession license revoked or suspended.
3. Is not the subject of an unresolved complaint against the person's health profession license.
4. Has paid any applicable fees.

B. The applicant shall submit to the respective health profession regulatory board a notarized affidavit attesting that the applicant meets the requirements of the respective licensing chapter. The applicant shall notify the board immediately if a circumstance specified in subsection A of this section changes during the application period for a temporary license or while holding a temporary license, at which time the board may suspend, deny or revoke the temporary license. The board may suspend, deny or revoke a temporary license and deny the application for initial licensure if the applicant has misrepresented the attestation required by this subsection or any other portion of the application pursuant to this article.

- C. A health profession regulatory board shall approve or deny an application under this section within thirty days after an applicant submits a complete application.
- D. If granted, a temporary license issued pursuant to this section expires the earlier of thirty days after the date the temporary license is granted or on approval or denial of the applicant's license application submitted pursuant to the respective health profession regulatory board.
- E. For the purpose of meeting the requirements of subsection A of this section, an applicant shall provide the respective health profession regulatory board the name of each state, territory or possession of the United States in which the person is licensed or has held a license, and the board shall verify with the applicable regulatory board that the applicant holds an active and unrestricted license and has never had a license revoked or suspended or surrendered a license for disciplinary reasons. The board may accept the confirmation of this information from each other regulatory board verbally, in writing or through the use of the other regulatory board's website, which shall be followed by either an electronic or hard copy of the verification required. If the board is unable to verify the information within the initial thirty days as required by subsection C of this section, the board may extend the time frame by an additional thirty days to receive the necessary verification.
- F. The temporary license may not be renewed.
- G. A health profession regulatory board may not issue more than two temporary licenses to the same applicant within a consecutive twelve-month period.
- H. A health profession regulatory board may establish an application and fee in rule for temporary licensure under this section.
- I. This section applies to a health profession regulatory board to the extent that this section does not conflict with the board's current statutory authority relating to temporary licensure.

32-3201. Definitions

In this chapter, unless the context otherwise requires:

1. "Health profession regulatory board" means any board that regulates one or more health professionals in this state.
2. "Health professional" means a person who is certified or licensed pursuant to chapter 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25, 28, 29, 33, 34, 35, 39, 41 or 42 of this title, title 36, chapter 4, article 6, title 36, chapter 6, article 7 or title 36, chapter 17.
3. "Medical record" has the same meaning prescribed in section 12-2291 but does not include prescription orders.

32-3201.01. Definition of medication-assisted treatment

In this title, unless the context otherwise requires, "medication-assisted treatment" means the use of pharmacological medications that are approved by the United States food and drug administration, in combination with counseling and behavioral therapies, to provide a whole patient approach to the treatment of substance use disorders.

32-3202. License or certificate suspension

The certificate or license of a health professional who does not renew the certificate or license as prescribed by statute and who has been advised in writing that an investigation is pending at the time the certificate or license is due to expire or terminate does not expire or terminate until the investigation is resolved. The license is suspended on the date it would otherwise expire or terminate and the health professional shall not practice in

this state until the investigation is resolved. The certificate is suspended on the date it would otherwise expire or terminate and the health professional shall not practice as a certified health professional in this state until the investigation is resolved.

32-3203. Malpractice claim investigation

On receipt of a malpractice report and a copy of a malpractice complaint as provided in section 12-570, the health profession regulatory board shall initiate an investigation into the matter to determine if the licensee is in violation of the statutes or rules governing licensure.

32-3204. Experimental diagnosis, therapy or treatment; implied consent; definition

A. Notwithstanding any provision of this title to the contrary, a health professional, within the scope of that person's profession, may use an experimental diagnosis, therapy or treatment on a patient who is unable to make or communicate health care decisions and who has an emergent life threatening condition if the requirements of 21 Code of Federal Regulations parts 50, 56, 312, 314, 601, 812 and 814 have been met.

B. A health professional who performs an experimental diagnosis, therapy or treatment pursuant to this section is deemed to have obtained the patient's implied consent for the purposes of title 12, chapter 5.1, article 1.

C. For purposes of this section, "experimental diagnosis" means the pharmaceuticals, devices and technology used to diagnose patients.

32-3205. Board disciplinary action; voting requirements

If a disciplinary action requires a vote of board members, a health profession regulatory board shall conduct that vote by roll call. The board shall maintain a record of each member's vote. This section does not prohibit a board from using a consent agenda.

32-3206. Disciplinary action; information; disclosure

A. At least ten business days before a meeting of a health profession regulatory board to review the status of an investigation, the board shall provide notice of the meeting to the health professional, including notice of the opportunity for the health professional to request a copy of the report concerning the investigation.

B. At least ten business days before a disciplinary interview or a hearing, if the board does not hold a disciplinary interview, the health profession regulatory board shall notify the health professional and, at that person's request, the board shall provide the health professional or the health professional's attorney with the information listed in this section. The board shall provide the following information:

1. Any review conducted by an expert or consultant providing an evaluation of or opinion on the allegations.
2. Any records on the patient obtained by the board from other health care providers.
3. The results of any evaluations or tests of the health professional conducted at the board's direction.
4. Any other factual information that the board will use in making its determination.

C. A person who obtains information from the board pursuant to this section may not release it to any other person or entity or use it in any proceeding or action except in connection with the board's review of the investigation, the disciplinary interview and any administrative proceedings or appeals related to the disciplinary interview or hearing. A person who violates this subsection commits an act of unprofessional conduct.

D. The board may charge the health professional or the health professional's attorney for the cost of providing the information received up to the fee for making a copy of each page as prescribed by section 12-284, subsection A.

32-3207. Health professionals disease hazard; testing; petition; definition

A. A health professional may petition the court to allow for the testing of a patient or deceased person if there is probable cause to believe that in the course of that health professional's practice there was a significant exposure.

B. The court shall hear the petition promptly. If the court finds that probable cause exists to believe that significant exposure occurred between the patient or deceased person and the health professional, the court shall order that either:

1. The person who transferred blood or bodily fluids onto the health professional provide two specimens of blood for testing.

2. If the person is deceased, the medical examiner draw two specimens of blood for testing.

C. On written notice from the employer of the health professional, the medical examiner is authorized to draw two specimens of blood for testing during the autopsy or other examination of the deceased person's body. The medical examiner shall release the specimen to the employing agency or entity for testing only after the court issues its order pursuant to subsection B. If the court does not issue an order within thirty days after the medical examiner collects the specimen, the medical examiner shall destroy the specimen.

D. Notice of the test results shall be provided as prescribed by the department of health services to the person tested, the health professional named in the petition and the health professional's employer. If the person is incarcerated or detained, the notice shall also be provided to the chief medical officer of the facility in which the person is incarcerated or detained.

E. For the purposes of this section, "significant exposure" means contact of a person's ruptured or broken skin or mucous membranes with another person's blood or bodily fluid, other than tears, saliva or perspiration, of a magnitude that the centers for disease control of the United States public health service have epidemiologically demonstrated can result in the transmission of blood borne or bodily fluid carried diseases.

32-3208. Criminal charges; mandatory reporting requirements; civil penalty

A. A health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after receiving or renewing a license or certificate must notify the health professional's regulatory board in writing within ten working days after the charge is filed.

B. An applicant for licensure or certification as a health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after submitting the application must notify the regulatory board in writing within ten working days after the charge is filed.

C. On receipt of this information the regulatory board may conduct an investigation.

D. A health professional who does not comply with the notification requirements of this section commits an act of unprofessional conduct. The health professional's regulatory board may impose a civil penalty of not more than one thousand dollars in addition to other disciplinary action it takes.

E. The regulatory board may deny the application of an applicant who does not comply with the notification requirements of this section.

F. On request a health profession regulatory board shall provide an applicant or health professional with a list of misdemeanors that the applicant or health professional must report.

32-3209. Release of information; fees

A. On request of any person, a health profession regulatory board must provide the following information to that person:

1. A copy of the minutes of any specified board meeting.
2. A copy of a board action concerning a person regulated by the board.
3. A copy of the final adjudication of a complaint against a person regulated by the board. For the purposes of this paragraph, final adjudication of a complaint does not include any complaint that was dismissed or terminated more than five years before the request was submitted.
4. The name and primary practice address of a person regulated by the board.

B. A health regulatory board may charge a fee for copies of any of the information in subsection A.

32-3210. Billing for laboratory costs; unprofessional conduct; definition

A. It is an act of unprofessional conduct for a health professional to request a laboratory that provides anatomic pathology services at the health professional's orders to submit a bill for anatomic pathology services, whether occurring in this state or elsewhere, to any person or entity other than the following:

1. The patient.
2. The responsible insurer or other third party payor.
3. The health care institution.
4. A referring laboratory, excluding the laboratory of the health professional who ordered the test.
5. A governmental agency or the agency's public or private agent, agency or organization that is acting on behalf of the recipient of the services.

B. For the purposes of this section, "anatomic pathology services" includes cytology services, molecular pathology services, hematopathology, histopathology, surgical pathology, and blood banking services performed by a pathologist. Anatomic pathology services does not include the collection, packaging and transportation of the specimen.

32-3211. Medical records; protocol; unprofessional conduct; corrective action; exemptions

A. A health professional must prepare a written protocol for the secure storage, transfer and access of the medical records of the health professional's patients. At a minimum the protocol must specify:

1. If the health professional terminates or sells the health professional's practice and the patient's medical records will not remain in the same physical location, the procedure by which the health professional shall notify each patient in a timely manner before the health professional terminates or sells the health professional's practice in order to inform the patient regarding the future location of the patient's medical records and how the patient can access those records.
2. The procedure by which the health professional may dispose of unclaimed medical records after a specified period of time and after the health professional has made good faith efforts to contact the patient.
3. How the health professional shall timely respond to requests from patients for copies of their medical records or to access their medical records.

B. The protocol prescribed in subsection A of this section must comply with the relevant requirements of title 12, chapter 13, article 7.1 regarding medical records.

- C. A health professional shall indicate compliance with the requirements of this section on the health professional's application for relicensure in a manner prescribed by the health professional's regulatory board.
- D. A health professional who does not comply with this section commits an act of unprofessional conduct.
- E. In addition to taking disciplinary action against a health professional who does not comply with this section, the health professional's regulatory board may take corrective action regarding the proper storage, transfer and access of the medical records of the health professional's patients. For the purposes of this subsection, corrective action does not include taking possession or management of the medical records.
- F. For the purposes of this section, health professional does not include a veterinarian.
- G. This section does not apply to a health professional who is employed by a health care institution as defined in section 36-401 that is responsible for the maintenance of the medical records.

32-3213. Health professionals; disclosure; unprofessional conduct; definition

- A. An advertisement for health care services that includes a health professional's name shall identify the title and type of license the health professional holds and under which the health professional is practicing.
- B. A health professional who violates this section commits an act of unprofessional conduct.
- C. For the purposes of this section, "advertisement" includes billboards, brochures, pamphlets, radio and television scripts, electronic media, printed telephone directories, telephone and direct mail solicitations and any other means of promotion intended to directly or indirectly induce any person to enter into an agreement for services with the health professional. Advertisement does not include materials that provide information about network providers and that are created by an entity regulated under title 20.

32-3214. Board actions; public access to records; website; compliance deadline

- A. If a health profession regulatory board dismisses a complaint, the record of that complaint is available to that regulatory board and the public pursuant to section 39-121 but may not appear on the board's website. For the purposes of this subsection, "dismisses a complaint" means that a board does not issue a disciplinary or nondisciplinary order or action against a licensee or certificate holder. A pending complaint or investigation may not be disclosed to the public.
- B. All disciplinary actions against a licensee or certificate holder shall be available on the health profession regulatory board's website. After January 1, 2018, if a health profession regulatory board issues a final nondisciplinary order or action, the record of the final nondisciplinary order or action shall be made available on the board's website for five years. Letters of concern and advisory letters may not be made available on the website but a copy of such letters are available to the public pursuant to section 39-121 and shall be provided to any person on request.
- C. If a health profession regulatory board maintains a website, the board must display on its website a statement that a person may obtain additional public records related to any licensee or certificate holder, including dismissed complaints and nondisciplinary actions and orders, by contacting the board directly.
- D. This section does not prohibit a health profession regulatory board from conducting its authorized duties in a public meeting.
- E. Subsections A and B of this section do not apply to meeting minutes and notices kept by the board in accordance with the public meeting requirements of title 38, chapter 3, article 3.1.
- F. A health profession regulatory board must comply with the requirements of this section on or before January 1, 2018.

32-3215. Medical marijuana; unprofessional conduct; annual reports; identifying information

A. It is an act of unprofessional conduct for a health professional who is licensed pursuant to chapter 13, 14, 17 or 29 of this title to recommend medical marijuana pursuant to title 36, chapter 28.1 for other than a debilitating medical condition as defined in section 36-2801.

B. The Arizona medical board, the Arizona board of osteopathic examiners in medicine and surgery, the naturopathic physicians medical board and the board of homeopathic and integrated medicine examiners shall each submit an annual report on or before November 15 to the governor, the president of the senate, the speaker of the house of representatives and the director of the department of health services that includes at least the following information:

1. The number of notifications received from the department of health services and from the public of suspected unprofessional conduct that relate to medical marijuana recommendations issued pursuant to title 36, chapter 28.1.

2. The number of investigations conducted as a result of information received pursuant to paragraph 1 and the outcome of those investigations.

C. Annual reports filed pursuant to subsection B of this section shall not include identifying information about a physician.

32-3216. Health care providers; charges; public availability; direct payment; notice; definitions

A. A health care provider must make available on request or online the direct pay price for at least the twenty-five most commonly provided services, if applicable, for the health care provider. The services may be identified by a common procedural terminology code or by a plain-English description. The direct pay prices must be updated at least annually and must be based on the services from a twelve-month period that occurred within the eighteen-month period preceding the annual update. The direct pay price must be for the standard treatment provided for the service and may include the cost of treatment for complications or exceptional treatment. Health care providers who are owners or employees of a legal entity with fewer than three licensed health care providers are exempt from the requirements of this subsection.

B. Subsection A of this section does not apply to emergency services.

C. The health care services provided by health care providers in veterans administration facilities, health facilities on military bases, Indian health services hospitals and other Indian health service facilities, tribal owned clinics, the Arizona state hospital and any health care facility determined to be exempt pursuant to section 36-437, subsection D, are exempt from the requirements of this section.

D. Subsection A of this section does not prevent a health care provider from offering either additional discounts or additional lawful health care services for an additional cost to a person or an employer paying directly.

E. A health care provider is not required to report the direct pay prices to a government agency or department or to a government-authorized or government-created entity for review or filing. A government agency or department or government-authorized or government-created entity may not approve, disapprove or limit a health care provider's direct pay price for services. A government agency or department or government-authorized or government-created entity may not approve, disapprove or limit a health care provider's ability to change the published or posted direct pay price for services.

F. A health care system may not punish a person or employer for paying directly for lawful health care services or a health care provider for accepting direct payment from a person or employer for lawful health care services.

G. Except as provided in subsection N of this section, a health care provider who receives direct payment from a person or employer for a lawful health care service is deemed paid in full if the entire fee for the service is paid and shall not submit a claim for payment or reimbursement for the service to any health care system. This subsection does not prevent a health care provider from pursuing a health care lien for customary charges

pursuant to title 33. This subsection does not affect the ability of a health care provider to submit claims for the same service provided on other occasions to the same or a different person if no direct payment occurs. This subsection does not require a health care provider to refund or adjust any capitated payment, bundled payment or other form of prepayment or global payment made by a health care system to the health care provider for lawful health care services to be provided by the health care provider for the person who makes, or on whose behalf an employer makes, direct payment to the health care provider.

H. Before a health care provider who is contracted as a network provider for a health care system accepts direct payment from a person or an employer, and the person is an enrollee of the same health care system, the health care provider shall obtain the person's or employer's signature on a notice in a form that is substantially similar to the following:

Important notice about direct payment for your health care services

The Arizona Constitution permits you to pay a health care provider directly for health care services. Before you make any agreement to do so, please read the following important information:

If you are an enrollee of a health care system (more commonly referred to as a health insurance plan) and your health care provider is contracted with the health insurance plan, the following apply:

1. You may not be required to pay the health care provider directly for the services covered by your plan, except for cost share amounts that you are obligated to pay under your plan, such as copayments, coinsurance and deductible amounts.
2. Your provider's agreement with the health insurance plan may prevent the health care provider from billing you for the difference between the provider's billed charges and the amount allowed by your health insurance plan for covered services.
3. If you pay directly for a health care service, your health care provider will not be responsible for submitting claim documentation to your health insurance plan for that claim. Before paying your claim, your health insurance plan may require you to provide information and submit documentation necessary to determine whether the services are covered under your plan.
4. If you do not pay directly for a health care service, your health care provider may be responsible for submitting claim documentation to your health insurance plan for the health care service.

Your signature below acknowledges that you received this notice before paying directly for a health care service.

I. A health care provider who receives direct payment for a lawful health care service and who complies with subsection H of this section is not responsible for submitting documentation of any kind for purposes of reimbursement to any health care system for that claim if the failure to submit such documentation does not conflict with the terms of any federal or state contracts to which the health care system is a party and the health care provider has agreed to serve patients under or with applicable state or federal programs in which a health care provider and health care system participate.

J. A health care provider who receives direct payment pursuant to this section shall provide the person making the direct payment with a receipt that includes the following information:

1. The amount of the direct payment.
2. The applicable procedure and diagnosis codes for the services rendered.
3. A clear notation that the services were subject to direct payment under this section.

