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## NOTICES OF FINAL RULEMAKING

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This section of the *Arizona Administrative Register* contains Notices of Final Rulemaking. Final rules have been through the regular rulemaking process as defined in the Administrative Procedures Act. These rules were either approved by the Governor's Regulatory Review Council or the Attorney General's Office. Certificates of Approval are on file with the Office.

The final published notice includes a preamble and

text of the rules as filed by the agency. Economic Impact Statements are not published.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the final rules should be addressed to the agency that promulgated them. Refer to Item #5 to contact the person charged with the rulemaking. The codified version of these rules will be published in the *Arizona Administrative Code*.

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### NOTICE OF FINAL RULEMAKING

#### TITLE 4. PROFESSIONS AND OCCUPATIONS

#### CHAPTER 21. BOARD OF OPTOMETRY

[R16-20]

#### PREAMBLE

- | <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|--|--------------------------|
| R4-21-101  | Amend                    |
| R4-21-102  | Amend                    |
| R4-21-103  | Amend                    |
| R4-21-201  | Amend                    |
| R4-21-202  | Amend                    |
| R4-21-203  | Amend                    |
| R4-21-205  | Amend                    |
| R4-21-205.1  | New Section              |
| R4-21-206  | Amend                    |
| R4-21-208  | Amend                    |
| R4-21-209  | Amend                    |
| R4-21-210  | Amend                    |
| R4-21-211  | Amend                    |
| R4-21-213  | Repeal                   |
| R4-21-302  | Amend                    |
| R4-21-305  | Amend                    |
| R4-21-306  | Amend                    |
| R4-21-308  | Amend                    |
- 2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**  
Authorizing statute: A.R.S. § 32-1704(A)  
Implementing statute: A.R.S. §§ 32-1701 et seq.
- 3. The effective date of the rule:**  
March 28, 2016
- a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**  
Not applicable
- b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**  
Not applicable
- 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**  
Notice of Rulemaking Docket Opening: 20 A.A.R. 2981, November 14, 2014  
Notice of Proposed Rulemaking: 4 A.A.C. 21 3484, December 19, 2014

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

Name: Margaret Whelan, Executive Director  
Address: Arizona State Board of Optometry  
1400 W. Washington, Suite 230  
Phoenix, AZ 85007  
Telephone: (602) 542-8155  
Fax: (602) 542-3093  
E-mail: margaret.whelan@optometry.az.gov  
Website: www.optometry.az.gov

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

The Board is updating its rules to make them more clear, concise, and understandable; consistent with statute and current agency and industry practice. This rulemaking will update language and terminology used in the rules to improve consistency and clarity as well as conform to statutes amended in the 2013 legislative session (50th Legislature, 1st Regular Session) and 2014 legislative session (51st Legislature, 2nd Regular Session).

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. A summary of the economic, small business, and consumer impact:**

The proposed fee increase in aggregate is subject to the total number of license renewals and is estimated, based on current number of licensees, to generate possible revenue to both the Board and the State's General Fund for the requisite operating expenses of the Board in the estimated amount of \$25, 942 annually with \$2,882 to the State General Fund. Such fees will be a cost to current licensees only. Some optometrists may practice in a small business setting however, the proposed rule amendments impact the optometrists themselves rather than the small business practice and therefore have minimal economic impact to current licensees only. There is no economic impact to the consumer/public.

**10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

No substantial substantive changes have been made to the rules. Non-substantive technical changes have been made at the recommendation of GRRC staff. In addition, after a great deal of public feedback for portions of sections 209 and 210, the Board is reverting the rule back to existing language. The Board took all comments under advisement and compromised on some of the changes to the rules regarding COPE and OE Tracker. The Board did not mandate COPE as originally planned but did keep the OE Tracker requirement in order to audit 100% of its licensees, adding a provision in the amended rule that should any of the required CE hours not be reported to OE Tracker, a licensee could submit certificates of attendance to the Board for those particular courses.

