

NOTICE OF FINAL RULEMAKING
TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 6. BOARD OF BEHAVIORAL HEALTH EXAMINERS

PREAMBLE

1. Article, Part, or Section Affected (as applicable)

Rulemaking Action

R4-6-101	Amend
R4-6-211	Amend
R4-6-212	Amend
R4-6-212.01	Amend
R4-6-215	Amend
R4-6-301	Amend
R4-6-304	Amend
R4-6-306	Amend
R4-6-402	Amend
R4-6-502	Amend
R4-6-602	Amend
R4-6-704	Amend
R4-6-1101	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. § 32-3253

Implementing statutes: A.R.S. §§ 32-3253, 32-3272, 32-3274, 32-3275, 32-3279, 32-3291, 32-3292, 32-3301, 32-3303, 32-3311, 32-3313, 32-3321

3. The effective date for the rules and the reason the agency selected the effective date:

To be determined based on the publish date.

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: 24 A.A.R. 1620, June 1, 2018

Notice of Proposed Rulemaking: 24 A.A.R. 1609, June 1, 2018

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

Name: Donna Dalton, Deputy Director
Address: AZ Board of Behavioral Health Examiners
1740 W. Adams St., Suite 3600
Phoenix, AZ 85007
Telephone: (602) 542-1882
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Web site: www.azbbhe.us

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 An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

An exemption from the rulemaking moratorium in Executive Order 2017-02 was approved by Mara Mellstrom, Policy Advisor, Governor's Office, in an email dated November 12, 2017. The approval to expand the rulemaking was subsequently approved in an email dated March 22, 2018 from Emily Rajakovich, Policy Advisor, Governor's Office. The proposed rulemaking will amend and clarify rules to reduce burdens on applicants and licensees as follows:

- Allow greater flexibility to licensees who are practicing under direct supervision. In particular, this rulemaking provides for non-independent masters level licensees to own, operate or manage a behavioral health entity with immediate responsibility for their behavioral health services provided they receive appropriate clinical supervision. In addition, allows supervised practice hours acquired in other jurisdictions to be considered for meeting the requirements for independent licensure provided they met the requirements in the jurisdiction where they occurred.
- Align regulatory requirements necessitated by statutory changes in Laws 2018, Chapter 55 (SB1246), and Laws 2018, Chapter 241 (HB2411) which reduce burdens to licensure and expand opportunities for meeting licensing requirements.
- Reduce three Board fees assessed to applicants and licensees.
- Expire rather than revoke a temporary license from a licensee based on a failure to take/pass the exam required for licensure.
- Expand abilities to conduct business electronically for applicants, licensees and the public to align with the Governor's initiative toward digital reporting where possible.

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:

The Board did not review or rely on any study relevant to the rules.

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:

The rules do not diminish the authority of political subdivisions of this state.

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

Because a portion of the rulemaking is aligning the rules to the statutes changed in the 2018 legislative session, the Board believes the economic impact to be very minimal. The statutory changes expanded the opportunities for applicants to become licensed, so there should be a positive impact to consumers wishing to pursue licensure, and to businesses who employ licensed behavioral health professionals.

The portions of the rulemaking that are not related to statutory changes should also provide a positive impact to consumers by reducing the fees for issuing and renewing licenses, allowing additional communication with the Board electronically, and expanding the settings in which non-independent level licensees may practice under direct supervision.

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

Minimal changes were made to the proposed rulemaking in A.A.C. R4-6-211 to provide clarification related to public feedback received.

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

The Board made the following changes in response to public comments regarding the proposed rulemaking as posted on the Board’s web site. The Board determined none of the changes is substantial under the standard at A.R.S. § 41-1025(B).

COMMENT	BOARD’S ANALYSIS	BOARD’S RESPONSE
<p>R4-6-211. Direct Supervision: Supervised Work Experience: General: There needs to be tighter controls on the supervisor and supervisee responsibilities and clarification on the Board’s ability to approve the agreement between the two parties. There should be clarification that when supervision is discontinued by either party, there needs to be appropriate supervision established in a reasonable time frame, or the supervisee ceases practicing.</p>	<p>The Board agrees with the comment.</p>	<p>Language changed.</p>

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:

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:

For all four disciplines, the licenses issued by the Board 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:

None of the rules are more stringent than federal law. No federal law is directly applicable to the subject of any of the rules in this rulemaking.

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

No analysis was submitted.

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

No materials are incorporated by reference.