K. If an enrollee pays to a health care provider who is an out-of-network provider the direct pay price for a lawful health care service that is covered under the enrollee's health care plan, pursuant to the requirements of this section, the amount paid by the enrollee shall be applied first to the enrollee's in-network deductible with any remaining monies being applied to the enrollee's out-of-network deductible, if applicable. The amount

applied to the in-network deductible shall be the amount paid directly or the insurer's prevailing contracted commercial rate for the enrollee's health care plan in this state for the service or services. If the service or services do not match standard codes or bundled payment programs in use in this state by the insurer, the amount applied to the in-network deductible shall be the amount paid directly. For the purposes of this subsection, "prevailing contracted commercial rate" means the most usual and customary rate that an insurer offers as payment for a specific service under a specific health care plan, not including a plan offered under medicare or medicaid or on a health insurance exchange.

L. If an enrollee is enrolled in a high deductible plan that qualifies the enrollee for a health savings account as defined in 26 United States Code section 223, the health care system is not liable if the enrollee submits a claim for deductible application of a direct pay amount pursuant to subsection K of this section that jeopardizes the enrollee's status as an individual eligible for favorable tax treatment of the health savings account.

M. This section does not create any private right or cause of action for or on behalf of any person against the health insurer. This section provides solely an administrative remedy for any violation of this section or any related rule.

N. This section does not impair the provisions of a health care system's private health care network provider contract, except that a health care provider may accept direct payment from a person or employer or may decline to bill the health care system directly for services paid directly by a person or employer if the health care provider has complied with subsection H of this section and the health care provider's receipt of direct payment and the declination to bill the health care system do not conflict with the terms of any federal or state contract to which the health care system is a party and the health care provider has agreed to serve patients under or with applicable state or federal programs in which both a health care provider and health care system participate.

O. A health care provider who does not comply with the requirements of this section commits unprofessional conduct. Any disciplinary action taken by the health professional's licensing board may not include revocation of the health care provider's license.

P. For the purposes of this section:

1. "Direct pay price" means the price that will be charged by a health care provider for a lawful health care service, regardless of the health insurance status of the person, if the entire fee for the service is paid in full directly to a health care provider by the person, including the person's health savings account, or by the person's employer and that does not prohibit a provider from establishing a payment plan with the person paying directly for services.

2. "Emergency services" means lawful health care services needed to evaluate and stabilize an emergency medical condition as defined in 42 United States Code section 1396u-2(b)(2)(C).

3. "Enrollee" means a person who is enrolled in a health care plan provided by a health insurer.

4. "Health care plan" means a policy, contract or evidence of coverage issued to an enrollee. Health care plan does not include limited benefit coverage as defined in section 20-1137.

5. "Health care provider" means a person who is licensed pursuant to chapter 7, 8, 13, 16, 17, 19 or 34 of this title.

6. "Health care system" means a public or private entity whose function or purpose is the management, processing or enrollment of individuals or the payment, in full or in part, of health care services.

7. "Health insurer":

(a) Means a disability insurer, group disability insurer, blanket disability insurer, health care services organization, hospital service corporation, medical service corporation or hospital and medical service corporation as defined in title 20.

(b) Does not include a governmental plan as defined in the employee retirement income security act of 1974 (P.L. 93-406; 88 Stat. 829; 29 United States Code section 1002).

8. "Lawful health care services" means any health-related service or treatment, to the extent that the service or treatment is permitted or not prohibited by law or regulation, that may be provided by persons or businesses otherwise permitted to offer the services or treatments.

9. "Punish" means to impose any penalty, surcharge or named fee with a similar effect that is used to discourage the exercise of rights under this section.

32-3217. Volunteer health services registration; health professionals; free medical clinic

A. A health profession regulatory board in this state may issue a volunteer health services registration to allow a health professional who is not a licensee to practice in this state for a total of up to fourteen days each calendar year if the health professional meets all of the following requirements:

1. Holds an active and unrestricted license in a state, territory or possession of the United States.
2. Has never had a license revoked or suspended.
3. Is not the subject of an unresolved complaint.
4. Applies for registration every two years as prescribed by the board.
5. Agrees to render services at a free medical clinic that does not provide abortions and restricts the health professional's authorized services and duties to the provision of care or service at a free medical clinic.
6. Provides only the care or services that the health professional is licensed or authorized to provide by the health professional's regulatory agency or this state's regulatory board for the same health profession, whichever is more stringent.

B. The fourteen days of practice prescribed by subsection A of this section may be performed consecutively or cumulatively during each calendar year.

C. For the purpose of meeting the requirements of subsection A of this section, an applicant shall provide the appropriate health profession regulatory board the name of each state in which the person is licensed or has held a license and the board shall verify with the applicable regulatory agency of each state that the applicant is licensed or has held a license, has never had the license revoked or suspended and is not the subject of an unresolved complaint. The board may accept the verification of the information required by subsection A, paragraphs 1, 2 and 3 of this section from each of the other state's regulatory agencies either electronically or by hard copy.

D. A health profession regulatory board issuing a volunteer health services registration pursuant to this section may not charge a fee.

E. A health profession regulatory board may immediately suspend or revoke a registration issued pursuant to this section on receiving proof satisfactory to the health profession regulatory board that the holder of the registration has engaged in practice in this state that is outside the scope of the registration or that grounds exist for action against the holder of the registration under the relevant chapter of this title. The holder of a registration may request a hearing to challenge the suspension or revocation of a registration in the manner permitted for appealable agency actions under title 41, chapter 6, article 10.

32-3218. Health profession regulatory boards; members; training; definitions

A. Beginning January 1, 2015, each member of a health profession regulatory board shall complete a twelve-hour training within one year after the member's initial appointment to the board. Any member of a health profession regulatory board whose initial appointment was before January 1, 2015 has until January 1, 2016 to complete the training required by this subsection. The training must include the subjects of governance and administrative management, disciplinary procedures, conduct of quasi-judicial proceedings, administrative procedure and rule adoption and licensure as they apply to the health profession regulatory board. Any training

completed by a current board member on and after January 1, 2014 on the topics specified in this subsection may count toward the requirements of this subsection.

B. The training of board members required by this section may be provided by the staff of any health profession regulatory board, the office of the attorney general, the department of administration, the auditor general or an outside educational institution or any other provider that is approved by the health profession regulatory board on which the member is serving.

C. Any board action taken by a health profession regulatory board is not subject to challenge or invalidation because a board member has not completed the training required by this section.

D. For the purposes of this section:

1. "Health profession regulatory board" means any board that regulates one or more health professional in this state.

2. "Health professional" means a person who is certified or licensed pursuant to chapter 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25, 28, 29, 34, 35, 39, 41 or 42 of this title.

32-3219. Licensure; renewal; notification; definitions

A. A medical practitioner regulatory board shall notify each medical practitioner who receives an initial or renewal license and who intends to apply for registration or has an active registration under the controlled substances act (21 United States Code section 801 through 904) of the medical practitioner's responsibility to register with the Arizona state board of pharmacy and be granted access to the controlled substances prescription monitoring program's central database tracking system. The Arizona state board of pharmacy shall provide access to the central database tracking system to each medical practitioner who has a valid license pursuant to this title and who possesses an Arizona registration under the controlled substances act (21 United States Code section 801 through 904).

B. For the purposes of this section:

1. "Medical practitioner" means any person who is licensed and authorized by law to use and prescribe drugs and devices for the treatment of sick and injured human beings or for the diagnosis or prevention of sickness in human beings in this state or any state, territory or district of the United States and who possesses an Arizona registration under the controlled substances act (21 United States Code sections 801 through 904).

2. "Medical practitioner regulatory board" means any board established pursuant to chapter 7, 11, 13, 14, 15, 16, 17, 25 or 29 of this title that regulates one or more medical practitioners in this state.

32-3220. Health professionals; requirements for licensure; prohibition

A health professional is not required to participate in any public or private third-party reimbursement program as a condition of licensure under this title.

32-3221. Lawful health care services; patient education; exceptions; definitions

A. This state, any political subdivision of this state or any department or agency of this state, including a health profession regulatory board, or a private entity contracted with a health profession regulatory board to carry out functions of the board may not punish a health professional, directly or indirectly through a subcontractor or otherwise, for making a patient aware of or educating or advising a patient about lawful health care services for which there is a reasonable basis, including the off-label use of health care services or health care-related research or data, or for offering, providing or making available lawful health care services, including the off-label use of health care services for which there is a reasonable basis that is allowed under state law.

B. Unless an entity has a sincerely held religious or moral belief, the entity may not restrict a health professional who is an employee of or affiliated or contracted with the entity for making a patient aware of or educating or advising a patient about lawful health care services, including the off-label use of health care services, or health care-related research or data.

C. Making a patient aware of or educating or advising a patient about lawful health care services, including the off-label use of health care services, does not require the health care service to be covered under the health care plan or the health care system through which the patient receives care.

D. Making a patient aware of or educating or advising a patient about lawful health care services, including the off-label use of health care services, does not require a health professional, an entity that employs the health professional or a health care system to offer, provide or make the lawful health care service, including the off-label use of health care services, available to the patient.

E. This section does not:

1. Impair the rights established in article II, constitution of Arizona, or impair any right or limitation on medical liability.
2. Prevent any reporting to a health profession regulatory board regarding medical liability cases, settlements or decisions.
3. Impair or contradict any other state law regarding lawful health care services.
4. Prohibit a health profession regulatory board from taking action if a health professional commits unprofessional conduct arising out of the conduct specified in this section.

F. For the purposes of this section:

1. "Lawful health care service" means any health-related service or treatment, to the extent that the service or treatment is allowed or not prohibited by law or regulation, that may be provided by persons or businesses that are otherwise allowed to offer such services.
2. "Off-label use" means any use if the intent is the practice of medicine and the use is not specified in the labeling or indications for use for prescription drugs, biologics, approved medical devices and dietary supplements approved by the United States food and drug administration. For the purposes of this paragraph, "labeling" includes any written material that accompanies, supplements or explains a product.
3. "Punish" means to impose any penalty, sanction or disciplinary action to discourage the exercise of a right under this section.
4. Sincerely held religious or moral belief does not include a belief that restricts the access by a patient to a lawful health care service based on the cost of the lawful health care service for that patient.
5. Unprofessional conduct does not include conduct by a health professional who is acting within the minimum standards of practice as determined by the health professional's health profession regulatory board.

32-3222. Health profession regulatory boards; terms of members; board meeting recordings; employment opportunities; websites

A. Notwithstanding any other provision of this title and except as provided in this subsection, a member of a health profession regulatory board is not eligible for reappointment to that board once the person has been appointed for two full terms, in addition to any time served on the board to fill a vacancy. A person may be reappointed to a health profession regulatory board once the person has not been on the board for a period of at least two full terms. This subsection applies to the state board of dental examiners, the Arizona medical board, the Arizona state board of nursing and the Arizona state board of pharmacy. A board member who is serving on an affected board on January 1, 2018 may complete any term to which the member has been appointed regardless of the number of terms the member has served.

B. Each health profession regulatory board shall make a digital recording of all open meetings of the board and shall maintain these recordings for three years after the date of the recording. The health profession regulatory board, within five business days after the board meeting that is the subject of the recording, shall either:

1. Post the digital recording on the board's website.
2. Post a notice on the board's website of the availability of the digital recording.

C. Each health profession regulatory board shall provide on the board's website a list of all board-specific contract employment opportunities and a link to the state procurement office to apply for those positions.

32-3223. Health profession regulatory boards; nondisciplinary confidential monitoring programs

A. Each health profession regulatory board may establish a nondisciplinary confidential program, including enrollment criteria for participation in the program, for the monitoring of a licensee or certificate holder who has been reported to or who voluntarily reports to the licensee's or certificate holder's regulatory board and who may be chemically dependent or have a substance misuse history or who may have a medical, psychiatric, psychological or behavioral health disorder that may impact the licensee's or certificate holder's ability to safely practice or perform health care tasks.

B. A program established pursuant to subsection A of this section may include education, intervention, therapeutic treatment and posttreatment monitoring and support. The licensee or certificate holder is responsible for the costs associated with any treatment, rehabilitation or monitoring under a program established pursuant to subsection A of this section. The health profession regulatory board and the licensee or certificate holder may agree to enter into a nondisciplinary confidential stipulated agreement for participation in a program established pursuant to subsection A of this section.

C. The board may take further action if the licensee or certificate holder refuses to enter into a nondisciplinary confidential stipulated agreement with the board or fails to comply with the agreement's terms. The confidentiality requirements of this section do not apply if the licensee or certificate holder does not comply with the stipulated agreement.

32-3224. Complaints; time limitation on filing

Notwithstanding any time limitation to the contrary in this title, a health profession regulatory board may not act on its own motion or on any complaint received by the board in which an allegation of unprofessional conduct or any other violation of the chapter that applies to a professional who holds an Arizona license or certificate occurred more than four years before the complaint is received by the board. This time limitation does not apply to:

1. Medical malpractice settlements or judgments or allegations of sexual misconduct or if such incident or occurrence involved a felony, diversion of a controlled substance or impairment while practicing by the licensee or certificate holder.
2. A board's consideration of the specific unprofessional conduct related to a licensee's or certificate holder's failure to disclose conduct or a violation as required by law.

32-3225. Types of disciplinary action; reimbursement

In addition to any other disciplinary actions that may be taken, a health profession regulatory board may impose a requirement for a reimbursement of fees paid to a licensee or certificate holder by or on behalf of the patient, if requested by the patient on a complaint form prescribed by the board.

32-3226. Address of record; disclosure; telephone number or email address; definition

A. A health profession regulatory board shall have, for each licensee under the board's regulation, an address of record designated by the licensee that may be disclosed to the public. If the licensee designates the licensee's residential address as the address of record, the board shall notify the licensee of the public disclosure and allow the licensee to opt out of the disclosure.

B. Each licensee who is required to maintain patient medical records must have on file with the licensee's health profession regulatory board a telephone number or email address for the board to provide to a patient who is seeking medical records.

C. A health profession regulatory board shall designate associations of licensed health professionals that may receive on request the contact information and addresses of record for all health professionals under the board's regulation, including health professionals who have opted out of public disclosure. An association of licensed health professions that receives contact information and addresses of record from a health profession regulatory board may not transfer or sell that information.

D. This section does not prohibit a health profession regulatory board from providing to the department of health services or a university under the jurisdiction of the Arizona board of regents information and data concerning the health profession regulatory board's licensees for research purposes if the information and data are not distributed to the public in a format that includes a licensee's personally identifiable information.

E. For the purposes of this section, "address of record" means either:

1. The address where a health professional practices the person's health profession or is otherwise employed.
2. The health professional's residential address.

32-3227. Unauthorized practice of a health profession; verification; posting; violation; classification; definition

A. A health profession regulatory board shall regulate the unauthorized practice of the health profession the board regulates.

B. A health profession regulatory board or the executive director of the board, if delegated and consistent with each regulatory board's statutory authority, shall do all of the following after receiving a complaint regarding a person who is alleged to have engaged in the unauthorized practice of a health profession:

1. Verify all of the person's licensure or certification documentation with the primary source of the documentation.
2. Retain all records of the complaint and documentation verification for at least ten years.
3. Post on the board's public website for five years information regarding the person who the board verifies has engaged in the unauthorized practice of a health profession. The person may petition the board to have the information removed earlier than five years.

C. A health profession regulatory board may issue a cease and desist order to stop a person from engaging in the unauthorized practice of a health profession.

D. A health profession regulatory board shall notify each complainant that the person may submit additional information at any time during the investigation if the information was not initially submitted.

E. If a complainant requests to have the complainant's identifying information withheld from the person against whom the allegation of unauthorized practice of a health profession is being made, the board shall keep the complainant's identifying information confidential.

F. A person who engages in the unauthorized practice of a health profession is guilty of a class 5 felony. A health profession regulatory board shall refer each verified complaint for the unauthorized practice of a health profession to the county attorney or attorney general for prosecution.

G. For the purposes of this section, "unauthorized practice of a health profession" means to engage in the practice of a health profession without having the licensure or certification required to practice in that health profession in this state.

32-3248. Health professionals; controlled substances; initial prescriptions; limits; exceptions; definition

A. A health professional who is authorized under this title to prescribe controlled substances shall limit the initial prescription for a patient for a schedule II controlled substance that is an opioid to not more than a five-day supply, except that an initial prescription for a schedule II controlled substance that is an opioid following a surgical procedure is limited to not more than a fourteen-day supply.

B. Subsection A of this section does not apply to initial prescriptions if the patient:

1. Has an active oncology diagnosis.
2. Has a traumatic injury, not including a surgical procedure.
3. Is receiving hospice care.
4. Is receiving end-of-life care.
5. Is receiving palliative care.
6. Is receiving skilled nursing facility care.
7. Is receiving treatment for burns.
8. Is receiving medication-assisted treatment for a substance use disorder.
9. Is an infant who is being weaned off opioids at the time of hospital discharge.

C. If a health professional's prescribing authority under the relevant chapter of this title for schedule II controlled substances is more restrictive than the limit specified in subsection A of this section, the health professional's prescribing authority under the relevant chapter of this title applies.

D. An initial prescription for a schedule II controlled substance that is an opioid that is written for more than a five-day supply is deemed to meet the requirements of an exemption under this section when the initial prescription is presented to the dispenser. A pharmacist is not required to verify with the prescriber whether the initial prescription complies with this section.

E. For the purposes of this section, "initial prescription" means a prescription for a schedule II controlled substance that is an opioid that has not covered any portion of the past sixty days before the date the pharmacy dispenses the current prescription as evidenced by the controlled substances prescription monitoring program's central database tracking system.

32-3248.01. Schedule II controlled substances; dosage limit; exceptions; morphine; opioid antagonist

A. A health professional who is authorized under this title to prescribe controlled substances may not issue a new prescription to be filled or dispensed for a patient outside of a health care institution for a schedule II controlled substance that is an opioid that exceeds ninety morphine milligram equivalents per day.

