

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 7: Administrative Office of the Courts

Chapter 2: Certification and Licensing Programs

Article 1: General Requirements

Section 7-201.01: General Requirements Definitions

~~A. Definitions.~~—In this ~~section~~ chapter, unless otherwise specified, the following definitions apply:

“Abstain” or “abstention” means the act of a board member who chooses not to vote on a matter that is before the board even though the board member is not disqualified from voting.

“Accredited” means placement on a list of nationally recognized authorizing agencies the United States Secretary of Education determines to be reliable authorities as to the quality of education or training provided by the institutions of higher education and the higher education programs they sanction meeting acceptable levels and quality of education and training as determined by a regional, institutional, national faith-related, or programmatic accrediting organization, including the Council of the Section of Legal Education and Admissions to the Bar, American Bar Association (ABA), recognized by the United States department of education or by the Council for Higher Education Accreditation (CHEA).

“ACJA specific section” means the adopted section of the Arizona Code of Judicial Administration (ACJA) applicable to a specified profession or occupation governed by this section, specifically, § 7 202: Fiduciaries; § 7 203: Confidential Intermediary; § 7 205: Defensive Driving Schools and Instructors; § 7 206: Certified Reporters; § 7 208: Legal Document Preparers; § 7 209: Alternative Business Structures; and § 7 210: Legal Paraprofessional.

“Active license” means a ~~valid and existing certificate~~ license issued under this chapter authorizing a person to engage in the practice in the of a specified profession or occupation that has not been transferred to inactive status, surrendered, suspended, or revoked.

“Advisory letter” means a non-disciplinary, written communication from the a board advising notifying a certificate holder an applicant or licensee of the conduct, while not warranting discipline, that may result in future disciplinary action if not modified or eliminated. An advisory letter is not a disciplinary action.

“Allied Legal Service Providers” means individuals the supreme court has authorized to provide limited legal services to the public under this chapter and by rule but who are not lawyers.

“Applicant” means a person who has applied for a license issued under this chapter by submitting a completed application form to the division and paying the applicable fees.

“Board” means a professional or occupational board or committee governed by this chapter.

“Censure” means a ~~written discipline sanction~~, disciplinary action consisting of a written finding that a ~~certificate holder licensee~~ has violated one or more provisions of ~~the this chapter, rules, or statutes, court rules, or applicable sections of the ACJA.~~

“Certificate holder” means any entity or individual granted and currently holding valid certification pursuant to the applicable ACJA section and Arizona law.

“Certification” means a process conducted by a board to determine if a person or entity meets all requirements to practice in the profession or occupation, pursuant to statutes, court rules and the applicable ACJA section.

“Community college” means an accredited educational institution providing training in the arts, sciences, and humanities beyond the twelfth grade of the public or private high school course of study or vocational education, including terminal courses of a technical and vocational nature and basic adult education courses.

“Confidential information” means information that must not be disclosed or made available to the public. It includes PII except where this chapter expressly provides for its disclosure.

“Conflict of interest” means the circumstance where an official action or decision in which a board member or licensee participates may specially benefit or harm a personal, business, or employment interest of the board member or licensee, the board member’s or licensee’s relative, or the board member’s or licensee’s close friends.

“Consent agreement” means a written, voluntary ~~statement to resolve~~ agreement between a board and a licensee to resolve a ~~certification, complaint or compliance audit-matter,~~ voluntarily signed by the applicant or certificate holder in lieu of disciplinary action or to resolve a pending disciplinary matter.

“Corrective action plan” means ~~the measures outlined and agreed upon by a~~ written plan to correct the deficiencies identified by an audit or monitoring as agreed by division staff and the ~~certificate holder to correct all deficiencies after a compliance audit or defensive driving course monitoring is completed~~ licensee.

“Deputy director” means the deputy director of the administrative office of the courts (AOC) or the deputy director’s designee.

“Designated principal” means ~~an a~~ qualified individual designated by a business or public entity applicant ~~active certificate or licensee holder of a business or public entity who is designated to carry out specific responsibilities pursuant to the applicable sections of the ACJA as specified in this chapter.~~

“Director” means the administrative director of the courts or the director’s designee.

“Disciplinary clerk” means, in addition to the definition under Rule 46(h)(11), the individual ~~or the individual’s designee of the certification and licensing division~~ designated to accept all

filings relevant to denial in matters involving appeals from the denial of initial or renewal a licensing application certification of applicants and from a board's order imposing discipline of on a certificate holders licensee.

"Division director" means the director of the certification and licensing division of the AOC or the division director's designee.