**11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**

Comments were received by the regulated public. Main concerns were use of COPE and OE Tracker. Some commenters were concerned that mandating COPE would negatively impact the local optometric associations' ability to give Continuing Education ("CE") courses as they would not utilize the COPE process since they do not charge members for the CE courses. Other commenters had concern over the use of OE Tracker for auditing purposes claiming that the reporting was not accurate. Miscellaneous comments related and unrelated to the proposed rules changes were also received and addressed by the Board. Those comments include wording changes to proposed language; specifically R4-21-306(E)(b) to add "of what was written on the prescription" however, this would not be a reasonable change as the prescription already must be filled as written; change would be redundant and confusing. In R4-21-308(A)(B), a question was raised about doctors who use an auto-injector pen for anaphylaxis getting an "injection certificate". Under the current statutes/scope of practice, Arizona licensed optometrists do not have injection authority other than the emergency auto-injectors; therefore, a rule like that would be illegal as it would have no statutory authority to support or permit it. Another comment submitted was inquiring about addressing online entities and other professions who are not optometrists from practicing optometry "in Arizona" over the internet. Again, this would need some statutory authority to address such an issue. A comment regarding wanting to charge an additional fee for taking interpupillary distance ("PD") was submitted. Under the current rules, a PD is required as part of the prescription and cannot generate an extra fee to the patient for providing it. Even when the PD requirement is removed, it still would not be appropriate to charge a fee for taking a PD as a doctor may still choose



to include it on a prescription for specificity of the prescription; but it is never a stand-alone charge and a PD can be taken by the optometrist or an optician.

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

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

The rule does not require a permit. The following are general “permits”: Licensure by Examination as required under R4-21-201; Licensure by Endorsement as required under R4-21-202; License Renewal registration as required under R4-21-205; and Certificate of Special Qualification as required under R4-21-208.

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

Not applicable

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

None

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

None

**14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

Not applicable

**15. The full text of the rules follows:**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 21. BOARD OF OPTOMETRY**

**ARTICLE 1. GENERAL PROVISIONS**

- Section
- R4-21-101. Definitions
- R4-21-102. Fees and other Charges
- R4-21-103. Time-frames for Board Action
- Table 1. Time-frames (in calendar days)

**ARTICLE 2. LICENSING PROVISIONS**

- Section
- R4-21-201. Licensure by Examination
- R4-21-202. Licensure by Endorsement
- R4-21-203. Jurisprudence Examination
- R4-21-205. License Renewal
- R4-21-205.1. Cardiopulmonary Resuscitation Requirements
- R4-21-206. License Reinstatement; Application for Licensure following License Expiration
- R4-21-208. Certificate of Special Qualification; Pharmaceutical Agent Number
- R4-21-209. Continuing Education Requirement
- R4-21-210. Approval of Continuing Education
- R4-21-211. Audit of Compliance with Continuing Education Requirement
- R4-21-213. Registration of Nonresident Contact-lens Dispenser; Renewal

**ARTICLE 3. STANDARDS; RECORDKEEPING; REHEARING OR REVIEW OF BOARD DECISION**

- Section
- R4-21-302. Advertising
- R4-21-305. Recordkeeping
- R4-21-306. Optometric Prescription Standards; Release to Patients
- R4-21-308. Anaphylactic-related Supplies



## ARTICLE 1. GENERAL PROVISIONS

**R4-21-101. Definitions**

In addition to the definitions in A.R.S. §§32-1701 and ~~32-1771~~, the following apply to this Chapter:

“Accredited” means approved by the ACOE.

“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 ~~agents~~ agent number;

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

~~A person who applies to the Board under A.R.S. § 32-1774 and R4-21-213 for registration as a non-resident dispenser of replacement soft contact lenses.~~

“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.

“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.

“Injectable Epinephrine auto-injector” 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 an Online Education Tracker used for the purpose of electronically tracking Continuing Education hours taken by a licensee.

“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.

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

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

**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 ~~\$400~~ \$450, which is prorated from date of issuance to date of renewal;
- 2. Biennial license renewal fee of ~~\$400~~ \$450; and
- 3. Late renewal fee of \$200.

~~C. Under the authority provided at A.R.S. §32-1773(B), the Board establishes and shall collect a fee of \$500 for registration or biennial registration renewal as a nonresident dispenser of contact lenses.~~

~~D.C.~~ Except as provided in subsection ~~(D)(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 ~~(D)(C)~~(1) and ~~(D)(C)~~(2) for a government agency.