B. The limit prescribed by subsection A of this section does not apply to:

1. A continuation of a prior prescription that was issued within the previous sixty days.

2. An opioid with a maximum approved total daily dose in the labeling as approved by the United States food and drug administration.
3. A prescription that is issued following a surgical procedure and that is limited to not more than a fourteen-day supply.
4. A patient who:
 - (a) Has an active oncology diagnosis.
 - (b) Has a traumatic injury, not including a surgical procedure.
 - (c) Is receiving hospice care.
 - (d) Is receiving end-of-life care.
 - (e) Is receiving palliative care.
 - (f) Is receiving skilled nursing facility care.
 - (g) Is receiving treatment for burns.
 - (h) Is receiving medication-assisted treatment for a substance use disorder.
 - (i) Is hospitalized.

C. If a health professional believes that a patient requires more than ninety morphine milligram equivalents per day and the patient is not exempt from the limit pursuant to subsection B of this section, the health professional shall first consult with a physician who is licensed pursuant to chapter 13 or 17 of this title and who is board-certified in pain, or an opioid assistance and referral call service, if available, that is designated by the department of health services. The consultation may be done by telephone or through telemedicine. If the opioid call service agrees with the higher dose, the health professional may issue a prescription for more than ninety morphine milligram equivalents per day. If the consulting physician agrees with the higher dose, the health professional may issue a prescription for more than ninety morphine milligram equivalents per day. If the consulting physician is not available to consult within forty-eight hours after the request, the health professional may prescribe the amount that the health professional believes the patient requires and subsequently have the consultation. If the health professional is a physician who is licensed pursuant to chapter 13 or 17 of this title and is board-certified in pain, the health professional may issue a prescription for more than ninety morphine milligram equivalents per day without a consultation under this subsection.

D. If a patient is prescribed more than ninety morphine milligram equivalents per day pursuant to subsection B or C of this section, the prescribing health professional shall also prescribe for the patient naloxone hydrochloride or any other opioid antagonist that is approved by the United States food and drug administration for the treatment of opioid-related overdoses.

E. A prescription order for a schedule II controlled substance that is an opioid that is written for more than ninety morphine milligram equivalents per day is deemed to meet the requirements of an exemption under this section when the prescription order is presented to the dispenser. A pharmacist is not required to verify with the prescriber whether the prescription order complies with this section.

32-3248.02. Health professionals; substance use or addiction continuing education

A health professional who is authorized under this title to prescribe schedule II controlled substances and who has a valid United States drug enforcement administration registration number or who is authorized under chapter 18 of this title to dispense controlled substances shall complete a minimum of three hours of opioid-related, substance use disorder-related or addiction-related continuing education each license renewal cycle. The three hours of continuing medical education or accredited continuing education that is approved by the applicable health profession regulatory board shall be included as part of any continuing education requirements for that health professional.

32-3801. Personal information maintained by regulatory entities; confidentiality

Notwithstanding any law to the contrary, except as provided in section 32-3226, a professional's residential address and residential telephone number or numbers maintained by a regulatory entity established pursuant to this title are not available to the public unless they are the only address and numbers of record.

32-4301. License, certificate or registration expiration; military active duty; one hundred eighty-day extension

(L17, Ch. 62, sec. 1 & Ch. 334, sec. 54. Eff. until 7/1/20)

A. Except as otherwise provided in this section, a license, certificate or registration that is issued pursuant to this title to any member of the national guard or the United States armed forces reserves shall not expire while the member is serving on federal active duty and shall be extended one hundred eighty days after the member returns from federal active duty, provided that the member, or the legal representative of the member, notifies the license, certificate or registration issuing authority of the federal active duty status of the member. A license, certificate or registration that is issued pursuant to this title to any member serving in the regular component of the United States armed forces shall be extended one hundred eighty days from the date of expiration, provided that the member, or the legal representative of the member, notifies the license, certificate or registration issuing authority of the federal active duty status of the member.

B. A license, certificate or registration that is issued pursuant to this title to any member of the national guard, the United States armed forces reserves or the regular component of the United States armed forces shall not expire and shall be extended one hundred eighty days from the date the military member is able to perform activities necessary under the license, certificate or registration if the member both:

1. Is released from active duty service.

2. Suffers an injury as a result of active duty service that temporarily prevents the member from being able to perform activities necessary under the license, certificate or registration.

C. If the license, certificate or registration is renewed during the applicable extended time period after the member returns from federal active duty, the member is responsible only for normal fees and activities relating to renewal of the license, certificate or registration and shall not be charged any additional costs such as late fees or delinquency fees.

D. The member, or the legal representative of the member, shall present to the authority issuing the license, certificate or registration a copy of the member's official military orders, a redacted military identification card or a written verification from the member's commanding officer before the end of the applicable extended time period in order to qualify for the extension.

E. This section does not apply to licenses that are issued pursuant to chapter 10 of this title if a person other than the person who is a member of the national guard, the United States armed forces reserves or the regular component of the United States armed forces is authorized to renew the license.

F. A license or certificate that is issued pursuant to chapter 36 of this title to any member of the national guard, the United States armed forces reserves or the regular component of the United States armed forces shall be placed in active status for ninety days after the member returns from federal active duty, provided that the member, or the legal representative of the member, notifies the department of financial institutions of the federal active duty status of the member.

32-4302. Out-of-state applicants; residents; military spouses; licensure; certification; exceptions

A. Notwithstanding any other law, an occupational or professional license or certificate shall be issued, in the discipline applied for and at the same practice level as determined by the regulating entity, pursuant to this title

to a person who establishes residence in this state or without an examination to a person who is married to an active duty member of the armed forces of the United States and who is accompanying the member to an official permanent change of station to a military installation located in this state if all of the following apply:

1. The person is currently licensed or certified in at least one other state in the discipline applied for and at the same practice level as determined by the regulating entity and the license or certification is in good standing in all states in which the person holds a license or certification.
2. The person has been licensed or certified by another state for at least one year.
3. When the person was licensed or certified by another state there were minimum education requirements and, if applicable, work experience and clinical supervision requirements in effect and the other state verifies that the person met those requirements in order to be licensed or certified in that state.
4. The person previously passed an examination required for the license or certification if required by the other state.
5. The person has not had a license or certificate revoked and has not voluntarily surrendered a license or certificate in any other state or country while under investigation for unprofessional conduct.
6. The person has not had discipline imposed by any other regulating entity. If another jurisdiction has taken disciplinary action against the person, the regulating entity shall determine if the cause for the action was corrected and the matter resolved. If the matter has not been resolved by that jurisdiction, the regulating entity may not issue or deny a license until the matter is resolved.
7. The person does not have a complaint, allegation or investigation pending before another regulating entity in another state or country that relates to unprofessional conduct. If an applicant has any complaints, allegations or investigations pending, the regulating entity in this state shall suspend the application process and may not issue or deny a license to the applicant until the complaint, allegation or investigation is resolved.
8. The person pays all applicable fees.
9. The person does not have a disqualifying criminal history as determined by the regulating entity pursuant to section 41-1093.04.

B. This section does not prevent a regulating entity under this title from entering into a reciprocity agreement with another state or jurisdiction for persons married to active duty members of the armed forces of the United States, except that the agreement may not allow out-of-state licensees or certificate holders to obtain a license or certificate by reciprocity in this state if the applicant has not met standards that are substantially equivalent to or greater than the standards required in this state as determined by the regulating entity on a case-by-case basis.

C. Except as provided in subsection A of this section, a regulating entity that administers an examination on laws of this state as part of its license or certificate application requirement may require an applicant to take and pass an examination specific to the laws of this state.

D. A person who is licensed pursuant to this title is subject to the laws regulating the person's practice in this state and is subject to the regulating entity's jurisdiction.

E. This section does not apply to:

1. A license or registration certificate that is issued pursuant to chapter 24 or 26 of this title.
2. Requirements for a fingerprint clearance card issued pursuant to title 41, chapter 12, article 3.1.
3. Criteria for a license, permit or certificate of eligibility that is established by an interstate compact.
4. The ability of a regulating entity under this title to require an applicant to submit fingerprints in order to access state and federal criminal records information for noncriminal justice purposes.

F. A license or certificate issued pursuant to this section is valid only in this state and does not make the person eligible to be part of an interstate compact. A regulating entity under this title may determine eligibility for an applicant to be licensed or certified under this section if the applicant is not part of an interstate compact.

32-4303. Military education, training and experience

Notwithstanding any other law, the education, training or experience requirements for a license, certificate or registration issued pursuant to this title are completely or partially satisfied, as determined by the regulating entity, on presentation of satisfactory evidence that the applicant received substantially equivalent education, training or experience as a member of the United States armed forces or any national guard or other reserve component. The regulating entity shall work in conjunction with the department of veterans' services to access information regarding the applicant's military education, training or experience.

32-4701. Provisional license; eligibility; report; definition

A. Unless subsection K of this section applies, a licensing authority shall have the authority to issue to an otherwise qualified applicant who has been convicted of an offense either of the following:

1. The regular license for which the applicant applied.

2. A provisional license.

B. The provisional license shall be valid for a term of not more than one year as specified by the licensing authority by rule.

C. The licensing authority may revoke a provisional license if the provisional licensee:

1. Is charged with a new felony.

2. Commits an act or omission that causes the provisional licensee's community supervision, probation or parole to be revoked, if applicable.

3. Violates the law or rules governing the practice of the occupation for which the provisional license is issued.

D. If the licensing authority revokes a provisional license under subsection C of this section, the provisional licensee is not entitled to receive another provisional license or the regular license for which the applicant originally applied, even if otherwise qualified. The ability of such a person to subsequently obtain another such license in the future is within the discretion of the licensing authority.

E. An applicant who is on community supervision, probation or parole and who is issued a provisional license under this section shall provide to the licensing authority the name and contact information of the community supervision, probation or parole officer to whom the applicant reports. The licensing authority shall notify the community supervision, probation or parole officer that a provisional license has been issued.

F. If the licensing authority issues a regular or provisional license to an applicant and the applicant has been ordered by a court to pay restitution, the licensing authority shall notify the prosecutor that a regular or provisional license has been issued to the applicant for the purposes of recovering restitution that the applicant may owe.

G. If an applicant is employed in a licensed assisted living or skilled nursing facility, the provisional license must include a condition that the provisional licensee may only work under the direct supervision of another licensee who is not a provisional licensee, and the supervising licensee must sign a verifying affidavit.

H. If a provisional licensee was convicted of an offense that involves a violation of title 13, chapter 15 or 19 within the last ten years and if the occupation is one in which a licensee regularly enters private residences, the provisional license must include a condition that the provisional licensee only work under the direct supervision of another licensee who has no criminal record during all home visits and the supervising licensee must sign a

verifying affidavit. If the offense occurred more than ten years ago, the condition is discretionary with the licensing authority. The regular license may include this condition if the licensing authority determines that the condition is warranted. The licensing authority may conduct reasonable enforcement activities to ensure this supervision condition is complied with over the course of the license term.

I. This section does not preclude a licensing authority from exercising its existing discretion to issue a license to individuals who are not covered under this section.

J. A person who is incarcerated may not apply for a provisional license until after the person's release.

K. This section does not apply to:

1. A person who is convicted of:

(a) A violent crime as defined in section 13-901.03.

(b) A violation of section 13-1403, subsection B.

(c) A sexual offense as defined in section 13-1420.

(d) Kidnapping under section 13-1304.

(e) An offense in violation of title 13, chapter 20, 21 or 22 or section 13-2310 or 13-2311 if the licensed occupation is one in which the licensee owes a fiduciary duty to a client.

2. Any occupation where the licensee would be supervising vulnerable adults as defined in section 46-451 or children.

3. Any initial or renewal license application where the applicant was convicted of committing an offense in the course of performing the duties of the occupation or a substantially similar occupation.

4. Repetitive offenders pursuant to section 13-703.

L. Each licensing authority shall submit a report on or before July 1 each year to the governor and provide a copy of this report to the secretary of state. The report shall include the following information for the previous calendar year:

1. The number of provisional license applications that were received.

2. The number of provisional licenses that were granted.

3. The number of provisional license applications that were denied.

4. The number of provisional licenses that were revoked.

M. For the purposes of this section, "licensing authority" means any agency, department, board or commission of this state that issues a license pursuant to this title, except chapter 40 of this title, for the purposes of operating a business in this state to an individual who provides a service to any person.

32-4801. Public meetings; digital recordings; posting; definition

A. Each licensing authority shall:

1. In addition to the requirements prescribed in title 38, chapter 3, article 3.1, provide for a digital recording of each licensing authority meeting, except for executive sessions.

2. Post on its website the digital recording of the meeting not later than five days after the meeting and retain the recording on its website for at least three years.

3. Except as prescribed by sections 32-3214 and 41-1092.09, post on its website all final decisions, orders and actions the licensing authority takes not later than five days after the meeting and retain this information on its website for at least three years.

B. For the purposes of this section, "licensing authority" has the same meaning prescribed in section 32-4701.

35-143.01. Special funds; appropriation; reversion; use

A. All monies deposited in special agency funds of self-supporting regulatory agencies, as provided in section 35-142, to be used by such agency for administration and enforcement, shall be subject to annual legislative appropriation.

B. Unless otherwise provided by the legislature, a special fund self-supporting regulatory agency shall not expend more monies than are appropriated by the legislature for a fiscal year, and any monies remaining at the end of the fiscal year revert to the special agency fund.

C. Any unexpended or unencumbered balance of monies remaining in the special funds of self-supporting regulatory agencies as provided in section 35-142 at the end of the fiscal year shall not revert to the state general fund and may be made available by the legislature for use by the agency for the following fiscal year.

12-2291. Definitions

In this article, unless the context otherwise requires:

1. "Clinical laboratory" has the same meaning prescribed in section 36-451.
2. "Contractor" means an agency or service that duplicates medical records on behalf of health care providers.
3. "Department" means the department of health services.
4. "Health care decision maker" means an individual who is authorized to make health care treatment decisions for the patient, including a parent of a minor or an individual who is authorized pursuant to section 8-514.05, title 14, chapter 5, article 2 or 3 or section 36-3221, 36-3231 or 36-3281.
5. "Health care provider" means:
 - (a) A person who is licensed pursuant to title 32 and who maintains medical records.
 - (b) A health care institution as defined in section 36-401.
 - (c) An ambulance service as defined in section 36-2201.
 - (d) A health care services organization licensed pursuant to title 20, chapter 4, article 9.
6. "Medical records" means all communications related to a patient's physical or mental health or condition that are recorded in any form or medium and that are maintained for purposes of patient diagnosis or treatment, including medical records that are prepared by a health care provider or by other providers. Medical records do not include materials that are prepared in connection with utilization review, peer review or quality assurance activities, including records that a health care provider prepares pursuant to section 36-441, 36-445, 36-2402 or 36-2917. Medical records do not include recorded telephone and radio calls to and from a publicly operated emergency dispatch office relating to requests for emergency services or reports of suspected criminal activity, but include communications that are recorded in any form or medium between emergency medical personnel and medical personnel concerning the diagnosis or treatment of a person.
7. "Payment records" means all communications related to payment for a patient's health care that contain individually identifiable information.
8. "Source data" means information that is summarized, interpreted or reported in the medical record, including x-rays and other diagnostic images.

12-2292. Confidentiality of medical records and payment records

A. Unless otherwise provided by law, all medical records and payment records, and the information contained in medical records and payment records, are privileged and confidential. A health care provider may only disclose that part or all of a patient's medical records and payment records as authorized by state or federal law or written authorization signed by the patient or the patient's health care decision maker.

B. This article does not limit the effect of any other federal or state law governing the confidentiality of medical records and payment records.

12-2293. Release of medical records and payment records to patients and health care decision makers; definition

A. Except as provided in subsections B and C of this section, on the written request of a patient or the patient's health care decision maker for access to or copies of the patient's medical records and payment records, the health care provider in possession of the record shall provide access to or copies of the records to the patient or the patient's health care decision maker.

B. A health care provider may deny a request for access to or copies of medical records or payment records if a health professional determines that either:

1. Access by the patient is reasonably likely to endanger the life or physical safety of the patient or another person.
2. The records make reference to a person other than a health professional and access by the patient or the patient's health care decision maker is reasonably likely to cause substantial harm to that other person.
3. Access by the patient's health care decision maker is reasonably likely to cause substantial harm to the patient or another person.
4. Access by the patient or the patient's health care decision maker would reveal information obtained under a promise of confidentiality with someone other than a health professional and access would be reasonably likely to reveal the source of the information.

C. A health care provider may deny a request for access to or copies of medical records or payment records if the health care provider determines that either:

1. The information was created or obtained in the course of clinical research and the patient or the patient's health care decision maker agreed to the denial of access when consenting to participate in the research and was informed that the right of access will be reinstated on completion of the research.
2. A health care provider is a correctional institution or is acting under the direction of a correctional institution and access by a patient who is an inmate in the correctional institution would jeopardize the health, safety, security, custody or rehabilitation of the patient or other inmates or the safety of any officer, employee or other person at the correctional institution or of a person who is responsible for transporting the inmate.

D. If the health care provider denies a request for access to or copies of the medical records or payment records, the health care provider must note this determination in the patient's records and provide to the patient or the patient's health care decision maker a written explanation of the reason for the denial of access. The health care provider must release the medical records or payment records information for which there is not a basis to deny access under subsection B of this section.

E. For the purposes of this section, "health professional" has the same meaning prescribed in section 32-3201.

12-2294. Release of medical records and payment records to third parties

A. A health care provider shall disclose medical records or payment records, or the information contained in medical records or payment records, without the patient's written authorization as otherwise required by law or when ordered by a court or tribunal of competent jurisdiction.