~~"Division staff" means all members of the certification and licensing division of the AOC, including the division director.~~

"Disciplinary action" means ~~either proceedings sanctions ordered by a board against a certificate holder, after a finding of probable cause that a the certificate holder licensee has committed acts of misconduct or violations of statutes, court rules, or the applicable sections of the ACJA engaged in conduct that is grounds for discipline under Arizona Code of Judicial Administration (ACJA) § 7-201.21.~~

"Dismissed with prejudice" means a board's final disposition of a matter without any action against a licensee and barring the board from taking future action against the same licensee under this section on for the same issue, claim, or cause conduct.

"Dismissed without prejudice" means a board's final disposition of a matter without any action against a licensee where the board may with the right to bring take future action under this section on the same issue, claim or cause against the same licensee for the same conduct.

"Disciplinary proceedings" means the process initiated when the board determines that there is probable cause that the licensee has engaged in unprofessional conduct or violations warranting discipline under this chapter. Disciplinary proceedings may include emergency suspension if the board finds that licensee's conduct poses imminent risk to public health, safety, or welfare requiring immediate action.

"Division staff" means the staff of the certification and licensing division of the AOC, including the division director.

"Expired" means ~~the certificate a license that has lapsed~~ is no longer effective for lack of renewal by on a specified date.

"Filing" or "filed," in the context of a document a person is required to file with the division or the disciplinary clerk, means a when the document has been received and date stamped by the division or the disciplinary clerk, as applicable, as evidenced by the division or the disciplinary clerk recording the date of receipt on the face of the document by date-stamp or other reliable method.

"Formal statement of charges" means the document authorized and issued by a board setting forth specific that initiates the disciplinary process and states the alleged acts allegations of misconduct unprofessional conduct or violations by a certificate holder the licensee of statutes, court rules, or the applicable sections of the ACJA, including any amendments, authorized by

~~the board, upon a determination of probable cause~~ that are grounds for discipline.

“Gift” means anything given to another person without requiring payment, or without the expectation of payment, that is of more than negligible value. For purposes of this definition, “negligible value” means anything with a value so small that it either cannot be assigned a value or it is not worth the effort to do so.

“Good cause” means a ~~legally sufficient ground or fact-based~~ reason for a particular action or decision ~~based upon the circumstances of the presented case~~ that is neither arbitrary, capricious, nor an abuse of discretion.

“Good moral character” means:

- In the context of having good moral character, means that a person has not committed any act that, if committed by a licensee, would be grounds to initiate disciplinary proceedings.
- In the context of lacking good moral character, means that a person has, without a license, engaged in activities requiring a license or has committed any act that, if committed by a licensee, would be grounds to initiate disciplinary proceedings.

“Good standing” means, when referring to a licensee, that the licensee is not subject to a pending complaint or discipline; the licensee is not on probation and is not subject to a consent agreement in lieu of discipline or to resolve a pending disciplinary matter; their license has not been suspended; their license has not been revoked without being reinstated; their license has not been surrendered; the licensee is current on financial obligations to the division; and the licensee is in compliance with the applicable code of conduct and continuing education requirements.

“Hearing officer” means an individual appointed by the supreme court to preside over administrative hearings pursuant to ~~the hearings required under this section~~ chapter.

“Inactive” means a ~~certificate holder~~ licensee who is not the subject of pending disciplinary action, is voluntarily transferred to inactive status under ACJA § 7-201.17, and ~~decides not to practice in~~ does not engage in the specified profession or occupation for a specified period of time and who ~~while inactive~~ is not the subject of any pending disciplinary action.

“Including” means “including, but not limited to.”

“Injury” means harm to a ~~client, customer,~~ any member of the public, the judicial or legal system, or the applicable profession, or occupation because of conduct engaged in by a licensee resulting from a ~~certificate holder’s~~ misconduct that is grounds for discipline under ACJA § 7-201.18.

“Issue” or “Issuance” means, in the context of a decision or order by a board, when documentation of the decision or order is signed and dated by the board chair.

“Judicial employee” means any person other than a judge who performs duties in the Arizona judicial department as a full-time employee, a part-time employee, or a volunteer and includes division staff and board members.

“Knowingly” means, with respect to conduct described in this chapter, that a person is aware of or realizes what they are doing. It does not require the person to be aware of or understand that what they are doing is prohibited.

~~“Knowledge” is the conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result.~~

“Law,” as the context requires, includes federal or state statutes, rules, regulations, the Arizona Code of Judicial Administration, or judicial interpretation of statutes, rules, regulations, or code provisions.

