

**NOTICE OF PROPOSED RULEMAKING**  
**TITLE 4. PROFESSIONS AND OCCUPATIONS**  
**CHAPTER 16. ARIZONA MEDICAL BOARD**

**PREAMBLE**

**1. Articles, Parts, and Sections Affected**

**Rulemaking Action**

R4-16-101	Amend
R4-16-102	Amend
R4-16-103	Amend
R4-16-401	Amend
R4-16-402	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. §§ 32-1404(D) and 32-1456(B) and (D)

Implementing statute: A.R.S. §§ 32-1401(16) and 32-1456

**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: 24 A.A.R. 638, March 23, 2018

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

Name: Patricia McSorley, Executive Director

Address: Arizona Medical Board  
1740 W Adams Street, Suite 4000  
Phoenix, AZ 85007

Telephone: (480) 551-2700

Fax: (480) 551-2704

E-mail: patricia.mcsorley@azmd.gov

Web site: www.azmd.gov

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 An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**

In a five-year-review report approved by the Council on December 5, 2017, the Board indicated it would amend the rules in this rulemaking. The rules regarding medical assistants are amended to update them with current industry standards. Minor, non-substantive, changes are made to the language of R4-16-101 through R4-16-103. An exemption from Executive Order 2018-02 was

provided for this rulemaking by Emily Rajakovich, Director of Boards and Commissions, in an e-mail dated March 1, 2018.

**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:**

The Board expects the rulemaking to have minimal economic impact. The rulemaking simply amends the definition of approved medical assistant training program, updates the entities providing medical assistant examinations, and updates material incorporated by reference.

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

Name: Patricia McSorley, Executive Director

Address: Arizona Medical Board  
1740 W Adams Street, Suite 4000  
Phoenix, AZ 85007

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Web site: www.azmd.gov

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

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

Date: Tuesday, August 14, 2018

Time: 12:00 P.M.

Location: 1740 W Adams Street, Board room B  
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:**

No rule in this rulemaking requires a permit.

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

None of the rules is more stringent than federal law. There are numerous federal laws relating to the provision of health care but none is directly applicable to 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:**

R4-16-402: Appendix B, Core Curriculum for Medical Assistants, 2015 edition of Standards and Guidelines for the Accreditation of Educational Programs in Medical Assisting, published by the Commission on Accreditation of Allied Health Education Programs

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

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 16. ARIZONA MEDICAL BOARD**

**ARTICLE 1. GENERAL PROVISIONS**

Section

- R4-16-101. Definitions
- R4-16-102. Continuing Medical Education
- R4-16-103. Rehearing or Review of Board Decision

**ARTICLE 4. MEDICAL ASSISTANTS**

- R4-16-401. Medical Assistant Training Requirements
- R4-16-402. Authorized Procedures for Medical Assistants

## ARTICLE 1. GENERAL PROVISIONS

### R4-16-101. Definitions

Unless the context otherwise requires, definitions prescribed under A.R.S. § 32-1401 and the following apply to this Chapter:

1. “ACLS” means advanced cardiac life support performed according to certification standards of the American Heart Association.
2. “Agent” means an item or element that causes an effect.
3. “Approved medical assistant training program” means a program accredited by ~~any~~ one of the following:
  - a. The Commission on Accreditation of Allied Health Education Programs; or
  - b. The Accrediting Bureau of Health Education Schools;~~;~~
  - c. ~~A medical assisting program accredited by any accrediting agency recognized by the United States Department of Education; or~~
  - d. ~~A training program:~~
    - i. ~~Designed and offered by a licensed allopathic physician;~~
    - ii. ~~That meets or exceeds any of the prescribed accrediting programs in subsection (a), (b), or (c); and~~
    - iii. ~~That verifies the entry level competencies of a medical assistant prescribed under R4-16-402(A).~~
4. ~~“Auscultation” means the act of listening to sounds within the human body either directly or through use of a stethoscope or other means.~~
- 5.4. “BLS” means basic life support performed according to certification standards of the American Heart Association.
- ~~6.5.~~ “Capnography” means monitoring the concentration of exhaled carbon dioxide of a sedated patient to determine the adequacy of the patient’s ventilatory function.
- ~~7.6.~~ “Deep sedation” means a drug-induced depression of consciousness during which a patient:
  - a. Cannot be easily aroused, but
  - b. Responds purposefully following repeated or painful stimulation, and
  - c. May partially lose the ability to maintain ventilatory function.
- ~~8.7.~~ “Discharge” means a written or electronic documented termination of office-based surgery to a patient.
- ~~9.8.~~ “Drug” means the same as in A.R.S. § 32-1901.
- ~~10.9.~~ “Emergency” means an immediate threat to the life or health of a patient.
- ~~11.10.~~ “Emergency drug” means a drug that is administered to a patient in an emergency.