B. A health care provider may disclose medical records or payment records, or the information contained in medical records or payment records, pursuant to written authorization signed by the patient or the patient's health care decision maker.

C. A health care provider may disclose medical records or payment records or the information contained in medical records or payment records and a clinical laboratory may disclose clinical laboratory results without the written authorization of the patient or the patient's health care decision maker as otherwise authorized by state or federal law, including the health insurance portability and accountability act privacy standards (45 Code of Federal Regulations part 160 and part 164, subpart E), or as follows:

1. To health care providers who are currently providing health care to the patient for the purpose of diagnosis or treatment of the patient.
2. To health care providers who have previously provided treatment to the patient, to the extent that the records pertain to the provided treatment.
3. To ambulance attendants as defined in section 36-2201 for the purpose of providing care to or transferring the patient whose records are requested.
4. To a private agency that accredits health care providers and with whom the health care provider has an agreement requiring the agency to protect the confidentiality of patient information.
5. To a health profession regulatory board as defined in section 32-3201.
6. To health care providers for the purpose of conducting utilization review, peer review and quality assurance pursuant to section 36-441, 36-445, 36-2402 or 36-2917.
7. To a person or entity that provides services to the patient's health care providers or clinical laboratories and with whom the health care provider or clinical laboratory has an agreement requiring the person or entity to protect the confidentiality of patient information and as required by the health insurance portability and accountability act privacy standards, 45 Code of Federal Regulations part 164, subpart E.
8. To the legal representative of a health care provider in possession of the medical records or payment records for the purpose of securing legal advice.
9. To the patient's third party payor or the payor's contractor.
10. To the industrial commission of Arizona or parties to an industrial commission claim pursuant to title 23, chapter 6.

D. A health care provider may disclose a deceased patient's medical records or payment records or the information contained in medical records or payment records to the patient's health care decision maker at the time of the patient's death. A health care provider also may disclose a deceased patient's medical records or payment records or the information contained in medical records or payment records to the personal representative or administrator of the estate of a deceased patient, or if a personal representative or administrator has not been appointed, to the following persons in the following order of priority, unless the deceased patient during the deceased patient's lifetime or a person in a higher order of priority has notified the health care provider in writing that the deceased patient opposed the release of the medical records or payment records:

1. The deceased patient's spouse, unless the patient and the patient's spouse were legally separated at the time of the patient's death.

2. The acting trustee of a trust created by the deceased patient either alone or with the deceased patient's spouse if the trust was a revocable inter vivos trust during the deceased patient's lifetime and the deceased patient was a beneficiary of the trust during the deceased patient's lifetime.
 3. An adult child of the deceased patient.
 4. A parent of the deceased patient.
 5. An adult brother or sister of the deceased patient.
 6. A guardian or conservator of the deceased patient at the time of the patient's death.
- E. A person who receives medical records or payment records pursuant to this section shall not disclose those records without the written authorization of the patient or the patient's health care decision maker, unless otherwise authorized by law.
- F. If a health care provider releases a patient's medical records or payment records to a contractor for the purpose of duplicating or disclosing the records on behalf of the health care provider, the contractor shall not disclose any part or all of a patient's medical records or payment records in its custody except as provided in this article. After duplicating or disclosing a patient's medical records or payment records on behalf of a health care provider, a contractor must return the records to the health care provider who released the medical records or payment records to the contractor.

12-2294.01. Release of medical records or payment records to third parties pursuant to subpoena

- A. A subpoena seeking medical records or payment records shall be served on the health care provider and any party to the proceedings at least ten days before the production date on the subpoena.
- B. A subpoena that seeks medical records or payments records must meet one of the following requirements:
1. The subpoena is accompanied by a written authorization signed by the patient or the patient's health care decision maker.
 2. The subpoena is accompanied by a court or tribunal order that requires the release of the records to the party seeking the records or that meets the requirements for a qualified protective order under the health insurance portability and accountability act privacy standards (42 Code of Federal Regulations section 164.512(e)).
 3. The subpoena is a grand jury subpoena issued in a criminal investigation.
 4. The subpoena is issued by a health profession regulatory board as defined in section 32-3201.
 5. The health care provider is required by another law to release the records to the party seeking the records.
- C. If a subpoena does not meet one of the requirements of subsection B of this section, a health care provider shall not produce the medical records or payment records to the party seeking the records, but may either file the records under seal pursuant to subsection D of this section, object to production under subsection E of this section or file a motion to quash or modify the subpoena under rule 45 of the Arizona rules of civil procedure.
- D. It is sufficient compliance with a subpoena issued in a court or tribunal proceeding if a health care provider delivers the medical records or payment records under seal as follows:
1. The health care provider may deliver by certified mail or in person a copy of all the records described in the subpoena by the production date to the clerk of the court or tribunal or if there is no clerk then to the court or tribunal, together with the affidavit described in paragraph 4 of this subsection.
 2. The health care provider shall separately enclose and seal a copy of the records in an inner envelope or wrapper, with the title and number of the action, name of the health care provider and date of the subpoena clearly inscribed on the copy of the records. The health care provider shall enclose the sealed envelope or wrapper in an outer envelope or wrapper that is sealed and directed to the clerk of the court or tribunal or if there is no clerk then to the court or tribunal.

3. The copy of the records shall remain sealed and shall be opened only on order of the court or tribunal conducting the proceeding.

4. The records shall be accompanied by the affidavit of the custodian or other qualified witness, stating in substance each of the following:

(a) That the affiant is the duly authorized custodian of the records and has authority to certify the records.

(b) That the copy is a true complete copy of the records described in the subpoena.

(c) If applicable, that the health care provider is subject to the confidentiality requirements in 42 United States Code sections 290dd-3 and 290ee-3 and applicable regulations and that those confidentiality requirements may apply to the requested records. The affidavit shall request that the court make a determination, if required under applicable federal law and regulations, as to the confidentiality of the records submitted.

(d) If applicable, that the health care provider has none of the records described or only part of the records described in the subpoena.

5. The copy of the records is admissible in evidence as provided under rule 902(11), Arizona rules of evidence. The affidavit is admissible as evidence of the matters stated in the affidavit and the matters stated are presumed true. If more than one person has knowledge of the facts, more than one affidavit may be made. The presumption established by this paragraph is a presumption affecting the burden of producing evidence.

E. If a subpoena does not meet one of the requirements of subsection B of this section or if grounds for objection exist under rule 45 of the Arizona rules of civil procedure, a health care provider may file with the court or tribunal an objection to the inspection or copying of any or all of the records as follows:

1. On filing an objection, the health care provider shall send a copy of the objection to the patient at the patient's last known address, to the patient's attorney if known and to the party seeking the records, unless after reasonable inquiry the health care provider cannot determine the last known address of the patient.

2. On filing the objection, the health care provider has no further obligation to assert a state or federal privilege pertaining to the records or to appear or respond to a motion to compel production of records, and may produce the records if ordered by a court or tribunal. If an objection is filed, the patient or the patient's attorney is responsible for asserting or waiving any state or federal privilege that pertains to the records.

3. If an objection is filed, the party seeking production may request an order compelling production of the records. If the court or tribunal issues an order compelling production, a copy of the order shall be provided to the health care provider. On receipt of the order, the health care provider shall produce the records.

4. If applicable, an objection shall state that the health care provider is subject to the confidentiality requirements in 42 United States Code sections 290dd-3 and 290ee-3, shall state that the records may be subject to those confidentiality requirements and shall request that the court make a determination, if required under applicable federal law and regulations, on whether the submitted records are subject to discovery.

F. If a party seeking medical records or payment records wishes to examine the original records maintained by a health care provider, the health care provider may permit the party to examine the original records if the subpoena meets one of the requirements of subsection B of this section. The party seeking the records also may petition a court or tribunal for an order directing the health care provider to allow the party to examine the original records or to file the original records under seal with the court or tribunal under subsection D of this section.

12-2295. Charges

A. Except as otherwise provided by law, a health care provider or contractor may charge a person who requests reproductions of medical records or payment records a reasonable fee for the reproduction of the records

pursuant to this section. Except as necessary for continuity of care, a health care provider or contractor may require the payment of any fees in advance.

B. A health care provider or contractor shall not charge for the pertinent information contained in medical records provided to:

1. Another health care provider for the purpose of providing continuing care to the patient to whom the medical record pertains.
2. The patient to whom the medical record pertains for the demonstrated purpose of obtaining health care.
3. The health care decision maker of the patient to whom the medical record pertains for the demonstrated purpose of obtaining health care for the patient.
4. The Arizona medical board, the Arizona board of osteopathic examiners in medicine and surgery or an officer of the department of health services or the local health department requesting records pursuant to section 36-662.
5. The patient or the patient's legal representative for the purpose of appealing a denial of benefits under the social security act. Any additional request for medical records and a request for medical records that were previously provided free of charge in the same calendar year are subject to a reasonable fee pursuant to subsection A of this section, except that a fee may not be charged if no medical records are located in response to the request. A legal representative must provide an appointment of representative form SSA-1696 before obtaining a patient's medical records free of charge.

12-2296. Immunity

A health care provider, contractor or clinical laboratory that acts in good faith under this article is not liable for damages in any civil action for the disclosure of medical records, payment records or clinical laboratory results or information contained in medical records, payment records or clinical laboratory results that is made pursuant to this article or as otherwise provided by law. The health care provider, contractor or clinical laboratory is presumed to have acted in good faith. The presumption may be rebutted by clear and convincing evidence.

12-2297. Retention of records

A. Unless otherwise required by statute or by federal law, a health care provider shall retain the original or copies of a patient's medical records as follows:

1. If the patient is an adult, for at least six years after the last date the adult patient received medical or health care services from that provider.
2. If the patient is a child, either for at least three years after the child's eighteenth birthday or for at least six years after the last date the child received medical or health care services from that provider, whichever date occurs later.
3. Source data may be maintained separately from the medical record and must be retained for six years from the date of collection of the source data.

B. When a health care provider retires or sells the provider's practice the provider shall take reasonable measures to ensure that the provider's records are retained pursuant to this section.

C. A person who is licensed pursuant to title 32 as an employee of a health care provider is not responsible for storing or retaining medical records but shall compile and record the records in the customary manner.

D. A nursing care institution as defined in section 36-401 shall retain patient records for six years after the date of the patient's discharge. For a minor, the nursing care institution shall retain the records for three years after

the patient reaches eighteen years of age or for six years after the date of the patient's discharge, whichever date occurs last.

13-3620. Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors; medical records; exception; violation; classification; definitions

A. Any person who reasonably believes that a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect that appears to have been inflicted on the minor by other than accidental means or that is not explained by the available medical history as being accidental in nature or who reasonably believes there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of an infant who is protected under section 36-2281 shall immediately report or cause reports to be made of this information to a peace officer, to the department of child safety or to a tribal law enforcement or social services agency for any Indian minor who resides on an Indian reservation, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only. A member of the clergy, a Christian Science practitioner or a priest who has received a confidential communication or a confession in that person's role as a member of the clergy, as a Christian Science practitioner or as a priest in the course of the discipline enjoined by the church to which the member of the clergy, the Christian Science practitioner or the priest belongs may withhold reporting of the communication or confession if the member of the clergy, the Christian Science practitioner or the priest determines that it is reasonable and necessary within the concepts of the religion. This exemption applies only to the communication or confession and not to personal observations the member of the clergy, the Christian Science practitioner or the priest may otherwise make of the minor. For the purposes of this subsection, "person" means:

1. Any physician, physician's assistant, optometrist, dentist, osteopathic physician, chiropractor, podiatrist, behavioral health professional, nurse, psychologist, counselor or social worker who develops the reasonable belief in the course of treating a patient.
2. Any peace officer, child welfare investigator, child safety worker, member of the clergy, priest or Christian Science practitioner.
3. The parent, stepparent or guardian of the minor.
4. School personnel, domestic violence victim advocates or sexual assault victim advocates who develop the reasonable belief in the course of their employment.
5. Any other person who has responsibility for the care or treatment of the minor.
6. Any person who is employed as the immediate or next higher level supervisor to or administrator of a person who is listed in paragraph 1, 2, 4 or 5 of this subsection and who develops the reasonable belief in the course of the supervisor's or administrator's employment, except that if the supervisor or administrator reasonably believes that the report has been made by a person who is required to report pursuant to paragraph 1, 2, 4 or 5 of this subsection, the supervisor or administrator is not required to report pursuant to this paragraph.

B. A report is not required under this section either:

1. For conduct prescribed by sections 13-1404 and 13-1405 if the conduct involves only minors who are fourteen, fifteen, sixteen or seventeen years of age and there is nothing to indicate that the conduct is other than consensual.
2. If a minor is of elementary school age, the physical injury occurs accidentally in the course of typical playground activity during a school day, occurs on the premises of the school that the minor attends and is reported to the legal parent or guardian of the minor and the school maintains a written record of the incident.

C. If a physician, psychologist or behavioral health professional receives a statement from a person other than a parent, stepparent, guardian or custodian of the minor during the course of providing sex offender treatment that

is not court ordered or that does not occur while the offender is incarcerated in the state department of corrections or the department of juvenile corrections, the physician, psychologist or behavioral health professional may withhold the reporting of that statement if the physician, psychologist or behavioral health professional determines it is reasonable and necessary to accomplish the purposes of the treatment.

D. Reports shall be made immediately either electronically or by telephone. The reports shall contain the following information, if known:

1. The names and addresses of the minor and the minor's parents or the person or persons having custody of the minor.
2. The minor's age and the nature and extent of the minor's abuse, child abuse, physical injury or neglect, including any evidence of previous abuse, child abuse, physical injury or neglect.
3. Any other information that the person believes might be helpful in establishing the cause of the abuse, child abuse, physical injury or neglect.

E. A health care professional who is regulated pursuant to title 32 and who, after a routine newborn physical assessment of a newborn infant's health status or following notification of positive toxicology screens of a newborn infant, reasonably believes that the newborn infant may be affected by the presence of alcohol or a drug listed in section 13-3401 shall immediately report this information, or cause a report to be made, to the department of child safety. For the purposes of this subsection, "newborn infant" means a newborn infant who is under thirty days of age.

F. Any person other than one required to report or cause reports to be made under subsection A of this section who reasonably believes that a minor is or has been a victim of abuse, child abuse, physical injury, a reportable offense or neglect may report the information to a peace officer or to the department of child safety, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only.

G. A person who has custody or control of medical records of a minor for whom a report is required or authorized under this section shall make the records, or a copy of the records, available to a peace officer, child welfare investigator or child safety worker investigating the minor's neglect, child abuse, physical injury or abuse on written request for the records signed by the peace officer, child welfare investigator or child safety worker. Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding or investigation resulting from a report required or authorized under this section.

H. When reports are received by a peace officer, the officer shall immediately notify the department of child safety. Notwithstanding any other statute, when the department receives these reports, it shall immediately notify a peace officer in the appropriate jurisdiction.

I. Any person who is required to receive reports pursuant to subsection A of this section may take or cause to be taken photographs of the minor and the vicinity involved. Medical examinations of the involved minor may be performed.

J. A person who furnishes a report, information or records required or authorized under this section, or a person who participates in a judicial or administrative proceeding or investigation resulting from a report, information or records required or authorized under this section, is immune from any civil or criminal liability by reason of that action unless the person acted with malice or unless the person has been charged with or is suspected of abusing or neglecting the child or children in question.

K. Except for the attorney client privilege or the privilege under subsection L of this section, no privilege applies to any:

1. Civil or criminal litigation or administrative proceeding in which a minor's neglect, dependency, abuse, child abuse, physical injury or abandonment is an issue.

2. Judicial or administrative proceeding resulting from a report, information or records submitted pursuant to this section.

3. Investigation of a minor's child abuse, physical injury, neglect or abuse conducted by a peace officer or the department of child safety.

L. In any civil or criminal litigation in which a child's neglect, dependency, physical injury, abuse, child abuse or abandonment is an issue, a member of the clergy, a Christian Science practitioner or a priest shall not, without his consent, be examined as a witness concerning any confession made to him in his role as a member of the clergy, a Christian Science practitioner or a priest in the course of the discipline enjoined by the church to which he belongs. This subsection does not discharge a member of the clergy, a Christian Science practitioner or a priest from the duty to report pursuant to subsection A of this section.

M. If psychiatric records are requested pursuant to subsection G of this section, the custodian of the records shall notify the attending psychiatrist, who may excise from the records, before they are made available:

1. Personal information about individuals other than the patient.

2. Information regarding specific diagnosis or treatment of a psychiatric condition, if the attending psychiatrist certifies in writing that release of the information would be detrimental to the patient's health or treatment.

N. If any portion of a psychiatric record is excised pursuant to subsection M of this section, a court, on application of a peace officer, child welfare investigator or child safety worker, may order that the entire record or any portion of the record that contains information relevant to the reported abuse, child abuse, physical injury or neglect be made available to the peace officer, child welfare investigator or child safety worker investigating the abuse, child abuse, physical injury or neglect.

O. A person who violates this section is guilty of a class 1 misdemeanor, except if the failure to report involves a reportable offense, the person is guilty of a class 6 felony.

P. For the purposes of this section:

1. "Abuse" has the same meaning prescribed in section 8-201.

2. "Child abuse" means child abuse pursuant to section 13-3623.

3. "Neglect" has the same meaning prescribed in section 8-201.

4. "Reportable offense" means any of the following:

(a) Any offense listed in chapters 14 and 35.1 of this title or section 13-3506.01.

(b) Surreptitious photographing, videotaping, filming or digitally recording or viewing a minor pursuant to section 13-3019.