“License” means a certificate or license issued under this chapter.

“Licensee” means a person currently holding an active certificate or license issued under this chapter. For purposes of this article, “licensee” includes certificate holders, licensees, and persons that must be registered under this chapter.

“Licensing” means the process of determining whether an applicant satisfies the requirements to engage in the practice of a specified profession or occupation under this chapter. For purposes of this article, “licensing” includes both certification and licensing.

“Moral turpitude” means conduct that is inherently wrongful, dishonest, or corrupt, or acts undermining social duties to fellow persons or society, that reflect adversely on a person’s fitness to serve the interests of the public by being licensed to practice in a profession or occupation.

“Minimum competencies” means ~~having the required~~ essential knowledge, skills, and abilities required to ~~for an adequate level of performance~~ perform effectively.

“Negligence” means ~~deviation from the standard of~~ the failure to exercise the care ~~that a reasonable certificate holder~~ reasonably prudent licensee would exercise in ~~the situation~~ similar circumstances.

“Person” means an individual, natural person but also includes a corporation, company, partnership, firm, or any other legal entity.

“Personal identifying information” or “PII” has the meaning prescribed in A.R.S. § 13-2001, .

“Probable cause” means reasonable grounds for belief that the licensee has committed acts of unprofessional conduct or violations that, if true, in the existence of facts concerning alleged acts of misconduct or violations by a certificate holder, warranting would warrant discipline against the certificate holder.

“Probation” means a sanction imposed in the written discipline sanction finding of a certificate holder licensee has violated one or more provisions of the statutes, court rules, or applicable sections of the ACJA but allowing under which the certificate holder licensee’s to practice in of their profession or occupation under this chapter is subject to specified conditions for a set specified time period of time.

“Professional regulatory entity” means a government or private unit entity associated with and having with regulatory authority over a group of qualified and practiced individuals those practicing in a profession or occupation.

“Program” means each of the licensing programs under this chapter.

“Recusal” means the act of a board member refraining from all voting or participation in any manner in a particular matter when the board member has an actual or apparent conflict of interest or is disqualified for some other reason.

“Redacted” or “redaction” means the process for withholding non-public information from a public record before the public record is disclosed and in a manner that both conceals the substance of the information and identifies the location and amount of information concealed.

“Revoked” or “revocation” means a written sanction imposed in the discipline sanction, finding of a certificate holder licensee resulting in the loss of their license has violated one or more provisions of the statutes, court rules, or applicable sections of the ACJA and the certificate to practice in the profession or occupation is rescinded to engage in a profession or occupation.

“Rule” means a Rule of the Arizona Supreme Court unless another court rule is specified.

“Rules of Parliamentary Procedure” means either the current version of *Robert’s Rules of Order* or the *American Institute of Parliamentarians Standard Code of Parliamentary Procedure*.

“Sanction” means an explicit and the official action resulting from of a board imposing an disciplinary action finding discipline against a certificate holder licensee has violated or failed to comply with one or more of the statutes, court rules, applicable sections of the ACJA, court orders or board orders relevant to the certificate holder’s profession or occupation.

“Section” means the referenced a uniquely numbered provision of the ACJA.

“Serious crime” means any crime for which the statutory or common law definition includes a

necessary element involving interference with the administration of justice, false swearing, misrepresentation, fraud, willful extortion, misappropriation, theft, or moral turpitude. It is also a serious crime to conspire to commit, to solicit another person to commit, or to attempt to commit, a serious crime.

“Suspended” or “suspension” means a ~~written sanction imposed in the discipline sanction finding of a certificate holder~~ licensee resulting in the loss of their license ~~has violated one or more provisions of the statutes, court rules, or applicable sections of the ACJA and the certificate holder is not permitted to exercise the privileges of the certificate to engage in a profession or occupation for a set specified time period and until reinstatement by the board of time as the result of a final order of disciplinary action.~~

“Unprofessional conduct” means inappropriate conduct by a licensee that is subject to discipline, including the conduct specified in ACJA § 7-201.21(B) and conduct that is its substantial equivalent.

~~“Valid” means a certificate currently in effect, granted by the board and not expired, surrendered, suspended, or revoked.~~

“Voluntary surrender” means a ~~certificate holder~~ licensee voluntarily giving up their authorization to practice in a profession occupation by tendering ~~decides to discontinue practice in the specified profession or occupation and returns the certificate~~ their license to the applicable licensing board for review and acceptance pursuant to subsection (E)(7).

