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Arizona Administrative REGISTER

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NOTICES OF RULEMAKING DOCKET OPENING

This section of the *Arizona Administrative Register* contains Notices of Rulemaking Docket Opening.

A docket opening is the first part of the administrative rulemaking process. It is an “announcement” that the agency intends to work on its rules.

When an agency opens a rulemaking docket to consider rulemaking, the Administrative Procedure Act (APA) requires the publication of the Notice of Rulemaking Docket Opening.

Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process. Many times an agency may file the Notice of Rulemaking Docket Opening with the Notice of Proposed Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these notices. Questions about the interpretation of this information should be directed to the agency contact person listed in item #4 of this notice.

**NOTICE OF RULEMAKING DOCKET OPENING
BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

[R19-39]

1. **Title and its heading:** 4, Professions and Occupations
Chapter and its heading: 22, Board of Osteopathic Examiners in Medicine and Surgery
Article and its heading: 1, General Provisions
 2, Licensing
Section numbers: R4-22-102, Table 1, R4-22-201, R4-22-202, and R4-22-207
(Additional Sections may be made, amended, or repealed as necessary)

2. **The subject matter of the proposed rule:**
 The Board is amending its rules to address three statutory changes. Under Laws 2016, Chapter 137, the legislature adopted the Interstate Medical Licensure Compact (See A.R.S. §§ 32-3241 to 32-3246) and created a new, temporary license to allow an applicant for Arizona licensure to obtain a non-renewable, temporary license to practice osteopathic medicine in Arizona while the application for full licensure is processed. A.R.S. § 32-1834 authorizes the Board to establish a fee for the temporary license. This rulemaking establishes the fee and as required under A.R.S. § 41-1073, establishes the time frame within which the Board will act on an application for a temporary license.
 Under Laws 2017, Chapter 265, the legislature required all applicants for licensure to submit to the Board a full set of fingerprints for the purpose of obtaining a state and federal criminal records check. This rulemaking places the fingerprint requirement into rule and adds the fee for processing the fingerprints.
 Under Laws 2018, Chapter 1, the legislature added A.R.S. § 32-3248.02 requiring all health professionals authorized to prescribe schedule II controlled substances to complete at least three hours of opioid-related, substance use-related, or addiction-related continuing medical education. In this rulemaking, the Board places an opioid CME requirement into rule.
 Exemptions from Executive Order 2017-02 for the purpose of this rulemaking were provided by Mara Mellstrom, Policy Advisor in the Office of the Governor, in e-mails dated April 21, June 29, and October 19, 2017.

3. **A citation to all published notices relating to the proceeding:**
 None

4. **Name and address of agency personnel with whom persons may communicate regarding the rule:**
 Name: Barbara Prah-Wix, Interim Executive Director
 Address: Board of Examiners in Osteopathic Medicine and Surgery
 1740 W. Adams St., Suite 2410
 Phoenix, AZ 85007
 Telephone: (602)771-2523
 Fax: (480)657-7715
 E-mail: Barbara.Prah@azdo.gov
 Web site: www.azdo.gov

5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**
 The Board will accept comments during business hours at the address listed in item 4. Information regarding an oral proceeding will be included in the Notice of Proposed Rulemaking.

6. **A timetable for agency decisions or other action on the proceeding, if known:**
 To be determined



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NOTICES OF PROPOSED RULEMAKING

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

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

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

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any oral proceedings for making, amending, or repealing any rule (A.R.S. §§ 41-1013 and 41-1022).

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

**NOTICE OF PROPOSED RULEMAKING
TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 22. BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

[R19-48]