(c) Child sex trafficking pursuant to section 13-3212.

(d) Incest pursuant to section 13-3608.

(e) Unlawful mutilation pursuant to section 13-1214.

13-3620.01. False reports; violation; classification

A. A person acting with malice who knowingly and intentionally makes a false report of child abuse or neglect or a person acting with malice who coerces another person to make a false report of child abuse or neglect is guilty of a class 1 misdemeanor.

B. A person who knowingly and intentionally makes a false report that a person has violated the provisions of subsection A of this section is guilty of a class 1 misdemeanor.

41-1001. Definitions

In this chapter, unless the context otherwise requires:

1. "Agency" means any board, commission, department, officer or other administrative unit of this state, including the agency head and one or more members of the agency head or agency employees or other persons directly or indirectly purporting to act on behalf or under the authority of the agency head, whether created under the Constitution of Arizona or by enactment of the legislature. Agency does not include the legislature, the courts or the governor. Agency does not include a political subdivision of this state or any of the administrative units of a political subdivision, but does include any board, commission, department, officer or other administrative unit created or appointed by joint or concerted action of an agency and one or more political subdivisions of this state or any of their units. To the extent an administrative unit purports to exercise authority subject to this chapter, an administrative unit otherwise qualifying as an agency must be treated as a separate agency even if the administrative unit is located within or subordinate to another agency.
2. "Audit" means an audit, investigation or inspection pursuant to title 23, chapter 2 or 4.
3. "Code" means the Arizona administrative code, which is published pursuant to section 41-1011.
4. "Committee" means the administrative rules oversight committee.
5. "Contested case" means any proceeding, including rate making, except rate making pursuant to article XV, Constitution of Arizona, price fixing and licensing, in which the legal rights, duties or privileges of a party are required or permitted by law, other than this chapter, to be determined by an agency after an opportunity for an administrative hearing.
6. "Council" means the governor's regulatory review council.
7. "Delegation agreement" means an agreement between an agency and a political subdivision that authorizes the political subdivision to exercise functions, powers or duties conferred on the delegating agency by a provision of law. Delegation agreement does not include intergovernmental agreements entered into pursuant to title 11, chapter 7, article 3.
8. "Emergency rule" means a rule that is made pursuant to section 41-1026.
9. "Fee" means a charge prescribed by an agency for an inspection or for obtaining a license.
10. "Final rule" means any rule filed with the secretary of state and made pursuant to an exemption from this chapter in section 41-1005, made pursuant to section 41-1026, approved by the council pursuant to section 41-1052 or 41-1053 or approved by the attorney general pursuant to section 41-1044. For purposes of judicial review, final rule includes expedited rules pursuant to section 41-1027.
11. "General permit" means a regulatory permit, license or agency authorization that is for facilities, activities or practices in a class that are substantially similar in nature and that is issued or granted by an agency to a qualified applicant to conduct identified operations or activities if the applicant meets the applicable requirements of the general permit, that requires less information than an individual or traditional permit, license or authorization and that does not require a public hearing.
12. "License" includes the whole or part of any agency permit, certificate, approval, registration, charter or similar form of permission required by law, but does not include a license required solely for revenue purposes.
13. "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license.
14. "Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.
15. "Person" means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character or another agency.
16. "Preamble" means:

(a) For any rulemaking subject to this chapter, a statement accompanying the rule that includes:

(i) Reference to the specific statutory authority for the rule.

(ii) The name and address of agency personnel with whom persons may communicate regarding the rule.

(iii) An explanation of the rule, including the agency's reasons for initiating the rulemaking.

(iv) A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes 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.

(v) The economic, small business and consumer impact summary, or in the case of a proposed rule, a preliminary summary and a solicitation of input on the accuracy of the summary.

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

(vii) Such other matters as are prescribed by statute and that are applicable to the specific agency or to any specific rule or class of rules.

(b) In addition to the information set forth in subdivision (a) of this paragraph, for a proposed rule, the preamble also shall include a list of all previous notices appearing in the register addressing the proposed rule, a statement of the time, place and nature of the proceedings for the making, amendment or repeal of the rule and where, when and how persons may request an oral proceeding on the proposed rule if the notice does not provide for one.

(c) In addition to the information set forth in subdivision (a) of this paragraph, for an expedited rule, the preamble also shall include a statement of the time, place and nature of the proceedings for the making, amendment or repeal of the rule and an explanation of why expedited proceedings are justified.

(d) For a final rule, except an emergency rule, the preamble also shall include, in addition to the information set forth in subdivision (a), the following information:

(i) A list of all previous notices appearing in the register addressing the final rule.

(ii) A description of the changes between the proposed rules, including supplemental notices and final rules.

(iii) A summary of the comments made regarding the rule and the agency response to them.

(iv) A summary of the council's action on the rule.

(v) A statement of the rule's effective date.

(e) In addition to the information set forth in subdivision (a) of this paragraph, for an emergency rule, the preamble also shall include an explanation of the situation justifying the rule being made as an emergency rule, the date of the attorney general's approval of the rule and a statement of the emergency rule's effective date.

17. "Provision of law" means the whole or a part of the federal or state constitution, or of any federal or state statute, rule of court, executive order or rule of an administrative agency.

18. "Register" means the Arizona administrative register, which is:

(a) This state's official publication of rulemaking notices that are filed with the office of secretary of state.

(b) Published pursuant to section 41-1011.

19. "Rule" means an agency statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of an agency. Rule includes prescribing fees or the amendment or repeal of a prior rule but does not include intraagency memoranda that are not delegation agreements.

20. "Rulemaking" means the process to make a new rule or amend, repeal or renumber a rule.

21. "Small business" means a concern, including its affiliates, which is independently owned and operated, which is not dominant in its field and which employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year. For purposes of a specific rule, an agency may define small business to include more persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of small businesses and organizations.

22. "Substantive policy statement" means a written expression which informs the general public of an agency's current approach to, or opinion of, the requirements of the federal or state constitution, federal or state statute, administrative rule or regulation, or final judgment of a court of competent jurisdiction, including, where appropriate, the agency's current practice, procedure or method of action based upon that approach or opinion. A substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents which only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties, confidential information or rules made in accordance with this chapter.

41-1001.01. Regulatory bill of rights; small businesses

A. To ensure fair and open regulation by state agencies, a person:

1. Is eligible for reimbursement of fees and other expenses if the person prevails by adjudication on the merits against an agency in a court proceeding regarding an agency decision as provided in section 12-348.
2. Is eligible for reimbursement of the person's costs and fees if the person prevails against any agency in an administrative hearing as provided in section 41-1007.
3. Is entitled to have an agency not charge the person a fee unless the fee for the specific activity is expressly authorized as provided in section 41-1008.
4. Is entitled to receive the information and notice regarding inspections and audits prescribed in section 41-1009.
5. May review the full text or summary of all rulemaking activity, the summary of substantive policy statements and the full text of executive orders in the register as provided in article 2 of this chapter.
6. May participate in the rulemaking process as provided in articles 3, 4, 4.1 and 5 of this chapter, including:
 - (a) Providing written comments or testimony on proposed rules to an agency as provided in section 41-1023 and having the agency adequately address those comments as provided in section 41-1052, subsection D, including comments or testimony concerning the information contained in the economic, small business and consumer impact statement.
 - (b) Filing an early review petition with the governor's regulatory review council as provided in article 5 of this chapter.
 - (c) Providing written comments or testimony on rules to the governor's regulatory review council during the mandatory sixty-day comment period as provided in article 5 of this chapter.
7. Is entitled to have an agency not base a licensing decision in whole or in part on licensing conditions or requirements that are not specifically authorized by statute, rule or state tribal gaming compact as provided in section 41-1030, subsection B.
8. Is entitled to have an agency not make a rule under a specific grant of rulemaking authority that exceeds the subject matter areas listed in the specific statute or not make a rule under a general grant of rulemaking authority to supplement a more specific grant of rulemaking authority as provided in section 41-1030, subsection C.

9. May allege that an existing agency practice or substantive policy statement constitutes a rule and have that agency practice or substantive policy statement declared void because the practice or substantive policy statement constitutes a rule as provided in section 41-1033.
 10. May file a complaint with the administrative rules oversight committee concerning:
 - (a) A rule's, practice's or substantive policy statement's lack of conformity with statute or legislative intent as provided in section 41-1047.
 - (b) An existing statute, rule, practice alleged to constitute a rule or substantive policy statement that is alleged to be duplicative or onerous as provided in section 41-1048.
 11. May have the person's administrative hearing on contested cases and appealable agency actions heard by an independent administrative law judge as provided in articles 6 and 10 of this chapter.
 12. May have administrative hearings governed by uniform administrative appeal procedures as provided in articles 6 and 10 of this chapter and may appeal a final administrative decision by filing a notice of appeal pursuant to title 12, chapter 7, article 6.
 13. May have an agency approve or deny the person's license application within a predetermined period of time as provided in article 7.1 of this chapter.
 14. Is entitled to receive written notice from an agency on denial of a license application:
 - (a) That justifies the denial with references to the statutes or rules on which the denial is based as provided in section 41-1076.
 - (b) That explains the applicant's right to appeal the denial as provided in section 41-1076.
 15. Is entitled to receive information regarding the license application process before or at the time the person obtains an application for a license as provided in sections 41-1001.02 and 41-1079.
 16. May receive public notice and participate in the adoption or amendment of agreements to delegate agency functions, powers or duties to political subdivisions as provided in section 41-1026.01 and article 8 of this chapter.
 17. May inspect all rules and substantive policy statements of an agency, including a directory of documents, in the office of the agency director as provided in section 41-1091.
 18. May file a complaint with the office of the ombudsman-citizens aide to investigate administrative acts of agencies as provided in chapter 8, article 5 of this title.
 19. Unless specifically authorized by statute, may expect state agencies to avoid duplication of other laws that do not enhance regulatory clarity and to avoid dual permitting to the extent practicable as prescribed in section 41-1002.
 20. May have the person's administrative hearing on contested cases pursuant to title 23, chapter 2 or 4 heard by an independent administrative law judge as prescribed by title 23, chapter 2 or 4.
 21. Pursuant to section 41-1009, subsection E, may correct deficiencies identified during an inspection unless otherwise provided by law.
- B. The enumeration of the rights listed in subsection A of this section does not grant any additional rights that are not prescribed in the sections referenced in subsection A of this section.
- C. Each state agency that conducts audits, inspections or other regulatory enforcement actions pursuant to section 41-1009 shall create and clearly post on the agency's website a small business bill of rights. The agency shall create the small business bill of rights by selecting the applicable rights prescribed in this section and section 41-1009 and any other agency-specific statutes and rules. The agency shall provide a written document of the small business bill of rights to the authorized on-site representative of the regulated small business. In addition to the rights listed in this section and section 41-1009, the agency notice of the small business bill of

rights shall include the process by which a small business may file a complaint with the agency employees who are designated to assist members of the public or regulated community pursuant to section 41-1006. The notice must provide the contact information of the agency's designated employees. The agency notice must also state that if the regulated person has already made a reasonable effort with the agency to resolve the problem and still has not been successful, the regulated person may contact the office of ombudsman-citizens aide.

41-1001.02. Clarification of interpretation or application; exemption

A. Before submitting an application for a license a person may request from the agency issuing the license a clarification of its interpretation or application of a statute, rule, delegation agreement or substantive policy statement affecting the person's preparation of the application for a license by providing the agency with a written request that states:

1. The name and address of the person requesting the clarification.
2. The statute, rule, delegation agreement or substantive policy statement or part of the statute, rule, delegation agreement or substantive policy statement that the person is requesting be clarified.
3. Any facts relevant to the requested clarification.
4. The person's proposed interpretation of the applicable statute, rule, delegation agreement or substantive policy statement or part of the statute, rule, delegation agreement or substantive policy statement.
5. Whether, to the best knowledge of the person, the issues or related issues are being considered by the agency in connection with an existing license or license application.

B. On receipt of a request that complies with subsection A of this section:

1. The agency may meet with the person to discuss the written request and shall respond within thirty days of the receipt of the written request with a written clarification of its interpretation or application as raised in the written request.
2. The agency shall provide the requestor with an opportunity to meet and discuss the agency's written clarification.

C. Notwithstanding any other law, an agency's written clarification pursuant to this section does not constitute an appealable action as defined in section 41-1092 or an action against the party pursuant to section 41-1092.12.

D. Notwithstanding any other law, this section does not apply to the Arizona peace officer standards and training board.

41-1010. Complaints; public record

Notwithstanding any other law, a person shall disclose the person's name during the course of reporting an alleged violation of law or rule. During the course of an investigation or enforcement action, the name of the complainant shall be a public record unless the affected agency determines that the release of the complainant's name may result in substantial harm to any person or to the public health or safety.

****See Chapter 6 of Title 41 for all the articles on Administrative Procedure****

41-3029.05. State board of optometry; termination July 1, 2029

A. The state board of optometry terminates on July 1, 2029.

B. Title 32, chapter 16 and this section are repealed on January 1, 2030.

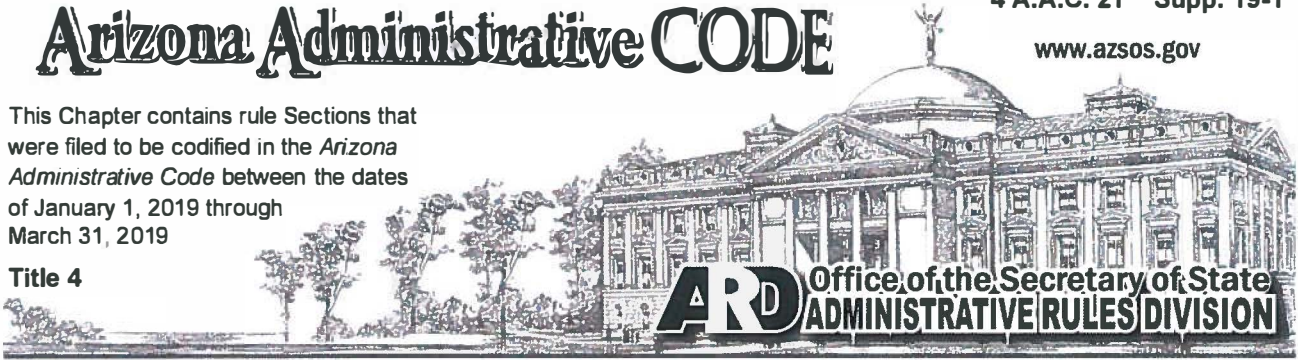
Arizona Administrative CODE

4 A.A.C. 21 Supp. 19-1

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This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of January 1, 2019 through March 31, 2019

Title 4



TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 21. BOARD OF OPTOMETRY

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

R4-21-101.	Definitions	2	R4-21-211.	Audit of Compliance with Continuing Education Requirement	10
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R4-21-210.	Approval of Continuing Education	9			

Questions about these rules? Contact:

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Website: www.optometry.az.gov

The release of this Chapter in Supp. 19-1 replaces Supp. 16-1, 1-13 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into titles. Titles are divided into chapters. A chapter includes state agency rules. Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each chapter.

First Quarter: January 1 - March 31

Second Quarter: April 1 - June 30

Third Quarter: July 1 - September 30

Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2019 is cited as Supp. 19-1.

Please note: The Office publishes by chapter, not by individual rule section. Therefore there might be only a few sections codified in each chapter released in a supplement. Historical notes at the end of a section provide an effective date and information when a rule was last updated.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate chapters of the *Administrative Code* in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each *Code* chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority

note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a chapter can be found at the Secretary of State’s website, under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a chapter provide information about rulemaking sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

This chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

Rhonda Paschal, managing rules editor, assisted with the editing of this chapter.



Administrative Rules Division
The Arizona Secretary of State electronically publishes each A.A.C. Chapter with a digital certificate. The certificate-based signature displays the date and time the document was signed and can be validated in Adobe Acrobat Reader.

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 21. BOARD OF OPTOMETRY

(Authority: A.R.S. § 32-1701 et seq.)

Editor's Note: All former rules renumbered. Refer to Historical Notes following each rule (Supp. 86-1).

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ARTICLE 4. REPEALED

Article 4, consisting of Sections R4-21-401 thru R4-21-406, repealed by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2).

Article 4, consisting of Sections R4-21-401 thru R4-21-406, adopted effective November 5, 1998 (Supp. 98-4).

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ARTICLE 5. REPEALED

Article 5, consisting of Sections R4-21-501 thru R4-21-504, repealed by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4).

Article 5, consisting of Sections R4-21-501 thru R4-21-504, made by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005. (Supp. 05-2).

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CHAPTER 21. BOARD OF OPTOMETRY

ARTICLE 1. GENERAL PROVISIONS

R4-21-101. Definitions

In addition to the definitions in A.R.S. §§ 32-1701, the following apply to this Chapter:

“Accredited” means approved by the ACOE.

“ACCME” means Accreditation Council for Continuing Medical Education

“ACOE” means the Accreditation Council on Optometric Education.

“Active license” means a license that is current and has not expired.

“Advertisement” means a written, oral, or electronic communication that an ordinary person would perceive is designed to influence, directly or indirectly, a decision regarding ophthalmic goods or optometric services.

“Applicant” means:

An individual who applies to the Board under A.R.S. §§ 32-1722 or 32-1723, R4-21-201 or R4-21-202 for a license to practice the profession of optometry, but has not been granted the license;

A licensee who applies under A.R.S. § 32-1726 and R4-21-205 for license renewal;

A licensee who applies under A.R.S. § 32-1728 and R4-21-208 for a pharmaceutical agent number;

A licensee or provider of continuing education that applies for approval of a continuing education under R4-21-210.