- ~~12~~11. “General Anesthesia” means a drug-induced loss of consciousness during which a patient:
- a. Is unarousable even with painful stimulus; and
  - b. May partially or completely lose the ability to maintain ventilatory, neuromuscular, or cardiovascular function or airway.
- ~~13~~12. “Health care professional” means a registered nurse defined in A.R.S. § 32-1601, registered nurse practitioner defined in A.R.S. § 32-1601, physician assistant defined in A.R.S. § 32-2501, and any individual authorized to perform surgery according to A.R.S. Title 32 who participates in office-based surgery using sedation at a physician’s office.
- ~~14~~13. “Informed consent” means advising a patient of the:
- a. Purpose for and alternatives to the office-based surgery using sedation,
  - b. Associated risks of office-based surgery using sedation, and
  - c. Possible benefits and complications from the office-based surgery using sedation.
- ~~15~~14. “Inpatient” has the same meaning as in A.A.C. R9-10-201.
- ~~16~~15. “Malignant hyperthermia” means a life-threatening condition in an individual who has a genetic sensitivity to inhalant anesthetics and depolarizing neuromuscular blocking drugs that occurs during or after the administration of an inhalant anesthetic or depolarizing neuromuscular blocking drug.
- ~~17~~16. “Minimal Sedation” means a drug-induced state during which:
- a. A patient responds to verbal commands,
  - b. Cognitive function and coordination may be impaired, and
  - c. A patient’s ventilatory and cardiovascular functions are unaffected.
- ~~18~~17. “Moderate Sedation” means a drug-induced depression of consciousness during which:
- a. A patient responds to verbal commands or light tactile stimulation, and
  - b. No interventions are required to maintain ventilatory or cardiovascular function.
- ~~19~~18. “Monitor” means to assess the condition of a patient.
- ~~20~~19. “*Office-based surgery*” means a medical procedure conducted in a physician’s office or other outpatient setting that is not part of a licensed hospital or licensed ambulatory surgical center. (A.R.S. § 32-1401(20)).
- ~~21~~20. “PALS” means pediatric life support performed according to certification standards of the American Academy of Pediatrics or the American Heart Association.
- ~~22~~21. “Patient” means an individual receiving office-based surgery using sedation.
- ~~23~~22. “Physician” has the same meaning as doctor of medicine as defined in A.R.S. § 32-1401.
- ~~24~~23. “Rescue” means to correct adverse physiologic consequences of deeper than intended level of sedation and return the patient to the intended level of sedation.

~~25:~~24. “Sedation” means minimum sedation, moderate sedation, or deep sedation.

~~26:~~25. “Staff member” means an individual who:

- a. Is not a health care professional, and
- b. Assists with office-based surgery using sedation under the supervision of the physician performing the office-based surgery using sedation.

~~27:~~26. “Transfer” means a physical relocation of a patient from a physician’s office to a licensed health care institution.