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 6. BOARD OF BEHAVIORAL HEALTH EXAMINERS

ARTICLE 1. DEFINITIONS

Section

R4-6-101. Definitions

ARTICLE 2. GENERAL PROVISIONS

Section

R4-6-211. Direct Supervision; Supervised Work Experience: General

R4-6-212. Clinical Supervision Requirements

R4-6-212.01. Exemptions to Clinical Supervision Requirements

R4-6-215. Fees and Charges

ARTICLE 3. LICENSURE

Section

R4-6-301. Application for a License by Examination

R4-6-304. Application for a License by Endorsement

R4-6-306. Application for a Temporary License

ARTICLE 4. SOCIAL WORK

Section

R4-6-402. Examination

ARTICLE 5. COUNSELING

Section

R4-6-502. Examination

ARTICLE 6. MARRIAGE AND FAMILY THERAPY

Section

R4-6-602. Examination

ARTICLE 7. SUBSTANCE ABUSE COUNSELING

Section

R4-6-704. Examination

ARTICLE 11. STANDARDS OF PRACTICE

Section

R4-6-1101. Consent for Treatment

TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 6. BOARD OF BEHAVIORAL HEALTH EXAMINERS

R4-6-101. Definitions

A. The definitions at A.R.S. § 32-3251 apply to this Chapter. Additionally, the following definitions apply to this Chapter, unless otherwise specified:

1. No change

a. No change

b. No change

2. No change

3. No change

4. No change

5. No change

6. No change

7. No change

8. No change

9. No change

10. No change

11. No change

12. No change

13. No change

14. No change

15. No change

16. No change

17. No change

18. No change

19. No change

20. No change

21. No change

22. No change

23. *"Direct client contact" means ~~beginning November 1, 2015,~~ the performance of therapeutic or clinical functions related to the applicant's professional practice level of psychotherapy that includes*

*diagnosis, assessment and treatment and that may include psychoeducation for mental, emotional and behavioral disorders based primarily on verbal or nonverbal communications and intervention with, and in the presence of, one or more clients.*A.R.S. § 32-3251.

24. No change

25. No change

26. No change

27. No change

a. No change

b. No change

28. No change

29. No change

30. No change

31. No change

32. No change

33. No change

34. *"Indirect client service" means ~~beginning November 1, 2015,~~ training for, and the performance of, functions of an applicant's professional practice level in preparation for or on behalf of a client for whom direct client contact functions are also performed, including case consultation and receipt of clinical supervision. Indirect client service does not include the provision of psychoeducation. A.R.S. § 32-3251.*

35. No change

36. No change

a. No change

b. No change

c. No change

37. No change

38. No change

39. No change

40. No change

41. No change

42. No change

a. No change

b. No change

43. No change

a. No change

b. No change

c. No change

d. No change

- e. No change
- 44. No change
 - a. No change
 - b. No change
 - c. No change
- 45. No change
 - a. No change
 - b. No change
- 46. No change
- 47. No change
- 48. No change
- 49. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
- 50. No change
- 51. No change
- 52. No change
- 53. No change
- 54. No change
- 55. No change

B. For the purposes of this Chapter, notifications or communications required to be “written” or “in writing” may be transmitted or received by mail, electronic transmission, facsimile transmission or hand delivery and may not be transmitted or received orally. Documents requiring a signature may include a written signature or electronic signature as defined in subsection (A)(28).

R4-6-211. Direct supervision: Supervised Work Experience: General

- ~~A. A licensee working under direct supervision shall not be subject to practice limitations pursuant to R4-6-210 shall practice in an entity with responsibility and clinical oversight of the behavioral health services provided by the licensee.~~
- ~~1. Have an ownership interest in, operate, or manage the entity with immediate responsibility for the behavioral health services provided by the licensee;~~
 - ~~2. Receive supervision from:~~
 - ~~a. A family member;~~
 - ~~b. An individual whose objective assessment may be limited by a relationship with the licensee; or~~

- ~~_____ c. An individual not employed or contracted by the same behavioral health entity as the licensee;~~
- ~~_____ 3. Engage in the independent practice of behavioral health; or~~
- ~~_____ 4. Be directly compensated by behavioral health clients.~~

B. A masters level licensee working under direct supervision who operates or manages their own entity with immediate responsibility for the behavioral health services provided by the licensee shall provide the following to the board for approval prior to providing behavioral health services:

1. The name of their clinical supervisor who meets the following:

- a. Is independently licensed by the board in the same discipline as the supervisee, and who has practiced as an independently licensed behavioral health professional for a minimum of two years beyond the supervisor's licensure date;
- b. Is in compliance with the clinical supervisor educational requirements specified in R4-6-214;
- c. Is not prohibited from providing clinical supervision by a board consent agreement; and

2. A copy of the agreement between the clinical supervisor and supervisee demonstrating Receive supervision from:

- a. The supervisee and supervisor will meet individually for one hour for every 20 hours of direct client contact provided, to include an onsite meeting every 60 days A family member;
- b. Supervisee's clients will be notified of clinical supervisor's involvement in their treatment and the means to contact the supervisor An individual whose objective assessment may be limited by a relationship with the licensee; or
- c. Supervision reports will be submitted to the board every six months an individual not employed or contracted by the same behavioral health entity as the licensee;
- d. A 30 day notice is required prior to either party terminating the agreement;
- e. The supervisor and supervisee will notify the board within 10 days of the agreement termination date; and
- f. The supervisee will cease practicing within 60 days of the agreement termination date until such time as a subsequent agreement is provided to the board and approved.

