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Arizona Code of Judicial Administration (ACJA) § 7-203: Confidential Intermediary.

Proposal to reduce the number of Confidential Intermediary Board members, transition to an annual renewal certification period, and clarify and restyle the ACJA section.

Explanation of the need for the proposal:

Under ACJA §§ 7-201, 7-203, and A.R.S. § 8-134, the Confidential Intermediary Board (Board) regulates approximately 35 confidential intermediaries throughout Arizona.

Existing ACJA § 7-203(D)(5) includes a Board consisting of 11 members who must meet at least twice each year regarding the regulation of approximately 35 individuals. Filling Board vacancies and consistently obtaining a quorum to conduct Board business has been a challenge for the Certification & Licensing Division (Division) that staffs the Board. The Division also recommends giving the Board more discretion regarding the appropriate number of meetings needed to conduct its business.

The Division recommends reducing the number of Board members from 11 to five and giving the Board discretion to meet “as needed to carry out its responsibilities.”

Existing ACJA § 7-203(G) directs confidential intermediaries to renew their certification every two years and to complete 12 hours of continuing education each certification period. The Division proposes that an annual, rolling renewal period would be more responsive to new individual applicants and would be effectively administered by the Division. Existing certificate holders would continue to have an October 31 renewal period, but every year, rather than every even-numbered year. Continuing education references in the section are likewise reduced from 12 hours per certification period (two years currently) to 6 hours per certification period (one year period proposed).

The Division recommends annual certification renewal and maintaining a 6-hour continuing education requirement during each certification period.

Existing ACJA § 7-203(L)(4)(e) provides that confidential intermediaries shall not exceed 50% of their continuing education requirements through self-study. The ACJA is silent regarding “live” or “in-person” continuing education. With the prevalence of livestreaming, Zoom, and other, real-time remote educational opportunities that are not self-study, the Division has received an increase in inquiries across regulated programs asking for clarification regarding this requirement.

The Division recommends clarifying language that real-time remote educational opportunities are not included in the 50% limit for self-study.

In addition to the changes proposed in subsections (D), (G), and (L), the Division recommends restyling the section to correct errors, clarify requirements, conform to other ACJA standards of drafting, and to reduce quotations of statutory language within the section. In place of extensive statutory quotes, the restyling refers to statutory provisions, summarizes the relevant statutory provisions, or quotes limited sections of statutes.

Persons or entities affected if the proposal is adopted:

Confidential Intermediaries regulated by the Arizona Supreme Court under ACJA §§ 7-201, 7-203, and A.R.S. § 8-134 and the clients they serve. In addition to public notification by posting on the ACJA Forum, the Certification & Licensing Division will email this proposal to its list of confidential intermediary certificate holders.

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