#### **R4-16-102. Continuing Medical Education**

##### **A.** No change

1. ~~The physician shall ensure at least one of the credit hours of continuing medical education is certified as Category 1, as described in subsection (B)(4), and addresses the effective and safe prescribing of opioids~~ A physician who is authorized to prescribe schedule II controlled substances and holds a valid U.S. Drug Enforcement Administration registration number shall complete at least three hours of opioid-related, substance-use-disorder-related, or addiction-related continuing medical education during each renewal cycle;
2. No change
3. No change

##### **B.** No change

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
  - a. No change
  - b. No change
8. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change

- C. If a physician holding an active license to practice medicine in this state fails to meet the continuing medical education requirements under subsection (A) because of illness, military service, medical or religious missionary activity, or residence in a foreign country, upon written application, the Board shall grant an extension of time to complete the continuing medical education.
- D. No change

**R4-16-103. Rehearing or Review of Board Decision**

- A. ~~A motion for rehearing or review shall be filed as follows:~~ In a contested case or appealable agency action, a party aggrieved by an order of the Board may file a written motion for rehearing or review with the Board under A.R.S. Title 41, Chapter 6, Article 10, specifying the grounds for rehearing or review.
  - ~~1. Except as provided in subsection (B), any party in a contested case may file a written motion for rehearing or review of the Board's decision, specifying generally the grounds upon which the motion is based.~~
  - ~~2.1.~~ 1. A motion for rehearing or review shall be filed with the Board and served no later than 30 days after the decision of the Board.
  - ~~3.2.~~ 2. For purposes of this Section, "service" has the same meaning as in A.R.S. § 41-1092.09.
  - ~~4.3.~~ 3. For purposes of this Section, a document is deemed filed when the Board receives the document.
  - ~~5.4.~~ 4. For purposes of the Section, the terms "contested case" and "party" shall have the same meaning as in A.R.S. § 41-1001.
- B. ~~If the Board makes a specific finding that it is necessary for a particular decision to take immediate effect to protect the public health and safety, or that a rehearing or review of the Board's decision is impracticable or contrary to the public interest, the decision shall be issued as a final decision without opportunity for rehearing or review and shall be a final administrative decision for purposes of judicial review. Except as provided in subsection (H), a party is required to file a motion for rehearing or review of a Board decision to exhaust the party's administrative remedies.~~
- C. ~~A written response to a motion for rehearing or review may be filed and served within 15 days after service of the motion for rehearing or review. The Board may require the filing of written briefs upon any issues raised in the motion and may provide for oral argument. A party may amend a motion for rehearing or review at any time before the Board rules on the motion.~~
- D. ~~A~~ The Board may grant a rehearing or review of a decision may be granted for any of the following reasons materially affecting a party's rights:



1. Irregularity in the ~~administrative proceedings by the Board, its hearing officer, or the prevailing party, or any ruling~~ or an order or abuse of discretion, that deprives the moving party of a fair hearing;
  2. Misconduct of the Board, ~~its hearing officer~~ its staff, administrative law judge, or the prevailing party;
  3. Accident or surprise that could have not been prevented by ordinary prudence;
  4. ~~Material evidence, newly~~ Newly discovered, ~~which material evidence that could not,~~ with reasonable diligence, ~~could not~~ have been discovered and produced at the ~~original~~ hearing;
  5. Excessive or ~~insufficient penalties~~ penalty;
  6. Error in the admission or rejection of evidence, or other errors of law ~~that occurred~~ occurring at the hearing or during the progress of the proceedings;
  7. The decision is the result of a passion or prejudice; or
  8. The ~~decision~~ of findings of fact or decision is not justified by the evidence or is contrary to law.
- E.** ~~A rehearing or review may be granted~~ The Board may grant a rehearing or review to all or any of the parties and on all or part of the issues for any of the reasons in subsection (D). The Board may take additional testimony, amend findings of fact and conclusions of law, or make new findings and conclusions, and affirm, modify, or reverse the original decision. The Board shall specify the particular grounds for any order modifying a decision or granting a rehearing. If a rehearing or review is granted, the rehearing or review shall cover only the matters specified in the order.
- F.** ~~A rehearing or review, if granted, shall be a rehearing or review only of the question upon which the decision is found erroneous. An order granting a rehearing or review shall specify with particularity the grounds for the order.~~
- G.** Not later than 15 days after a decision is issued, the Board ~~of~~ on its own initiative may order a rehearing or review for any reason that it might have granted a rehearing or review on motion of a party. After giving the parties notice and an opportunity to be heard on the matter, the Board may grant a timely-served motion for a rehearing or review, for a reason not stated in the motion. In either case, the Board shall specify in the order the grounds for the rehearing or review.
- H.G.** If a motion for rehearing or review is based upon affidavits, they shall be served with the motion. ~~The~~ An opposing party may, within 15 days after service, serve opposing affidavits. The Board may extend this period for a maximum of 20 days either ~~by the Board~~ for good cause, or upon written stipulation by the parties ~~by written stipulation~~. The Board may permit reply affidavits.
- H.** If, in a particular decision, the Board makes a specific finding that the immediate effectiveness of the decision is necessary for the preservation of the public health, safety, or welfare, the decision may be issued as a final decision without an opportunity for rehearing or review.