~~E.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.

**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~~ time frame described in A.R.S. § 41-1072(2) is listed in Table 1.

B. For each type of license, certificate, or approval issued by the Board, the administrative completeness review ~~time frame~~ time frame described in A.R.S. §41-1072(1) is listed in Table 1 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 1 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~~ 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~~ time frame described in A.R.S. § 41-1072(3) is listed in Table 1 and begins on the date the Board sends written notice of administrative completeness to the applicant.



1. During the substantive review ~~time-frame~~ time frame, the Board may make one comprehensive written request for additional information. Within the time provided in Table 1 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~~ 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 a ~~40-day~~ an extension of up to twenty-five percent of the overall time frame the time to respond under subsection (B)(3) or (C)(3) by sending a ~~notice of request for extension of time~~ notice of request for extension of time to the Board before expiration of the time to respond. The ~~time-frame~~ 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~~ 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.

**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
<u>Renewal of</u> 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



Registration of nonresident dispenser of replacement soft contact lenses A.R.S. § 32-1773; R4-21-213	75	15	20	60	20
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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,
    - b. A pre-optometric school or undergraduate educational institution, and
    - e. ~~High school, and~~
    - ~~d.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. ~~Has been~~ Is currently, or has ever been addicted to narcotic substances or habitually abused alcohol within the last 10 years, and if ~~if~~ so, dates during which the addiction or abuse occurred, date, steps taken to address the addiction or abuse, and 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 ~~two-inch by three-inch~~ passport-quality photograph of the applicant's head and shoulders that is taken within six months of the date of application and signed by the applicant in ink across the lower portion of the front side;



2. A full set of readable fingerprints taken by a criminal justice agency 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; required to obtain a state and federal criminal records check;
4. The application fee required under A.R.S. § 32-1727;
5. A copy of the scores obtained by the applicant on Parts I, II, and III of the National Board of Examiners in Optometry examination less than 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 ~~the a current CPR cardiopulmonary resuscitation card issued to the applicant, or other written documentation of current certification in cardiopulmonary resuscitation.~~

#### **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 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. ~~Number of the applicant's~~ 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.

#### **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 at any time 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.





~~C.D.~~ An applicant who fails the jurisprudence examination may retake the examination one time within ~~six months from the date of the original examination.~~ the deficiency time frame of the related application for licensure listed in Table 1.

~~D.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; ~~payable to the Arizona Department of Public Safety; in the amount required to obtain a state and federal criminal records check;~~
4. Submits a ~~two inch by three inch~~ passport-quality photograph of the applicant's head and shoulders that is taken within six months of the date of 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.

**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 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, ~~and~~ telephone and fax numbers;
3. The licensee's current residential address, e-mail address, and residential ~~and 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. ~~Has been~~ Is currently, or has been addicted to narcotic substances or habitually abused alcohol within the preceding two years, ~~and if so, dates during which the addiction or abuse occurred, date,~~ steps taken to address the addiction or abuse, ~~and current status;~~ and a statement as to why the addiction or abuse does not amount to unprofessional conduct.
  - i. ~~Is presently addicted to narcotic substances or habitually abuses alcohol and if so, why the addiction or abuse does not amount to unprofessional conduct;~~
  - j. ~~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~~
  - k. ~~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



- e-d. Date(s) of attendance, and
- d-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 ~~cardiopulmonary resuscitation~~ CPR if the licensee has a pharmaceutical ~~agents~~ 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.

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

1. 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;
2. 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.
3. 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
4. Any licensee whose Pharmaceutical Agent certification is suspended 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.

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

- A. Reinstatement following license expiration. Under A.R.S. § 32-1726, if ~~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 ~~agents~~ 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).

#### **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~~ and ~~fax numbers~~ 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
  - 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 ~~cardiopulmonary resuscitation~~ 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.