“Application package” means the forms, documents, and fees that the Board requires an applicant to submit or have submitted on the applicant’s behalf.

“Approved continuing education” means a planned educational experience relevant to the practice of the profession of optometry that the Board determines meets the criteria at R4-21-210.

“ARBO” means Association of Regulatory Boards of Optometry.

“Audit” means the selection of licensees and process of reviewing documents for verification of satisfactory completion of Continuing Education requirements during a specified time period.

“CPR” means Cardiopulmonary Resuscitation.

“CELMO” means the Council on Endorsed Licensure Mobility for Optometrists.

“Certificate of special qualification” means a document that specifies whether the holder, who was licensed by the Board before July 1, 2000, and has not completed a course of study approved by the Board, may prescribe, administer, and dispense a pharmaceutical agent and if so, whether the holder may prescribe, administer, and dispense:

A topical diagnostic pharmaceutical agent only, or

Topical diagnostic and topical therapeutic pharmaceutical agents.

“Continuing Education” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice,

education, or theory development to improve the safety and welfare of the public.

“Continuing Education Report” means an online education report used to electronically track Continuing Education hours taken by a licensee.

“COPE” means Council on Optometric Practitioner Education.

“Course of study,” as used in A.R.S. § 32-1722, means education approved by the Board under R4-21-207 that qualifies an optometrist to prescribe, administer, and dispense topical diagnostic, topical therapeutic, and oral pharmaceutical agents.

“DEA” means The Drug Enforcement Administration.

“Drug Enforcement Administration” means the Drug Enforcement Administration in the Department of Justice.

“DEA Controlled Substance Registration” means registration required and permitted by 21 U.S.C. 823 of the Controlled Substances Act.

“Injectable Epinephrine” means an intramuscular dose of epinephrine used for emergency treatment of an allergic reaction and delivered by a spring-loaded syringe.

“Good cause” means a reason that is substantial enough to afford a legal excuse.

“Hour of Continuing Education” means no less than 50 minutes of learning in one hour of time.

“Incompetence,” as used in A.R.S. § 32-1701(8), means lack of professional skill, fidelity, or physical or mental fitness, or substandard examination or treatment while practicing the profession of optometry.

“Low vision” means chronic impairment to vision that significantly interferes with daily routine activities and cannot be adequately corrected with medical, surgical, or therapeutic means or conventional eyewear or contact lenses.

“Low-vision rehabilitation” means use of optical and non-optical devices, adaptive techniques, and community resources to assist an individual to compensate for low vision in performing daily routine activities.

“Negligence,” as used in A.R.S. § 32-1701(8), means conduct that falls below the standard of care for the protection of patients and the public against unreasonable risk of harm and that is a departure from the conduct expected of a reasonably prudent licensee under the circumstances.

“OE Tracker” means the ARBO Online Education Tracker used to electronically track Continuing Education hours taken by a licensee.

“Opiate” or “Opioid” means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability.

“Oral pharmaceutical agent,” as used in A.R.S. § 32-1728, means an ingested prescription or non-prescription substance used to examine, diagnose, or treat disease of the eye and its adnexa.

“Party” has the same meaning as prescribed in A.R.S. §41-1001.

“Plano lenses” means contact lenses that have cosmetic function only.

CHAPTER 21. BOARD OF OPTOMETRY

“Practice management” means the study of management of the affairs of optometric practice.

“Self-instructed media” means educational material in a printed, audio, video, electronic or distance learning format.

“Topical diagnostic pharmaceutical agent,” as used in A.R.S. § 32-1728, means an externally applied prescription or non-prescription substance used to examine and diagnose disease and conditions of the eye and its adnexa.

“Topical therapeutic pharmaceutical agent,” as used in A.R.S. § 32-1728, means an externally applied prescription or non-prescription substance used to treat disease of the eye and its adnexa.

“Vision rehabilitation” means an individualized course of treatment and education prescribed to improve conditions of the human eye or adnexa or develop compensatory approaches. Vision rehabilitation is designed to help individuals learn, relearn, or reinforce specific vision skills, including eye movement control, focusing control, eye coordination, and the teamwork of the two eyes. Vision rehabilitation includes, but is not limited to optical, non-optical, electronic, or other assistive treatments.

Historical Note

Former Rule Section 1. Former Section R4-21-01 repealed, new Section R4-21-101 adopted effective February 7, 1986 (Supp. 86-1). Amended effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3). Amended by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Amended by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 22 A.A.R. 328, effective March 28, 2016 (Supp. 16-1). Amended by final rulemaking at 25 A.A.R. 431, effective April 5, 2019 (Supp. 19-1).

R4-21-102. Fees and Other Charges

- A. The Board shall collect the fees established by A.R.S. § 32-1727.
- B. Under the authority provided at A.R.S. § 32-1727, the Board establishes and shall collect the following fees:
 1. License issuance fee of \$450, which is prorated from date of issuance to date of renewal;
 2. Biennial license renewal fee of \$450; and
 3. Late renewal fee of \$200.
- C. Except as provided in subsection (C)(3), a person requesting a public record shall pay the following for searches and copies of Board records under A.R.S. §§ 39-121.01 or 39-121.03:
 1. Noncommercial copy:
 - a. 5¢ per name and address for directory listings or 15¢ each if printed on labels, and
 - b. 25¢ per page for other records;
 2. Commercial copy:
 - a. 25¢ per name and address for directory listings or 35¢ each if printed on labels, and
 - b. 50¢ per page for other records; and
 3. The Board waives the charges listed in subsections (C)(1) and (C)(2) for a government agency.
- D. The Board establishes and shall collect the following charges for the services specified:
 1. Written or certified license verification: \$10; and
 2. Duplicate or replacement renewal receipt: \$10.

Historical Note

Former Rule Section 2. Former Section R4-21-02

repealed, new Section R4-21-102 adopted effective February 7, 1986 (Supp. 86-1). Amended effective November 5, 1998 (Supp. 98-4). Section repealed by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Section R4-21-102 renumbered from R4-21-103 and amended by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 22 A.A.R. 328, effective March 28, 2016 (Supp. 16-1).

R4-21-103. Time-frames for Board Action

- A. For each type of license, certificate, or approval issued by the Board, the overall time frame described in A.R.S. § 41-1072(2) is listed in Table I.
- B. For each type of license, certificate, or approval issued by the Board, the administrative completeness review time frame described in A.R.S. § 41-1072(1) is listed in Table I and begins on the date the Board receives an application package.
 1. If an application package is not administratively complete, the Board shall send a deficiency notice to the applicant that specifies each piece of information or document needed to complete the application package. Within the time provided in Table I for response to a deficiency notice, beginning on the postmark date of the deficiency notice, the applicant shall submit to the Board the missing information or document specified in the deficiency notice. The time frame for the Board to finish the administrative completeness review is suspended from the date the Board mails the deficiency notice to the applicant until the date the Board receives the missing information or document.
 2. If an application package is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.
 3. If an application package is not completed with the time provided to respond to the deficiency notice, the Board shall send a written notice to the applicant informing the applicant that the Board considers the application withdrawn.
- C. For each type of license, certificate, or approval issued by the Board, the substantive review time frame described in A.R.S. § 41-1072(3) is listed in Table I and begins on the date the Board sends written notice of administrative completeness to the applicant.
 1. During the substantive review time frame, the Board may make one comprehensive written request for additional information. Within the time provided in Table I for response to a comprehensive written request for additional information, beginning on the postmark date of the comprehensive written request for additional information, the applicant shall submit to the Board the requested additional information. The time frame for the Board to finish the substantive review is suspended from the date the Board mails the comprehensive written request for additional information to the applicant until the Board receives the additional information.
 2. If, under A.R.S. § 32-1722(C), the Board determines that a hearing is needed to obtain information on the character of an applicant, the Board shall include a notice of the hearing in its comprehensive written request for additional information.
 3. If the applicant fails to provide the additional information within the time provided to respond to a comprehensive written request for additional information, the Board shall send a written notice to the applicant informing the applicant that the Board considers the application withdrawn.
- D. An applicant may, pursuant to A.R.S. § 41-1075(B), receive an

CHAPTER 21. BOARD OF OPTOMETRY

extension of up to twenty-five percent of the overall time frame to respond under subsection (B)(3) or (C)(3) by sending a request for extension of time to the Board before expiration of the time to respond. The time frame for the Board to act remains suspended during any extension of time. If the applicant fails to provide the requested information during the extension of time, the Board shall send a written notice to the applicant informing the applicant that the Board considers the application withdrawn.

- E. Within the overall time frame listed in the Table 1, the Board shall:
 1. Deny a license, certificate, or approval to an applicant if the Board determines that the applicant does not meet all of the substantive criteria required by statute and this Chapter; or
 2. Grant a license, certificate, or approval to an applicant if the Board determines that the applicant meets all of the substantive criteria required by statute and this Chapter.
- F. If the Board denies a license, certificate, or approval under subsection (E)(1), the Board shall provide a written notice of denial to the applicant that explains:
 1. The reason for the denial, with citations to supporting statutes or rules;
 2. The applicant's right to seek a fair hearing to appeal the denial;
 3. The time for appealing the denial; and

- 4. The right to request an informal settlement conference.
- G. In computing any period prescribed in this Section, the day of the act, event, or default after which the designated period begins to run is not included. The period begins on the date of personal service, date shown as received on a certified mail receipt, or postmark date. The last day of the period is included unless it falls on a Saturday, Sunday, or state holiday in which case, the period ends on the next business day.

Historical Note

Former Section 3. Amended effective December 27, 1979 (Supp. 79-6). Former Section R4-21-03 renumbered without change as Section R4-21-211, former Section R4-21-06 renumbered without change as Section R4-21-103 effective February 7, 1986 (Supp. 86-1). Amended subsection (A) effective June 20, 1989 (Supp. 89-2). Amended effective September 14, 1998 (Supp. 98-3). Amended effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Former R4-21-103 renumbered to R4-21-102; new R4-21-103 renumbered from R4-21-203 and amended by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 22 A.A.R. 328, effective March 28, 2016 (Supp. 16-1).

Table 1. Time-frames (in calendar days)

Type of License	Overall Time-frame	Administrative Review Time-frame	Time to Respond to Deficiency Notice	Substantive Review Time-frame	Time to Respond to Request for Additional Information
Licensure by examination A.R.S. § 32-1722; R4-21-201	75	15	60	60	20
Licensure by endorsement A.R.S. § 32-1723; R4-21-202	75	15	75	60	20
Renewal of license A.R.S. § 32-1726; R4-21-205	45	15	20	30	20
Renewal of Pharmaceutical agents number A.R.S. § 32-1728; R4-21-208	75	15	60	60	20
Approval of a Continuing Education A.R.S. § 32-1704(D); R4-21-210	75	15	20	60	20

Historical Note

Table 1 renumbered from Article 2 and amended by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4).
Table 1 amended by final rulemaking at 22 A.A.R. 328, effective March 28, 2016 (Supp. 16-1).

ARTICLE 2. LICENSING PROVISIONS

R4-21-201. Licensure by Examination

- A. An individual is eligible to apply for licensure by examination if the individual graduated from an accredited optometry program but is not eligible for licensure by endorsement under R4-21-202(A).
- B. To apply for licensure by examination, an individual who is eligible under subsection (A) shall submit an application form, which is available from the Board, and provide the following information about the applicant:
 1. Full legal name;

2. Other names ever used, if any, and if applicable, a copy of the court document or marriage license resulting in a name change;
3. Social Security number;
4. Mailing address;
5. E-mail address, if any;
6. Residential, business, and mobile telephone numbers, if applicable;
7. Date and place of birth;
8. Residential addresses for the past five years;
9. Educational background including the name and address of, dates of attendance at, and date of graduation from:
 - a. An accredited optometry program.

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- b. A pre-optometric school or undergraduate educational institution, and
 - c. Other post-secondary schools attended, if any;
 10. Experience in the practice of the profession of optometry including the business form and location of the practice;
 11. Work experience or occupation, other than the practice of the profession of optometry, for the past five years;
 12. List of the states in which the applicant is professionally licensed including the name of the state, type of professional license, date issued, and expiration date;
 13. List of the states in which the applicant was but no longer is professionally licensed including the name of the state, type of professional license, date issued, and reason the license is no longer valid;
 14. Statement of whether the applicant:
 - a. Has ever been denied the right to take an examination for optometric licensure by any state or jurisdiction and if so, the name of the state or jurisdiction, date, and reason for the denial;
 - b. Has ever been denied an optometric license or renewal in any state or jurisdiction and if so, the name of the state or jurisdiction, date, and reason for the denial;
 - c. Has ever had a license or certificate of registration to practice the profession of optometry suspended or revoked by any optometric licensing agency and if so, the name of the optometric licensing agency, date, reason for the suspension or revocation, and current status;
 - d. Has ever had an investigation conducted or has an investigation pending by an optometric regulatory agency of any state or jurisdiction and if so, name of the optometric regulatory agency and state or jurisdiction, date, reason for the investigation, and current status;
 - e. Has ever had a disciplinary action instituted against the applicant by any optometric licensing agency and if so, the name of the optometric licensing agency, date, nature of the disciplinary action, reason for the disciplinary action, and current status;
 - f. Has ever been convicted of, pled guilty or no contest to, or entered into diversion in lieu of prosecution for any criminal offense in any jurisdiction of the United States or foreign country and if so, name of the jurisdiction, date, offense charged, offense for which convicted, pled guilty, or no contest, and current status;
 - g. Is currently, or has ever been addicted to narcotic substances or habitually abused alcohol within the last 10 years. If so, dates during which the addiction or abuse occurred, steps taken to address the addiction or abuse, current status, and a statement as to why the addiction or abuse does not amount to unprofessional conduct.
 - h. Is presently addicted to narcotic substances or habitually abuses alcohol and if so, why the addiction or abuse does not amount to unprofessional conduct; and
 15. Dated and sworn signature of the applicant verifying that the information provided is true to the best of the applicant's knowledge, information, and belief.
- C. In addition to submitting the application form required under subsection (B), an applicant shall submit or have submitted on the applicant's behalf:
1. A passport-quality photograph of the applicant's head and shoulders that is taken within six months of the date of application and signed by the applicant in ink across the lower portion of the front side;
 2. A full set of readable fingerprints taken by a criminal justice agency for the purpose of obtaining a state and federal criminal records check;
 3. To process the fingerprints; a cashier's check or money order payable to the Arizona Department of Public Safety in the amount listed on the application for licensure;
 4. The application fee required under A.R.S. § 32-1727;
 5. A copy of the scores obtained by the applicant on Parts I, II, and III of the National Board of Examiners in Optometry examination less than ten years before the date of the application;
 6. A passing score obtained by the applicant on the jurisprudence examination described at R4-21-203;
 7. An official transcript submitted directly to the Board by the educational institution with an accredited optometry program from which the applicant graduated with a degree in optometry;
 8. An official transcript submitted directly to the Board by the educational institution at which the applicant took pre-optometry or undergraduate courses;
 9. A self-query from the National Practitioner Data Bank-Healthcare Integrity and Protection Data Bank made within three months before the date of application; and
 10. A copy of the front and back of a current CPR card issued to the applicant.
- Historical Note**
- Adopted effective February 7, 1986 (Supp. 86-1). Amended effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3). Amended by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Amended by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 16 A.A.R. 2383, effective November 16, 2010 (Supp. 10-4). Amended by final rulemaking at 22 A.A.R. 328, effective March 28, 2016 (Supp. 16-1).
- R4-21-202. Licensure by Endorsement**
- A. An individual is eligible to apply for licensure by endorsement if the individual:
1. Graduated from an accredited optometry program;
 2. Is licensed to practice the profession of optometry in another state that has licensing requirements that the Board determines meet or exceed Arizona's requirements;
 3. Has engaged in the practice of the profession of optometry continuously in the other state or military for at least four of the five years before the date of application; and
 4. Has not had a license to practice the profession of optometry suspended or revoked by any licensing jurisdiction for a cause that is a ground for suspension or revocation of a license in Arizona.
- B. To apply for licensure by endorsement, an individual who is eligible under subsection (A) shall submit the application form described in R4-21-201(B).
- C. In addition to complying with subsection (B), an applicant for licensure by endorsement shall submit or have submitted on the applicant's behalf:
1. The materials required under R4-21-201(C)(1) through (C)(4) and (C)(6) through (C)(10);
 2. A state board certification and license verification form, which is submitted directly to the Board from the state

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that issued the license on which the applicant's endorsement application is based, indicating:

- a. Name and title of the individual completing the verification form;
 - b. Applicant's optometry license number in the state;
 - c. Date on which the applicant was issued an optometry license by the state;
 - d. A statement of whether the applicant:
 - i. Has been licensed in the state for at least four of the last five years;
 - ii. Is certified to use topical diagnostic, topical therapeutic, or oral pharmaceutical agents and if so, the date on which the certification was obtained;
 - iii. Is currently in good standing in the state;
 - iv. Is known to be licensed to practice the profession of optometry in another state and if so, the name of the other state;
 - v. Has been subject to any disciplinary action and if so, the date, nature of, and reason for the disciplinary action; and
 - vi. Is subject to any pending investigation or complaint and if so, the nature of the investigation or complaint; and
 - e. The dated, notarized signature of the individual completing the verification form; and
3. A letter on official letterhead, in substantially the form provided by the Board, from a representative of the accredited optometry program at the educational institution from which the applicant graduated, providing details that demonstrate the applicant's education meets the standards at R4-21-207; and
 4. If the applicant does not meet the requirements listed in R4-21-201 or R4-21-202(A)(2), a current certificate issued by the CELMO or its successor organization.