~~_____ 3. Engage in the independent practice of behavioral health; or~~

~~_____ 4. Be directly compensated by behavioral health clients.~~

B.C. To meet the supervised work experience requirements for licensure, direct supervision shall:

- 1. Meet the specific supervised work experience requirements contained in Articles 4,5,6, and 7;
- 2. Be acquired after completing the degree required for licensure and receiving certification or licensure from a state regulatory entity;
- 3. Be acquired before January 1, 2006, if acquired as an unlicensed professional practicing under an exemption provided in A.R.S. § 32-3271;
- 4. ~~Meet the direct supervision requirements specified in subsections (A);~~
- 5.4. Involve the practice of behavioral health; and
- 6.5. Be for a term of no fewer than 24 months.

D. An applicant who acquired supervised work experience outside of Arizona may submit that experience for

approval as it relates to the qualifications of the supervisor and the entity in which the supervision was acquired. The board may accept the supervised work experience as it relates to the supervisor and the entity if it met the requirements of the state in which the supervised work experience occurred. Nothing in this provision shall apply to the supervision requirements set forth in R4-6-403, R4-6-503, R4-6-603 and R4-6-705.

~~C.E.~~ If the Board determines that an applicant engaged in unprofessional conduct related to services rendered while acquiring hours under supervised work experience, including clinical supervision, the Board shall not accept the hours to satisfy the requirements of R4-6-403, R4-6-503, R4-6-603, or R4-6-706. Hours accrued before and after the time during which the conduct that was the subject of the finding of unprofessional conduct occurred, as determined by the Board, may be used to satisfy the requirements of R4-6-403, R4-6-503, R4-6-603, or R4-6-706 so long as the hours are not the subject of an additional finding of unprofessional conduct.

R4-6-212. Clinical Supervision Requirements

A. No change

1. No change

a. No change

b. No change

2. No change

3. No change

a. No change

b. No change

i. No change

ii. No change

c. No change

B. No change

1. No change

2. No change

C. No change

1. No change

2. No change

3. No change

4. No change

a. No change

b. No change

c. No change

d. No change

e. No change

5. No change

~~6. Verifying that no conflict of interest exists between the clinical supervisor and the supervisee's clients;~~

~~7.6.~~ Verifying that clinical supervision was not acquired:

a. ~~F~~rom a family member as prescribed in R4-6-101(A)(29) or other individual whose objective assessment of the supervisee's performance may be limited by a relationship with the supervisee; or

~~b. In a professional setting in which the supervisee has an ownership interest or operates or manages.~~

~~8.7.~~ No change

~~9.8.~~ No change

a. No change

b. No change

c. No change

d. No change

~~10.9.~~ No change

~~11.10.~~ No change

D. No change

1. No change

2. No change

3. No change

4. No change

E. No change

1. No change

2. No change

3. No change

4. No change

F. No change

G. No change

1. No change

2. No change

a. No change

b. No change

H. No change

R4-6-212.01. Exemptions to the Clinical Supervision Requirements

The Board shall accept hours of clinical supervision submitted by an applicant if the clinical supervision meets the requirements specified in R4-6-212 and R4-6-404, R4-6-504, R4-6-604, or R4-6-706, as applicable to the license for which application is made, unless an exemption is granted as follows:

1. No change

a. No change

i. No change

ii. No change

- b. No change
 - i. No change
 - ii. No change
- c. No change
- 2. An individual using supervised work experience acquired outside of Arizona may apply to the Board for an exemption from the supervision requirements in R4-6-404, R4-6-504, R4-6-604, or R4-6-706, as applicable to the license for which application is made. The Board may grant an exemption for supervised work experience acquired outside of Arizona if the Board determines that:
 - ~~a. Clinical supervision was provided by a behavioral health professional qualified by education, training, and experience to provide supervision; and~~
 - ~~b. The~~the behavioral health professional providing the supervision met one of the following:
 - ~~i.a.~~ a. Complied with the educational requirements specified in R4-6-214,
 - ~~ii.b.~~ b. Complied with the clinical supervisor requirements of the state in which the supervision occurred, or
 - ~~iii.c.~~ c. Was approved to provide supervision to the applicant by the state in which the supervision occurred.