PREAMBLE

- | <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|---|---------------------------------|
| R4-22-102 | Amend |
| Table 1 | Amend |
| R4-22-201 | Amend |
| R4-22-202 | Amend |
| R4-22-207 | Amend |
2. **Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statute: A.R.S. § 32-1803(C)(1)
 Implementing statute: A.R.S. §§ 32-1822, 32-1834, and 32-3248.02
 3. **Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
 Notice of Rulemaking Docket Opening: 25 A.A.R. 723, March 22, 2019
 4. **The agency's contact person who can answer questions about the rulemaking:**
 Name: Barbara Prah-Wix, Interim Executive Director
 Address: Board of Examiners in Osteopathic Medicine and Surgery
 1740 W. Adams St., Suite 2410
 Phoenix, AZ 85007
 Telephone: (602)771-2526
 Fax: (480)657-7715
 E-mail: Barbara.Prah@azdo.gov
 Web site: www.azdo.gov
 5. **An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**
 The Board is amending its rules to address three recent statutory changes. Under Laws 2016, Chapter 137, the legislature adopted the Interstate Medical Licensure Compact (See A.R.S. §§ 32-3241 to 32-3246) and created a new, temporary license to allow an applicant for Arizona licensure to obtain a non-renewable, temporary license to practice osteopathic medicine in Arizona while the application for full licensure is processed. A.R.S. § 32-1834 authorizes the Board to establish a fee for the temporary license. This rulemaking establishes the fee and as required under A.R.S. § 41-1073, establishes the time frame within which the Board will act on an application for a temporary license.
 Under Laws 2017, Chapter 265, the legislature required all applicants for licensure to submit to the Board a full set of fingerprints for the purpose of obtaining a state and federal criminal records check. This rulemaking places the fingerprint requirement into rule and adds the fee for processing the fingerprints.
 Under Laws 2018, Chapter 1, the legislature added A.R.S. § 32-3248.02, which requires a health professional authorized to prescribe or dispense schedule II controlled substances to complete three hours of opioid-related, substance use disorder-related, or addiction-related continuing medical education during each license renewal cycle. This rulemaking establishes the new CME requirement.



Exemptions from Executive Order 2017-02 for the purpose of this rulemaking were provided by Mara Mellstrom, Policy Advisor in the Office of the Governor, in e-mails dated April 21, June 29, and October 19, 2017.

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

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

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

Not applicable

8. **The preliminary summary of the economic, small business, and consumer impact:**

Under statute, no one is required to obtain a temporary license so no one is required to pay the fee established in this rulemaking. An osteopathic physician voluntarily obtains a temporary license and pays the fee because the osteopathic physician believes the cost is outweighed by the benefit of being able to practice medicine while the application for full licensure is processed.

An applicant will incur the expense of submitting to the Board a full set of fingerprints for the purpose of obtaining a state and federal criminal records check. This is a cost the legislature determined is offset by the concern for public health and safety.

The impact of the change to the CME requirement will be minimal. Licensees are not being required to obtain an additional hour of CME. Rather, they are being required simply to ensure three of the 40 statutorily required CME hours address opioid-related, substance use disorder-related, or addiction-related prescribing.

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

Name: Barbara Prah-Wix, Interim Executive Director
Address: Board of Examiners in Osteopathic Medicine and Surgery
1740 W. Adams St., Suite 2410
Phoenix, AZ 85007
Telephone: (602)771-2526
Fax: (480)657-7715
E-mail: Barbara.Prah@azdo.gov
Web site: www.azdo.gov

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

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

Date: Saturday, May 18, 2019
Time: 1:00 p.m.
Location: 1740 W. Adams St., Conference Room A
Phoenix, AZ 85007

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

None

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

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

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

No rule in the rulemaking is more stringent than federal law. Federal law applies to the provision of health care but no federal law addresses the subject matter of this rulemaking.

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

No analysis was submitted.

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

None

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

TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 22. BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY

ARTICLE 1. GENERAL PROVISIONS

Section
R4-22-102. Fees and Charges



Table 1. Time Frames (in days)

ARTICLE 2. LICENSING

Section

- R4-22-201. Application Required
- R4-22-202. Determining Qualification for Licensure
- R4-22-207. Continuing Medical Education; Waiver; Extension of Time to Complete