Historical Note

Adopted effective February 7, 1986 (Supp. 86-1).
Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-202 repealed; new Section R4-21-202 renumbered from R4-21-204 and amended effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Former R4-21-202 renumbered to R4-21-203; new R4-21-202 made by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 22 A.A.R. 328, effective March 28, 2016 (Supp. 16-1).

R4-21-203. Jurisprudence Examination

- A. To be licensed, an applicant shall obtain a score of at least 75% on a jurisprudence examination that assesses knowledge of Arizona's statutes and rules relating to the practice of optometry in Arizona.
- B. An applicant may take the jurisprudence examination up to six months prior to submitting an application for licensure or after submitting to the Board the application form required under R4-21-201(B) or R4-21-202(B).
- C. The jurisprudence exam may be taken in person at the Arizona State Board of Optometry offices, through the National Board of Examiners in Optometry, or at a proctored testing center approved by the Board.
- D. An applicant who fails the jurisprudence examination may retake the examination one time within the deficiency time frame of the related application for licensure listed in Table I.
- E. The Board shall further consider an applicant who fails the jurisprudence examination a second time only if the applicant:

1. Waits at least six months from the date of the second taking of the jurisprudence examination;
2. Submits a new application form under R4-21-201(B) or R4-21-202(B);
3. Submits a full set of readable fingerprints taken by a criminal justice agency for the purpose of obtaining a state and federal criminal records check; and a cashier's check or money order payable to the Arizona Department of Public Safety in the amount listed on the application for licensure;
4. Submits a passport-quality photograph of the applicant's head and shoulders that is taken within six months of the date of the new application and signed by the applicant in ink across the lower portion of the front side;
5. Submits a self-query from the National Practitioner Data Bank-Healthcare Integrity and Protection Data Bank made within three months before the date of the new application; and
6. Submits the application fee required under A.R.S. § 32-1727.

Historical Note

Adopted effective February 7, 1986 (Supp. 86-1).
Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-203 repealed; new Section R4-21-203 adopted effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3). Amended by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Former R4-21-203 renumbered to R4-21-103; new R4-21-203 renumbered from R4-21-202 and amended by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 22 A.A.R. 328, effective March 28, 2016 (Supp. 16-1).

R4-21-204. License Issuance

- A. When the Board determines that an applicant meets all of the substantive criteria required by statute and this Chapter, the Board shall send the applicant a written notice informing the applicant that the Board shall issue the applicant a license when the applicant pays the license issuance fee required under R4-21-102(B).
- B. Under A.R.S. § 32-1725, if an applicant fails to pay the license issuance fee within 60 days after receiving notice under subsection (A), the Board considers the application withdrawn. An individual whose application is withdrawn can be further considered for licensing only by complying with R4-21-201 or R4-21-202.

Historical Note

Adopted effective February 7, 1986 (Supp. 86-1).
Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-204 renumbered to R4-21-202; new Section R4-21-204 adopted effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3). Amended by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Former R4-21-204 renumbered to R4-21-205; new R4-21-204 made by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4).

R4-21-205. License Renewal

- A. To continue practicing the profession of optometry in Arizona, a licensee shall renew the licensee's license and certificate of special qualification, if applicable, on or before the date on which the license and certificate expire. Timely renewal is a licensee's responsibility. As a courtesy, the Board may provide a licensee with notice that the licensee's license is going to

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expire. Failure to obtain notice of the need to renew is not good cause for failing to renew.

- B.** To renew a license and, if applicable, certificate of special qualification, a licensee shall submit to the Board a license renewal application and provide the following information:
1. Whether the licensee wants to renew the licensee's license and, if applicable, certificate of special qualification;
 2. The licensee's current public mailing address, telephone and fax numbers;
 3. The licensee's current residential address, e-mail address, and residential or mobile telephone numbers;
 4. The licensee's current permanent and temporary practice addresses and telephone and fax numbers;
 5. A statement of whether the licensee:
 - a. Has practiced the profession of optometry within the last two years;
 - b. Has been denied the right to take an examination for optometric licensure by any state or jurisdiction within the preceding two years and if so, the name of the state or jurisdiction, date, and reason for the denial;
 - c. Has been denied an optometric license or renewal in any state or jurisdiction within the preceding two years and if so, the name of the state or jurisdiction, date, and reason for denial;
 - d. Has had a license or certificate of registration to practice the profession of optometry suspended or revoked by any optometric regulatory agency within the preceding two years and if so, the name of the optometric regulatory agency, date, action taken, reason for the action, and current status;
 - e. Has had disciplinary action instituted against the licensee by any optometric regulatory agency within the preceding two years and if so, the name of the optometric regulatory agency, date, nature of the disciplinary action, reason for the disciplinary action, and current status;
 - f. Has had an investigation conducted within the preceding two years or has an investigation pending by an optometric regulatory agency of any state or jurisdiction and if so, name of the optometric regulatory agency and the state or jurisdiction, date, reason for the investigation, and current status;
 - g. Has been convicted of, pled guilty or no contest to, or entered into diversion in lieu of prosecution for any criminal offense in any jurisdiction of the United States or foreign country within the preceding two years, and if so, the name of the jurisdiction, date, offense charged, offense for which convicted, pled guilty, or no contest, and current status;
 - h. Is currently, or has been addicted to narcotic substances or habitually abused alcohol within the preceding two years. If so, dates during which the addiction or abuse occurred, steps taken to address the addiction or abuse, current status, and a statement as to why the addiction or abuse does not amount to unprofessional conduct.
 - i. Has had the authority to prescribe, dispense, or administer pharmaceutical agents limited, restricted, modified, denied, surrendered, or revoked by a federal or state agency within the preceding two years and if so, name of agency taking action, nature of action taken, date, reason for action, and current status; and
 - j. Is in compliance with the provisions of A.R.S. § 32-3211;
6. The following information about each approved Continuing Education course attended by the licensee during the preceding two years:
- a. Name of Continuing Education provider.
 - b. Title,
 - c. COPE course identification number, if any
 - d. Date(s) of attendance, and
 - e. Number of hours of attendance; and
7. The licensee's dated signature affirming that the information provided is true and correct.
- C.** In addition to the license renewal application required under subsection (B), a licensee shall submit to the Board:
1. The license renewal fee listed at R4-21-102(B); and
 2. The certificate of special qualification fee required under A.R.S. §32-1727 if the licensee has a certificate of special qualification; or
 3. Written documentation that the licensee is currently certified in CPR if the licensee has a pharmaceutical agent number.
- D.** A licensee who fails to renew the licensee's license and, if applicable, certificate of special qualification within 30 days after the date of expiration, may apply for late renewal by complying with subsections (B) and (C) within four months after the date of expiration and paying the late renewal fee listed at R4-21-102(B).
- E.** A licensee who fails to renew timely and fails to comply with subsection (D) shall not engage in the practice of the profession of optometry. The holder of a license that is not renewed within four months after the date of expiration may apply under R4-21-206 for license reinstatement but is not eligible for license renewal.
- F.** If a licensee timely applies for license renewal or complies with subsection (D), the licensee's license and, if applicable, certificate of special qualification remain in effect until the license renewal is granted or denied.

Historical Note

Adopted effective February 7, 1986 (Supp. 86-1).
 Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-205 renumbered to R4-21-207; new Section R4-21-205 adopted effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3). Amended by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Former R4-21-205 renumbered to R4-21-207; new R4-21-205 renumbered from R4-21-204 and amended by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 22 A.A.R. 328, effective March 28, 2016 (Supp. 16-1).

R4-21-205.1 Cardiopulmonary Resuscitation ("CPR") Requirements

- A.** A CPR course shall be as recommended by the American Heart Association, the American Red Cross, or the National Safety Council and shall include an exam of the materials presented in the course;
- B.** A CPR certification card or other documentation with an expiration date received from the CPR course provider shall be presented to the Board as proof of CPR certification.
- C.** Failure to maintain current CPR certification shall result in immediate loss of the licensee's Pharmaceutical Agent certification. The Pharmaceutical Agent certification shall not be reinstated until written documentation that the CPR certification deficiency has been met and proof of completion is presented to the Board; and
- D.** Any licensee whose Pharmaceutical Agent certification is sus-

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pending due to expiration of their CPR certification shall not prescribe utilizing the Pharmaceutical Agent certification. Upon submission of proof of current CPR certification to the Board, the Pharmaceutical Agent certification shall be immediately reinstated.

Historical Note

New Section made by final rulemaking at 22 A.A.R. 328, effective March 28, 2016 (Supp. 16-1).

R4-21-206. License Reinstatement; Application for License following License Expiration

- A. Reinstatement following license expiration. Under A.R.S. § 32-1726, if an individual holds a license that has been expired at least four months but less than five years, the individual may apply to the Board to have the license and, if applicable, certificate of special qualification reinstated. To have an expired license reinstated, the former licensee shall:
1. Submit the renewal form described in R4-21-205(B);
 2. Submit the renewal fee listed in R4-21-102(B) for each biennial period that the license was not renewed;
 3. Submit, if applicable, the fee for a certificate of special qualification listed at A.R.S. § 32-1727 for each biennial period that the license was not renewed;
 4. Submit the late renewal fee listed in R4-21-102(B) for each biennial period that the license was not renewed;
 5. Submit a \$50 penalty fee for each year or portion of a year that the license was not renewed; and
 6. Submit written documentation that the former licensee is currently certified in cardiopulmonary resuscitation if the former licensee had a pharmaceutical agent number.
- B. Reinstatement following license suspension. If an individual holds a license that was suspended by the Board following a disciplinary proceeding and if the individual timely renewed the suspended license under R4-21-205, the individual may apply to the Board to have the license and, if applicable, certificate of special qualification reinstated. To have a suspended license reinstated, the suspended licensee shall submit evidence of completing all terms of suspension imposed by the Board.
- C. Application for new license following license expiration. If an individual holds a license that has been expired for five years or more, the individual may apply for a new license:
1. Under R4-21-202 if the individual has continuously practiced the profession of optometry in another state or the military for at least four of the last five years, or
 2. Under R4-21-201 if the individual is not qualified to apply for a new license under subsection (C)(1).

Historical Note

Adopted effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3). Amended by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Former R4-21-206 renumbered to R4-21-208; new R4-21-206 made by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 22 A.A.R. 328, effective March 28, 2016 (Supp. 16-1).

R4-21-207. Course of Study Approval

The Board approves a course of study that:

1. Includes didactic and clinical training in:
 - a. Examining, diagnosing, and treating conditions of the human eye and its adnexa; and
 - b. Prescribing dispensing, and administering pharmaceutical agents;

2. Includes at least 120 hours of training, at least 12 of which address prescribing, dispensing, and administering oral pharmaceutical agents; and
3. Is provided by an educational institution with an accredited optometry program.

Historical Note

Former Section R4-21-08 renumbered without change as Section R4-21-207 effective February 7, 1986 (Supp. 86-1). Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-207 renumbered to R4-21-208; new Section R4-21-207 renumbered from R4-21-205 and amended effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3). Amended by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Former R4-21-207 renumbered to R4-21-301; new R4-21-207 renumbered from R4-21-205 and amended by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4).

R4-21-208. Certificate of Special Qualification; Pharmaceutical Agent Number

- A. The Board shall issue a certificate of special qualification that allows a licensee to prescribe, administer, and dispense topical diagnostic and therapeutic pharmaceutical agents or only topical diagnostic pharmaceutical agents if the licensee:
1. Was licensed by the Board before July 1, 2000;
 2. Held a comparable certificate of special qualification issued by the Board before July 1, 2000; and
 3. Pays the fee prescribed at A.R.S. § 32-1727.
- B. The Board shall issue a certificate of special qualification that indicates a licensee shall not prescribe, administer, or dispense a pharmaceutical agent if the licensee:
1. Was licensed by the Board before July 1, 2000,
 2. Did not hold a certificate of special qualification issued by the Board before July 1, 2000, and
 3. Pays the fee prescribed at A.R.S. § 32-1727.
- C. A licensee who holds a certificate of special qualification issued under subsection (A) or (B) may apply to the Board for a pharmaceutical agent number that indicates the licensee is authorized to prescribe, administer, or dispense topical diagnostic, topical therapeutic, and oral pharmaceutical agents. To apply for a pharmaceutical agent number, a licensee who holds a certificate of special qualification issued under subsection (A) or (B) shall:
1. Submit to the Board an application, using a form that is available from the Board, and provide the following information:
 - a. Name of licensee;
 - b. Social Security number;
 - c. Mailing address;
 - d. Telephone and fax numbers at the address listed under subsection (C)(1)(c);
 - e. License number;
 - f. Number of certificate of special qualification for diagnostic pharmaceutical agents, if any;
 - g. Number of certificate of special qualification for therapeutic pharmaceutical agents, if any;
 - h. Residential address;
 - i. Telephone number at the address listed under subsection (C)(1)(h);
 - j. Name of the course of study approved under R4-21-207 that the licensee completed and date of completion; and
 - k. Applicant's dated signature affirming that the information provided is true and correct; and

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2. Have a representative of the educational institution at which the licensee completed the approved course of study submit to the Board evidence that the course of study is approved and the licensee completed all course requirements; and
 3. Submit written documentation that the licensee is currently certified in CPR.
- D.** The Board shall issue a pharmaceutical agent number that indicates a licensee is authorized to prescribe, administer, or dispense topical diagnostic, topical therapeutic, and oral pharmaceutical agents if the licensee is initially licensed by the Board under R4-21-201 or R4-21-202 after June 30, 2000.

Historical Note

Adopted effective February 7, 1986 (Supp. 86-1). Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-208 renumbered to R4-21-209; new Section R4-21-208 renumbered from R4-21-207 and amended effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3). Amended by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Former R4-21-208 renumbered to R4-21-209; new R4-21-208 renumbered from R4-21-206 and amended by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 22 A.A.R. 328, effective March 28, 2016 (Supp. 16-1).

R4-21-209. Continuing Education Requirement

- A.** A licensee shall complete 32 hours of approved Continuing Education during each biennial license renewal period. The licensee shall ensure that in each biennial license renewal period:
1. At least eight hours of the approved Continuing Education is in the area of diagnosis, treatment, and management of disease of the human eye and its adnexa and pharmaceutical use appropriate to the authority held by the licensee;
 2. For licensees holding a current DEA Registration, at least three hours of the approved Continuing Education shall be obtained in the area of opioid-related, substance use disorder-related or addiction-related Continuing Education.
 3. No more than 12 hours of the approved Continuing Education shall be obtained through self-instructed media. All self-instructed media shall be COPE or ACCME approved.
 4. No more than four hours of the approved Continuing Education are in the area of practice management;
 5. No more than one hour of approved Continuing Education is claimed for each day of instruction in a course of study approved under R4-21-207 to a maximum of four hours; and
 6. No more than four hours of approved Continuing Education are claimed for publishing or presenting a paper, report, or book that deals with current developments, skills, procedures, or treatments related to the practice of the profession of optometry.
 7. No more than one (1) hour of Continuing Education requirements shall be claimed for obtaining CPR certification.
- B.** If a licensee obtains more than 32 hours of approved Continuing Education during a biennial renewal period, the licensee shall not claim the extra hours of approved Continuing Education during a subsequent biennial renewal period.
- C.** During the biennial renewal period in which a licensee is first licensed, the licensee shall obtain a prorated number of hours

- of approved Continuing Education for each month remaining in the biennial renewal period. The hours shall be calculated at four hours per quarter of a year to include the quarter in which the application for licensure is approved by the Board.
- D.** A licensee shall not claim as approved Continuing Education any educational program or course completed before being licensed in Arizona.
- E.** A licensee shall obtain a certificate or other evidence of attendance from the provider of each approved Continuing Education attended that includes the following:
1. Name of the licensee,
 2. License number of the licensee,
 3. Name of the approved Continuing Education,
 4. Name of the Continuing Education provider,
 5. Date, time, and location of the approved Continuing Education, and
 6. Number of hours of approved Continuing Education and number of hours relating to practice management.
- F.** For the purpose of license renewal, Continuing Education shall be verified through the ARBO OE Tracker or other comparable program, using the licensee's individual Continuing Education report.
- G.** A licensee shall maintain the report or other evidence of attendance described in subsection (E) for at least two years from the date of attendance.
- H.** A licensee shall submit to the Board a copy of the report obtained during a biennial renewal period as proof of attendance at Continuing Education courses.

Historical Note

Adopted effective February 7, 1986 (Supp. 86-1). Section R4-21-209 renumbered to R4-21-307 effective April 1, 1991 (Supp. 91-2). New Section R4-21-209 renumbered from R4-21-208 and amended effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Former R4-21-209 renumbered to R4-21-212; new R4-21-209 renumbered from R4-21-208 and amended by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 22 A.A.R. 328, effective March 28, 2016 (Supp. 16-1). Amended by final rulemaking at 25 A.A.R. 431, effective April 5, 2019 (Supp. 19-1).