**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 ~~four~~ 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. No more than 12 hours of the approved Continuing Education ~~are~~ shall be obtained through self-instructed media; All self-instructed media shall be COPE approved.
  - 3. No more than four hours of the approved Continuing Education are in the area of practice management;
  - 4. 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
  - 5. 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.
  - 6. 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.~~ F. For the purpose of license renewal, Continuing Education shall be verified through the ARBO OE Tracker Program, using the licensee's individual OE Tracker report.
- ~~F.G.~~ F.G. A licensee shall maintain the ~~certificates~~ OE Tracker report or other evidence of attendance described in subsection (E) for ~~three years~~ at least two years from the date of attendance.
- ~~G.H.~~ G.H. A licensee shall submit to the Board a copy of the OE Tracker report ~~the certificates or other evidence of attendance~~



obtained during a biennial renewal period as proof of attendance at Continuing Education courses if subject to an audit by the Board under R4-21-211.

**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, or a local, regional, or national optometric association.
- B.** To obtain approval of a Continuing Education that is not approved under subsection (A), the provider of the Continuing 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.

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

- A.** At the time of license renewal, the Board shall provide notice of an audit of Continuing Education records to a random sample of licensees. A licensee subject to a Continuing Education audit shall submit documentation that demonstrates compliance with the Continuing Education requirement at the same time the licensee submits the license renewal application form required under R4-21-205.
- B.** To perform an audit, the Board shall use the information entered into the ARBO OE Tracker software 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 an OE Tracker 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 OE Tracker, 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.

**R4-21-213. Registration of Nonresident Contact Lens Dispenser; Renewal Repealed**

- A.** ~~To register with the Board as a nonresident dispenser of replacement soft contact lenses, a person shall maintain a valid license to conduct the business of a pharmacist or pharmacy in the state in which the person is domiciled.~~
- B.** ~~To register with the Board, a nonresident contact lens dispenser that is qualified under subsection (A) shall submit to the Board:~~
- ~~1. An application, using a form that is available from the Board, that provides the following information:~~
    - ~~a. Name of applicant;~~
    - ~~b. Social Security number;~~
    - ~~c. Date of applicant's birth;~~
    - ~~d. Mailing address;~~
    - ~~e. Telephone and fax numbers at the address listed under subsection (B)(1)(d);~~
    - ~~f. State in which the applicant is licensed as a pharmacist or pharmacy;~~
    - ~~g. Number of pharmacist or pharmacy license;~~
    - ~~h. Whether license held is for a pharmacist or pharmacy;~~
    - ~~i. Taxpayer identification number;~~
    - ~~j. Primary business name;~~



- k. Address of business location at which inventory and records are stored;
  - l. Telephone and fax numbers at the address listed under subsection (B)(1)(k);
  - m. Toll-free telephone number for use by Arizona customers; and
  - n. Applicant's dated signature affirming that the information provided is true and correct;
2. The names of all corporate officers and of all general partners, if any;
  3. The fee listed at R4-21-102(C); and
  4. A certified copy of the license referenced in subsection (B)(1)(g).
- C. Registration as a nonresident contact lens dispenser is valid for two years from the date issued. To renew registration, a registered nonresident contact lens dispenser shall comply with subsection (B) before the registration expires.

**ARTICLE 3. STANDARDS; RECORDKEEPING;  
REHEARING OR REVIEW OF BOARD DECISION**

**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.

**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:
  1. Patient's name and contact information;
  2. Date on which an entry is made in the patient's record;
  3. Identification of the person making the entry in the patient's record;
  4. Complete health history;
  5. Visual acuity of each eye: entering and best corrected;
  6. Ocular health examination;
  7. Assessment of intraocular and extra-ocular muscle function;
  8. Objective or subjective refraction of the eyes;
  9. Diagnosis, treatment, and disposition;
  10. Type and dosage of each use of a pharmaceutical agent;
  11. Final optometric prescription given, if any;
  12. Corrective procedure program prescribed, if any; and
  13. 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. 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 ~~law~~ laws regarding security, confidentiality, maintenance and release of the records.

**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;
  - e. Interpupillary distance;



- d-c. Printed name, office address, telephone number, and signature of the licensee; and
- e-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.

#### **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(E)(F), use ~~an injectable epinephrine auto-injector~~ to counteract the anaphylactic reaction.
- B. A licensee who maintains injectable epinephrine auto-injectors 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.

#### **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 rehearing 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.