ARTICLE 1. GENERAL PROVISIONS

R4-22-102. Fees and Charges

- A. Under the specific authority provided by A.R.S. §§ 32-1826(A) and 32-1871(A)(5), the Board establishes and shall collect the following fees for the Board’s licensing activities:
 - 1. Application for license to practice osteopathic medicine, \$400;
 - 2. Application for a temporary license to practice osteopathic medicine, \$250;
 - ~~2-3.~~ Issuance of initial license, \$180 (prorated);
 - ~~3-4.~~ Biennial renewal of license, \$636 plus the penalty and reimbursement fees specified in A.R.S. § 32-1826(B), if applicable;
 - ~~4-5.~~ Locum tenens registration, \$300;
 - ~~5-6.~~ Annual registration of an approved internship, residency, or clinical fellowship program or short-term residency program, \$50;
 - ~~6-7.~~ Teaching license, \$318;
 - ~~7-8.~~ Five-day educational teaching permit, \$106; and
 - ~~8-9.~~ Annual registration to dispense drugs and devices, \$240 (initial registration fee is prorated).
- B. Under the specific authority provided by A.R.S. § 32-1826(C), the Board establishes and shall collect the following charges for services provided by the Board:
 - ~~1.~~ Verification of Verifying a license to practice osteopathic medicine issued by the Board and copy of licensee’s complaint history, \$10;
 - ~~2.~~ Issuance of Issuing a duplicate license, \$10;
 - 3. Processing fingerprints for a state and federal criminal records check, \$50;
 - ~~3-4.~~ List Providing a list of physicians licensed by the Board, \$25.00 if for non-commercial use or \$100 if for commercial use;
 - ~~4-5.~~ Copying records, documents, letters, minutes, applications, and files, 25¢ per page.;-
 - ~~5-6.~~ Copy of Copying an audio tape, \$35.00; and
 - ~~6-7.~~ Digital Providing information in a digital medium not requiring programming, \$100.
- C. Except as provided under A.R.S. § 41-1077, the fees listed in subsection (A) are not refundable.

Table 1. Time Frames (in days)

Type of License	Statutory Authority	Overall Time Frame	Administrative Completeness Time Frame	Substantive Review Time Frame
License	A.R.S. § 32-1822	120	30	90
License Renewal	A.R.S. § 32-1825	120	30	90
<u>Temporary License</u>	<u>A.R.S. § 32-1834</u>	<u>30</u>	<u>20</u>	<u>10</u>
90-day Locum Tenens Registration	A.R.S. § 32-1823	60	30	30
One-year Renewable Training Permit	A.R.S. § 32-1829(A)	60	30	30
Short-term Training Permit	A.R.S. § 32-1829(C)	60	30	30
One-year Training Permit at Approved School or Hospital	A.R.S. § 32-1830	60	30	30
Two-year Teaching License	A.R.S. § 32-1831	60	30	30
Registration to Dispense Drugs and Devices	A.R.S. § 32-1871	90	30	60
Renewal of Registration to Dispense Drugs and Devices	A.R.S. §§ 32-1826(A)(11) and 32-1871	60	30	30
Approval of Educational Program for Medical Assistants	A.R.S. § 32-1800(17)	60	30	30
Retired Status	A.R.S. § 32-1832	90	30	60



ARTICLE 2. LICENSING

R4-22-201. Application Required

An individual or entity that seeks a license or other approval from the Board shall complete and submit an application form prescribed by the Board. The Board has prescribed the following application forms, which are available from the Board office or web site:

- 1. License,
- 2. Temporary license,
- ~~2,3.~~ License renewal,
- ~~3,4.~~ Locum tenens registration,
- 4-~~5.~~ Initial registration to dispense,
- ~~5-6.~~ Registration to dispense renewal,
- ~~6,7.~~ Renewable one-year post-graduate training permit,
- ~~7-8.~~ Renewal of post-graduate training permit,
- ~~8-9.~~ Short-term training permit,
- ~~9,10.~~ Two-year teaching license, and
- ~~10,11.~~ Approval of an educational program for medical assistants.

R4-22-202. Determining Qualification for Licensure

- A. To obtain a license, an applicant shall submit:
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. A full set of fingerprints and the charge specified in R4-22-102(B);
 - ~~5-6.~~ No change
 - ~~6-7.~~ No change
- B. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
- C. No change
- D. No change
 - 1. No change
 - 2. No change
 - 3. No change
- E. No change
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
- F. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
 - 7. No change

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

- A. No change
 - 1. At least 24 hours are obtained by completing CME classified by the AOA as Category 1A; ~~and,~~
 - 2. No more than 16 hours are obtained by completing CME classified as American Medical Association Category 1 approved by an ACCME-accredited CME provider; ~~and~~
 - 3. At least the number of CME hours specified under A.R.S. § 32-3248.02 address opioid-related, substance use disorder-related, or addiction-related prescribing and are obtained under subsection (A)(1) or (2).
- B. No change
- C. No change
 - 1. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change



- iii. No change
 - iv. No change
 - v. No change
 - vi. No change
 - 2. No change
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 - 3. No change
- D. No change
 - 1. No change
 - 2. No change
 - 3. No change
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 - c. No change
 - d. No change
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 - ii. No change
- E. No change
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