- I. A party that has exhausted the party’s administrative remedies may appeal a final order of the Board under A.R.S. Title 12, Chapter 7, Article 6.
- J. A person that files a complaint with the Board against a licensee:
  - 1. Is not a party to:
    - a. A Board administrative action, decision, or proceeding; or
    - b. A court proceeding for judicial review of a Board decision under A.R.S. §§ 12-901 through 12-914; and
  - 2. Is not entitled to seek rehearing or review of a Board action or decision under this Section.

#### **ARTICLE 4. MEDICAL ASSISTANTS**

##### **R4-16-401. Medical Assistant Training Requirements**

- A. ~~A After the effective date of this Section, a supervising physician or physician assistant shall ensure that before a medical assistant satisfies one of the following training requirements before employing is employed, the medical assistant completes either:~~
  - 1. ~~Completion of an approved medical assistant~~ An approved training program identified in R4-16-101; or
  - 2. ~~Completion of an An unapproved medical assistant training program and passage of successfully passes the medical assistant examination administered by either the American Association of Medical Assistants or the American Medical Technologists National Commission for Certifying Agencies or the American National Standards Institute.~~
- B. This Section does not apply to any person who:
  - 1. Before February 2, 2000:
    - a. Completed an unapproved medical assistant training program and was employed as a medical assistant after program completion; or
    - b. Was directly supervised by the same physician, physician group, or physician assistant for a minimum of 2000 hours; or
  - 2. Completes a United States Armed Forces medical services training program.

##### **R4-16-402. Authorized Procedures for Medical Assistants**

- A. A medical assistant may perform, under the direct supervision of a physician or a physician assistant, the medical procedures listed in ~~the 2003 revised~~ Appendix B, Core Curriculum for Medical Assistants, 2015 edition of Standards and Guidelines for the Accreditation of Educational Programs in Medical Assisting, published by the Commission on Accreditation of Allied Health Education Program’s, Programs ~~“Standards and Guidelines for an Accredited Educational Program for the~~

~~Medical Assistant, Section (III)(C)(3)(a) through (III)(C)(3)(e).~~” This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and may be obtained from the publisher at ~~35 East Wacker Drive, Suite 1970, Chicago, Illinois 60601~~ 25400 U.S. Highway 19 N, Suite 158, Clearwater, FL 33763, ~~www.caahep.org~~, or the ~~Arizona Medical Board at 9545 E. Doubletree Ranch Road, Scottsdale, AZ 85258~~, ~~www.azmd.gov~~.

- B.** In addition to the medical procedures in subsection (A), a medical assistant may administer the following under the direct supervision of a physician or physician assistant:
1. Whirlpool treatments,
  2. Diathermy treatments,
  3. Electronic galvation stimulation treatments,
  4. Ultrasound therapy,
  5. Massage therapy,
  6. Traction treatments,
  7. Transcutaneous Nerve Stimulation unit treatments,
  8. Hot and cold pack treatments, and
  9. Small volume nebulizer treatments.