R4-6-215. Fees and Charges

- A. Under the authority provided by A.R.S. § 32-3272, the Board establishes and shall collect the following fees:
 - 1. No change
 - 2. No change
 - 3. Issuance of license for non-independent level of practice (~~LBSW, LMSW, LAC, LSAT, LASAC, and LAMFT~~): \$100;
 - 4. ~~Issuance of license for independent level of practice (LCSW, LPC, LISAC, and LMFT): \$250;~~
 - 5.4. Application for a temporary license: \$50;
 - 6.5. Application for approval of educational program: \$500;
 - 7.6. Application for approval of an educational program change: \$250
 - 8.7. Biennial renewal of first area of licensure: ~~\$350~~325;
 - 9.8. Biennial renewal of each additional area of licensure if all licenses are renewed at the same time: ~~\$475~~163;
 - 10.9. Late renewal penalty: \$100 in addition to the biennial renewal fee;
 - 11.10. Inactive status request: \$100; and
 - 12.11. Late inactive status request: \$100 in addition to the inactive status request fee.
- B. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change

6. No change
 7. No change
 8. No change
 9. No change
- C. No change
- D. No change
1. No change
 2. No change
 3. No change
 - a. No change
 - b. No change
 - c. No change
- E. No change

R4-6-301. Application for a License by Examination

An applicant for a license by examination shall submit a completed application packet that contains the following:

1. A ~~notarized~~ statement, ~~signed~~ by the applicant, certifying that all information submitted in support of the application is true and correct;
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
9. A list of every entity for which the applicant has worked during the last ~~10~~7 years;
10. No change
11. No change
12. No change
13. No change
14. No change

R4-6-304. Application for a License by Endorsement

An applicant who meets the requirements specified under A.R.S. § 32-3274 for a license by endorsement shall submit a completed application packet, as prescribed in R4-6-301, and the following:

1. The name of one or more other ~~states~~ jurisdictions where the applicant ~~was~~ is certified or licensed as a behavioral health professional by a state or federal regulatory entity, and has been for at least three years;
2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- ~~3. An affidavit verifying the work experience required under A.R.S. § 32-3274(A)(3) from an individual whose objective assessment is not limited by a relationship with the applicant; and~~
- 4.3. If applying at a practice level listed in A.R.S. § 32-3274(B), include:
 - a. An official transcript as prescribed in R4-6-301(6); and
 - b. If applicable, a foreign degree evaluation prescribed in R4-6-216 or R4-6-401; and
4. Documentation of completion of the board-approved tutorial on board statutes and rules.

R4-6-306. Application for a Temporary License

- A. No change
 1. No change
 2. No change
 3. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - c. No change
- B. No change
 1. No change
 2. No change
 3. No change
 4. No change
- C. No change
- D. A temporary license issued to an applicant who has not previously passed the required examination for licensure ~~is revoked~~ expires immediately if the temporary licensee:
 1. No change
 2. No change
- E. No change
- F. No change
- G. No change

- H. No change
- I. No change
- J. No change
- K. No change

R4-6-402. Examination

- A. No change
- B. No change
- C. No change
- D. An applicant for baccalaureate, master, or clinical social worker licensure shall receive a passing score on an approved examination for the level of licensure requested within 12 months after receiving written examination authorization from the Board. An applicant shall not take an approved licensure examination more than ~~twice~~ three times during the 12-month testing period.
- E. No change
- F. No change
- G. No change
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change

R4-6-502. Examination

- A. No change
 - 1. No change
 - 2. No change
 - 3. No change
- B. No change
- C. An applicant shall pass an approved examination within 12 months after receiving written examination authorization from the Board. An applicant shall not take an examination more than ~~twice~~ three times during the 12-month testing period.
- D. No change
- E. No change

R4-6-602. Examination

- A. No change
- B. No change

- C. An applicant shall pass the approved examination within 12 months after receiving written examination authorization from the Board. An applicant shall not take the examination more than ~~twice~~ three times during the 12-month testing period.
- D. No change
- E. No change

R4-6-704. Examination

- A. No change
 - 1. No change
 - 2. No change
- B. No change
 - 1. No change
 - 2. No change
 - 3. No change
- C. No change
- D. No change
 - 1. No change
 - 2. No change
 - 3. No change
- E. An applicant shall pass an approved examination within 12 months after receiving written examination authorization from the Board. An applicant shall not take an approved examination more than ~~twice~~ three times during the 12-month testing period.
- F. No change
- G. No change

R4-6-1101. Consent for Treatment

A licensee shall:

- 1. No change
- 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. No change

3. Obtain a dated and signed informed consent for treatment from a client or the client's legal representative before providing treatment to the client and when a change occurs in an element listed ~~is~~in subsection (2) that might affect the client's consent for treatment; and
4. No change

DRAFT