R4-21-210. Approval of Continuing Education

- A.** The Board approves the following as Continuing Education:
1. An internship, residency, or fellowship attended at an educational institution with an accredited optometry program; and
 2. An educational program designed to provide understanding of current developments, procedures, or treatments, or improve skills related to the practice of the profession of optometry and:
 - a. Provided by an educational institution with an accredited optometry program; or
 - b. Sponsored or approved by the Association of Schools and Colleges of Optometry, The Council on Optometric Practitioner Education, Accreditation Council for Continuing Medical Education or a local, regional, or national optometric association.
 3. Any opioid-related course that is approved by the Arizona State Board of Optometry, Arizona State Board of Pharmacy, Arizona Board of Osteopathic Examiners, Arizona Medical Board or the Arizona State Board of Nursing.
- B.** To obtain approval of a Continuing Education that is not approved under subsection (A), the provider of the Continuing

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Education or a licensee shall, before providing or participating in the Continuing Education:

- 1. Submit an application for approval, using a form that is available from the Board, and provide the following information:
 - a. Name of applicant,
 - b. Address and telephone number of applicant,
 - c. Provider of the Continuing Education.
 - d. Name and telephone number of a contact person with the Continuing Education provider,
 - e. Name of the Continuing Education,
 - f. Date and location of the Continuing Education,
 - g. Manner in which potential participants will be notified that the Continuing Education is available,
 - h. Number of hours of the Continuing Education and the number of hours that relate to practice management,
 - i. Name of instructor of the Continuing Education, and
 - j. Dated signature of the applicant;
 - 2. Submit a curriculum vitae for the instructor of the Continuing Education; and
 - 3. Submit a syllabus of the Continuing Education that identifies learning objectives, teaching methods, and content.
- C. The provider of an approved Continuing Education shall provide each participant with a certificate or other evidence of attendance that meets the standards at R4-21-209(E).
- D. The Board shall approve a Continuing Education if the application required under subsection (B) is submitted and the Board determines that the Continuing Education is designed to provide understanding of current developments, procedures, or treatments, or improve skills related to the practice of the profession of optometry.

Historical Note

Former Section R4-21-02 renumbered without change as Section R4-21-210 effective February 7, 1986 (Supp. 86-1). Repealed effective April 1, 1991 (Supp. 91-2). New Section adopted by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3). Repealed by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). New Section made by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 22 A.A.R. 328, effective March 28, 2016 (Supp. 16-1). Amended by final rulemaking at 25 A.A.R. 431, effective April 5, 2019 (Supp. 19-1).

R4-21-211. Audit of Compliance with Continuing Education Requirement

- A. At the time of license renewal, the Board shall audit Continuing Education hours to determine compliance with R4-21-209.
- B. To perform an audit, the Board shall use the information entered into the ARBO OE Tracker software or other comparable Board approved program to perform its audit. The Board shall consider a licensee’s Continuing Education requirement met if the licensee has recorded the required number of Continuing Education credits into the OE tracker.
- C. At the time of license renewal, each licensee shall certify to the Board, through a Continuing Education report, completion of the Continuing Education required for license renewal. In the event that Continuing Education credits are not able to be recorded in the report, a licensee may submit to the Board certificates of attendance for those hours only to meet the Continuing Education requirement. A licensee may not renew the license until required Continuing Education hours are submitted.

Historical Note

Former Section R4-21-03 renumbered without change as Section R4-21-211 effective February 7, 1986 (Supp. 86-1). Repealed effective April 1, 1991 (Supp. 91-2). New Section made by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 22 A.A.R. 328, effective March 28, 2016 (Supp. 16-1). Amended by final rulemaking at 25 A.A.R. 431, effective April 5, 2019 (Supp. 19-1).

R4-21-212. Waiver of or Extension of Time to Complete Continuing Education Requirement

- A. To obtain a waiver of some or all of the hours of approved continuing education required during a biennial renewal period, a licensee shall submit a written request to the Board that:
 - 1. Specifies the number of hours of approved continuing education that the licensee requests the Board to waive, and
 - 2. Documents that the licensee suffered a serious or disabling illness or other good cause that prevented the licensee from complying with the continuing education requirement.
- B. The Board shall grant a waiver within seven days after receiving the request if the Board determines that the licensee demonstrated good cause.
- C. To obtain an extension of time to complete the continuing education requirement, a licensee shall submit to the Board a written request that includes the following:
 - 1. Ending date of the requested extension,
 - 2. Continuing education completed during the biennial renewal period and the documentation required under R4-21-209(E),
 - 3. Proof of registration for additional approved continuing education that is sufficient to enable the licensee to fulfill the continuing education requirement before the end of the requested extension, and
 - 4. Licensee’s attestation that the continuing education obtained under the extension will be reported only to fulfill the current renewal requirement and will not be reported on a subsequent license renewal application.
- D. The Board shall grant an extension of time within seven days after receiving a request for an extension of time if the request:
 - 1. Specifies an ending date no later than four months after the date of license expiration, and
 - 2. Includes the required documentation and attestation.

Historical Note

Former Section R4-21-04 renumbered without change as Section R4-21-212 effective February 7, 1986 (Supp. 86-1). Repealed effective April 1, 1991 (Supp. 91-2). New R4-21-212 renumbered from R4-21-209 and amended by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4).

R4-21-213. Repealed

Historical Note

New Section made by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4). Section repealed by final rulemaking at 22 A.A.R. 328, effective March 28, 2016 (Supp. 16-1).

Table 1. Renumbered

Historical Note

Table 1 adopted effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3). Amended by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005

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(Supp. 05-2). Table 1 renumbered to Article 1 by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4).

ARTICLE 3. STANDARDS; RECORDKEEPING; REHEARING OR REVIEW OF BOARD DECISION**R4-21-301. Display of License; Surrender of License**

- A. License display. A licensee shall display the Board-issued license at each location at which the licensee practices the profession of optometry and in a manner that makes the license visible to the public.
- B. License surrender. Upon order by the Board, a licensee shall surrender to the Board all copies of the license and, if applicable, certificate of special qualification issued to the licensee.

Historical Note

Adopted effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Section repealed; new R4-21-301 renumbered from R4-21-207 and amended by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4).

R4-21-302. Advertising

- A. A licensee shall not knowingly make, publish, or use an advertisement that contains a false, fraudulent, deceptive, or misleading representation.
- B. A licensee may advertise that the licensee has a practice limited in some way if the licensee does not use the term "specialist" or any derivative of the term "specialist."
- C. A licensee shall ensure that the content of an advertisement or directory that includes the name and address of the licensee is accurate.
- D. An advertisement for health care services that includes a licensee's name shall identify the title and type of license the licensee holds.

Historical Note

Adopted effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Amended by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 22 A.A.R. 328, effective March 28, 2016 (Supp. 16-1).

R4-21-303. Affirmative Disclosures Required

- A. A licensee shall ensure that an advertisement for or by the licensee clearly indicates within the advertisement:
- Whether spectacle lenses or contact lenses advertised are single vision, multi-focal, or other;
 - Whether the price advertised for spectacles includes both the frame and lenses;
 - Whether the price advertised includes an eye examination;
 - Whether the price advertised for contact lenses includes all dispensing fees, follow-up care, and a contact lens accessory kit and if an accessory kit is included, the specific features of the kit;
 - Whether restrictions are imposed upon delivery, if delivery time is advertised;
 - The refund policy if refunds are advertised; and
 - A statement that other restrictions apply if there are other restrictions.
- B. A licensee shall inform a patient of all professional fees before providing treatment.
- C. A licensee who refers a patient to a facility in which the licensee or a member of the licensee's family has an ownership

or employment interest shall advise the patient of the interest at the time of referral.

- D. A licensee who charges a patient a fee for a warranty or a service or ophthalmic-goods-replacement agreement, shall:
- Give the patient a written copy of the warranty or service or ophthalmic-goods-replacement agreement;
 - Ensure that the warranty or service or ophthalmic-goods-replacement agreement explains the coverage included and any limitation;
 - Document compliance with subsection (D)(1) by making a written entry on the patient's record; and
 - Place a copy of the warranty or service or ophthalmic-goods-replacement agreement, signed by the patient, in the patient's record.

Historical Note

Adopted effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Amended by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4).

R4-21-304. Vision Examination Standards

A licensee shall conduct an eye examination in accordance with the standards of care prevalent in the community and consistent with current industry practice.

Historical Note

Adopted effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 3812, effective September 13, 2000 (Supp. 00-3). Amended by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Former R4-21-304 renumbered to R4-21-305; new R4-21-304 made by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4).

R4-21-305. Recordkeeping

- A. A licensee shall create and maintain a complete and legible record of each examination including all findings. A licensee shall ensure that a patient record is maintained for at least six years after the licensee's last contact with the patient and includes:
- Patient's name and contact information;
 - Date on which an entry is made in the patient's record;
 - Identification of the person making the entry in the patient's record;
 - Complete health history;
 - Visual acuity of each eye: entering and best corrected;
 - Ocular health examination;
 - Assessment of intraocular and extra-ocular muscle function;
 - Objective or subjective refraction of the eyes;
 - Diagnosis, treatment, and disposition;
 - Type and dosage of each use of a pharmaceutical agent;
 - Final optometric prescription given, if any;
 - Corrective procedure program prescribed, if any; and
 - Signature of licensee providing diagnosis, treatment, and disposition.
- B. A licensee may create and maintain any record required under A.R.S. Title 32, Chapter 16 or this Chapter in electronic format. A licensee may convert any record maintained under A.R.S. Title 32, Chapter 16 or this Chapter to electronic format. A licensee who converts a record to electronic format shall ensure that the record contains all the information required under A.R.S. Title 32, Chapter 16 and this Chapter.
- C. A licensee who discontinues practice for any reason shall arrange for a patient's record to be available to the patient for six years from the date the licensee discontinues practice.

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Before discontinuing practice, a licensee shall notify the Board of the location at which patient records from the practice will be maintained.

- D. A licensee who acquires the patient records of a licensee who discontinued practice, either with or without succeeding to the practice of the other licensee, shall ensure that the records are available to the patients for six years after the licensee from whom the records were acquired discontinued practice.
- E. A licensee shall provide a tangible or electronic copy of a patient's record within five business days after receiving a written request from the patient. The licensee shall provide the copy to any person designated by the patient. The licensee may charge a fee to cover the costs of providing the copy. The licensee shall maintain a record of providing the copy for six years.
- F. Regardless of the form in which a licensee creates and maintains patient records, the licensee shall comply with all laws regarding security, confidentiality, maintenance and release of the records.

Historical Note

Adopted effective April 1, 1991 (Supp. 91-2). Amended effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Former R4-21-305 renumbered to R4-21-306; new R4-21-305 renumbered from R4-21-304 and amended by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 22 A.A.R. 328, effective March 28, 2016 (Supp. 16-1).

R4-21-306. Optometric Prescription Standards; Release to Patients

- A. When a licensee completes an eye examination and generates an optometric prescription, the licensee shall provide the patient with a copy of the optometric prescription without charging a fee other than the examination fee.
- B. A licensee shall ensure that an optometric prescription written by the licensee includes:
 - 1. For ophthalmic lenses other than contact lenses:
 - a. Name of the patient;
 - b. Refractive power of the lenses;
 - c. Printed name, office address, telephone number, and signature of the licensee; and
 - d. Date of the examination and expiration date of the prescription;
 - 2. For contact lenses, including plano lenses:
 - a. Name of the patient;
 - b. For a patient who has not completed a trial period appropriate under the circumstances and desires to have a prescription, the information required for the patient to purchase trial lenses at another optical establishment or location;
 - c. For a patient who has completed a trial period appropriate under the circumstances for the lenses prescribed, all information necessary to reproduce the contact lenses accurately;
 - d. Printed name, office address, telephone number, license number, and signature of the licensee;
 - e. Date of the examination and the issue and expiration date of the prescription; and
 - f. Information regarding the prescribed contact lenses:
 - i. Refractive power;
 - ii. Base curve or other appropriate designation;
 - iii. Diameter, if appropriate;
 - iv. Tint, if applicable;
 - v. Material, manufacturer, or both; and

vi. In the case of private-label contact lenses, manufacturer, trade name, and, if applicable, trade name of equivalent brand name; and

- 3. For pharmaceutical agents:
 - a. Name and address of the patient;
 - b. Date the prescription is issued;
 - c. Name, strength, and quantity of the pharmaceutical agent prescribed;
 - d. Directions for use of the pharmaceutical agent prescribed;
 - e. Name, office address, and telephone number of the prescribing licensee;
 - f. When prescribing controlled substances, the DEA number of the prescribing licensee;
 - g. Two adjacent signature lines with the following printed words:
 - i. "Dispense as written" under the left signature line, and
 - ii. "Substitution permissible" under the right signature line; and
 - h. Original signature of the prescribing licensee on one of the signature lines; and
- 4. Additional information that the licensee considers necessary.
- C. A licensee who dispenses or directs the dispensing of ophthalmic materials shall ensure that a prescription is filled accurately.
- D. A licensee shall be available to verify that a prescription written by the licensee but filled by another provider of ophthalmic goods is accurately filled. The licensee may charge a fee for verifying the accuracy or quality of ophthalmic goods dispensed by another provider.
- E. A licensee shall not:
 - 1. Require purchase of contact lenses from the prescriber or from another person as a condition of providing a copy of the prescription;
 - 2. Require a payment in addition to, or as part of, the fee for an eye examination, fitting, and evaluation as a condition of providing a copy of a prescription or verification of a prescription;
 - 3. Require the patient to sign a waiver or release as a condition of verifying or releasing a prescription.

Historical Note

Adopted effective February 7, 1986 (Supp. 86-1). Amended effective April 1, 1991 (Supp. 91-2). Section R4-21-306 renumbered to R4-21-307; new Section R4-21-306 adopted effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Former R4-21-306 renumbered to R4-21-307; new R4-21-306 renumbered from R4-21-305 and amended by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 22 A.A.R. 328, effective March 28, 2016 (Supp. 16-1).

R4-21-307. Vision Rehabilitation

- A. A licensee may use any objective or subjective method other than surgery to diagnose or treat any visual, muscular, neurological, or anatomical anomaly of the eye.
- B. A licensee may use any instrument or device to train the visual system or correct any abnormal condition of the eye.

Historical Note

Adopted effective February 7, 1986 (Supp. 86-1). Section R4-21-307 renumbered from R4-21-209 effective April 1, 1991 (Supp. 91-2). Section R4-21-307 renumbered to R4-21-308; new Section R4-21-307 renumbered from

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R4-21-306 and amended effective November 5, 1998 (Supp. 98-4). Repealed by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). New R4-21-307 renumbered from R4-21-306 and amended by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4).

R4-21-308. Anaphylactic-related Supplies

- A. If a patient to whom a licensee administers a pharmaceutical agent experiences an anaphylactic reaction, the licensee may, as provided by A.R.S. § 32-1706(F), use injectable epinephrine to counteract the anaphylactic reaction.
- B. A licensee who maintains injectable epinephrine at the licensee's practice location shall also maintain the following medically necessary supportive equipment and supplies:
1. Diphenhydramine in injectable, capsule or tablet, and syrup forms;
 2. Syringes for injecting diphenhydramine;
 3. Wristwatch with a second hand;
 4. Sphygmomanometer with both adult and extra-large cuffs;
 5. Stethoscope;
 6. Adult-size pocket mask with one-way valve;
 7. Tongue depressors; and
 8. Telephone.

Historical Note

Section R4-21-308 renumbered from R4-21-307 and amended effective November 5, 1998 (Supp. 98-4). Amended by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Former R4-21-308 renumbered to R4-21-309; new R4-21-308 made by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4). Amended by final rulemaking at 22 A.A.R. 328, effective March 28, 2016 (Supp. 16-1).

R4-21-309. Rehearing or Review of Board Decision

- A. The Board shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10 and the rules established by the Office of Administrative Hearings.
- B. Except as provided in subsection (H), a party is required to file a motion for rehearing or review of a decision of the Board to exhaust the party's administrative remedies.
- C. A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- D. The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
1. Irregularity in the proceedings of the Board or any order or abuse of discretion that deprived the moving party of a fair hearing;
 2. Misconduct of the Board, its staff, or the administrative law judge;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or in the course of the proceedings; and
 7. The findings of fact or decision is not justified by the evidence or is contrary to law.
- E. The Board may affirm or modify a decision or grant a rehearing or review to all or some of the parties on all or some of the issues for any of the reasons listed in subsection (D). An order modifying a decision or granting a rehearing or review shall specify with particularity the grounds for the order. If a rehear-

ing or review is granted, the rehearing or review shall cover only the matters specified in the order.

- F. Not later than 30 days after the date of a decision and after giving the parties notice and an opportunity to be heard, the Board may, on its own initiative, order a rehearing or review of its decision for any reason it might have granted a rehearing or review on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion. An order granting a rehearing or review shall specify with particularity the grounds on which the rehearing or review is granted.
- G. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. This period may be extended by the Board for a maximum of 20 days for good cause or by written stipulation of the parties. Reply affidavits may be permitted.
- H. If, in a particular decision, the Board makes a specific finding that the immediate effectiveness of the decision is necessary for preservation of the public peace, health, or safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the Board may issue the decision as a final decision without opportunity for a rehearing or review.

Historical Note

Section R4-21-309 renumbered from R4-21-308 and amended by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4).

ARTICLE 4. REPEALED**R4-21-401. Repealed****Historical Note**

Adopted effective November 5, 1998 (Supp. 98-4). Repealed by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2).

R4-21-402. Repealed**Historical Note**

Adopted effective November 5, 1998 (Supp. 98-4). Repealed by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2).

R4-21-403. Repealed**Historical Note**

Adopted effective November 5, 1998 (Supp. 98-4). Repealed by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2).

R4-21-404. Repealed**Historical Note**

Adopted effective November 5, 1998 (Supp. 98-4). Repealed by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2).

R4-21-405. Repealed**Historical Note**

Adopted effective November 5, 1998 (Supp. 98-4). Repealed by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2).

R4-21-406. Repealed**Historical Note**

Adopted effective November 5, 1998 (Supp. 98-4). Repealed by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2).

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ARTICLE 5. REPEALED**R4-21-501. Repealed****Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Section repealed by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4).

R4-21-502. Repealed**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Section repealed by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4).

R4-21-503. Repealed**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Section repealed by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4).

R4-21-504. Repealed**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 1864, effective May 3, 2005 (Supp. 05-2). Section repealed by final rulemaking at 14 A.A.R. 12, effective February 2, 2008 (Supp. 07-4).