Section 7-201.02: Jurisdiction

B. Applicability. ~~This section is read together with the ACJA section applying to the applicant’s or certificate holder’s profession, occupation or authorized services. In the event of any conflicts between this section and the ACJA section specific to a profession, occupation or authorized services, the specific ACJA section shall govern. Reference to “these sections” refers to ACJA § 7 201: General Requirements and the applicable sections of ACJA. ACJA § 7 201 applies to certification of confidential intermediaries pursuant to A.R.S. § 8 134 and § 8 543 and ACJA § 7 203; certification of fiduciaries pursuant to A.R.S. § 14 5651 and ACJA § 7 202; certification of defensive driving schools and instructors pursuant to A.R.S. §§ 28-3395 through 3399 and ACJA § 7 205; certification of reporters pursuant to A.R.S. § 32 4001 and ACJA § 7 206; and certification of legal document preparers pursuant to Rule 31, Rules of the Supreme Court and ACJA § 7 208; licensure of alternative business structures pursuant to Rule 31.1, Rules of the Supreme Court and ACJA § 7 209; and certification of legal paraprofessionals pursuant to Rule 31.3, Rules of Supreme Court and ACJA § 7 210.~~

A. Authority. In accordance with A.R.S. §§ 8-134(I), 8-543(A), 14-5651(A), 28-3395(B), and 32-4005(A), and its inherent regulatory power over all lawyers and Allied Legal Service Providers providing legal services to the public, the supreme court is responsible for

administering the alternative business structures, authorized community justice worker, certified community legal advocate, certified reporter, confidential intermediary, defensive driving, fiduciary, legal document preparer, and legal paraprofessional programs by:

1. Adopting provisions governing the implementation and administration of the programs, including establishing the minimum qualifications for certification or licensing, the certification and licensing processes, the disciplinary processes, and a code of conduct; and
2. Establishing and collecting the fees, costs, and fines necessary for the implementation and enforcement of all certification and licensing programs.

CB. Purpose-Scope. ~~This section article specifies governs the license application, certification, and renewal of certification process; the complaint and disciplinary process; and the administrative hearing process for the certification programs professions and occupations licensed under this chapter, unless the article or rules governing a profession or occupation provides to the contrary. The primary purpose of the certification and discipline processes is protection of the public. In addition, the certification programs ensure compliance to the highest ethical standards, rehabilitation of certificate holder unprofessional conduct pursuant to subsection (H)(6)(k), in accordance with statutes, court rules and ACJA.~~

C. Purpose. The essential purpose of the licensing and disciplinary processes in this chapter is protection of the public. This chapter furthers this purpose by requiring applicants to demonstrate the necessary minimum competencies; requiring licensees to abide by a strict code of conduct; establishing a robust disciplinary process for addressing licensee violations and unprofessional conduct; and requiring those whose licenses have been suspended or revoked to demonstrate rehabilitation before reinstatement.

D. Administration-Immunity. The director, deputy director, division director, division staff, and members of professional and occupational boards governed by this chapter are immune from civil suit and liability for conduct relating to their official duties.

- ~~1. **Role and Responsibilities of the Supreme Court.** Pursuant to A.R.S. § 8-134(I), § 8-543(A), § 14-5651(A), § 28-3395(B), § 32-4005(A) and Rule 31(a)(23), Rules of the Supreme Court, the supreme court is responsible for administering the confidential intermediary program, fiduciary program, defensive driving program, certified reporter program, legal document preparer program, legal document preparer program, alternative business structures program, and legal paraprofessional program. The supreme court shall:
 - ~~a. Adopt rules for the implementation and administration of all certification programs including minimum qualifications, certification and disciplinary processes and a code of conduct.~~
 - ~~b. Establish and collect fees, costs and fines necessary for the implementation and enforcement of all certification programs.~~~~

Section 7-201.03: Administration

~~2.A. Role and Responsibilities of the Director.~~ The AOC director as ~~designated by the Az.~~ Const. Art. 6 § 7 is authorized to:

a. ~~Shall:~~

- ~~(1.) Develop~~ Approve policies and procedures in conformity with this ~~section chapter and~~ the applicable sections of ACJA including §§ 7-202, 203, 205, 206 and 208;
- ~~(2.)~~ Appoint and supervise ~~all~~ division staff;
- ~~(3.)~~ Approve ~~or disapprove all budgetary matters~~ the division's budget;
- ~~(4.)~~ ~~Ensure~~ Ensure implementation of the applicable laws, this ~~section chapter and the~~ other applicable laws, rules, and sections of the ACJA;
- ~~(5.)~~ ~~Develop~~ Approve policies and procedures ~~regarding for~~ review of credit reports;
6. Approve policies and procedures for the division to receive criminal history record information for purposes of evaluating the fitness of current or prospective licensees;
- ~~(6)7.~~ Develop Approve policies and procedures ~~governing any complaint for handling~~ complaints, including those initiated by the division director; ~~and~~
- ~~(7)8.~~ Develop Approve time frames for the processing of certification licensing applications by ~~division staff.~~; and

b. ~~May:~~

- ~~(1) Appoint and develop administrative guidelines for ethics advisory committees to issue nonbinding ethical advisory opinions;~~
- ~~(2) Direct division staff to conduct an investigation into alleged acts of misconduct or violations by a certificate holder pursuant to subsection (H)(1)(b);~~
- ~~(3). Initiate a complaint pursuant to subsection (H)(1)(b)(4)(b); and~~
- ~~(4)9. Pursuant to the applicable sections of the ACJA, administrative orders and A.R.S. §§ 28-3399 and 41-2401(D)(8), initiate~~ Initiate a compliance audit of a ~~certificate holder~~ licensee under ACJA § 7-201.26 on the recommendation of the division director. ~~to determine if the certificate holder is in compliance with statutes, court rules, administrative orders, court orders, local rules, the ACJA and any other legal or ethical requirement relating to the certificate holder's profession or occupation. The following provisions apply to audits:~~
 - ~~(a) Timeframes. The director shall develop timeframes and procedures for division staff conducting compliance audits.~~
 - ~~(b) Confidentiality.~~
 - ~~(i) Working papers associated with the compliance audit maintained by division staff are not public records and are not subject to disclosure, except to court staff in connection with their official duties, the attorney general, county attorney, public regulatory entities or law enforcement agencies.~~
 - ~~(ii) Upon completion of an audit the final report issued to the affected party is a public record subject to public inspection.~~
 - ~~(c) Subpoena. The director may subpoena witnesses or documentary evidence, administer oaths and examine under oath any individual relative to the audit.~~
 - ~~(d) Referral. The director may refer the audited certificate holder to an applicable agency or division staff for investigation of alleged acts of misconduct or~~

~~violations of the statutes, court rules, this section or the applicable sections of the ACJA. If the director refers the audited certificate holder to division staff for investigation of allegations of acts of misconduct or violations, the division staff shall process the complaint pursuant to subsection (H).~~

- ~~(e) Violations or Noncompliance. Wilful violation of or wilful noncompliance with an order of the director regarding the audit, or wilful noncompliance with a corrective action plan resulting from an audit, may result in an order directing the certificate holder to comply. The director may forward a copy of the order or report to the superior court and request the superior court issue an order to require the appearance of a person or business, compliance with the director's order, or both. The superior court may treat the failure to obey the order as contempt of court and may impose penalties as though the certificate holder had disobeyed an order issued by the superior court.~~

~~3B. Role and Responsibilities of the Deputy Director.~~ The AOC deputy director shall must review

- ~~a. Serve as the probable cause evaluator, pursuant to subsection (H)(5)(a);~~
~~b. Review the division's investigation summary of a complaint prepared by division staff; and~~
~~c. Determine if there is the investigation summary demonstrates probable cause to believe a certificate holder has committed acts of misconduct or violations of the statutes, court rules, or the applicable sections of the ACJA that a licensee's unprofessional conduct or violation warrants discipline.~~

~~4. Role and Responsibilities of Division Staff.~~ The director shall designate the division director and other division staff to assist in the administration of all certification programs pursuant to the Az. Const. Art 6, § 7. ~~Division staff shall administer all certification programs.~~

~~aC. Role and Responsibilities of the Division Director.~~ The division director may:

1. Administers all licensing programs under this chapter;
 2. Supervises and directs the activities of division staff under this chapter, including those activities described in (D);
 3. Provides staff to assist and support the boards and may conduct or coordinate research as recommended by a board;
- ~~(14.) Issue Issues investigative subpoenas in the investigation process pursuant to subsection (H)(1)(h) under ACJA § 7-201.25;~~
- ~~(25.) Dismiss Dismisses or refers complaints after the initial screening under ACJA § 7-201.22 where the supreme court has no jurisdiction pursuant to subsection (H)(2)(b)(2);~~
- ~~(3) Dismiss clearly insufficient complaints pursuant to subsection (H)(2)(b)(3); and~~
~~(4) Refer complaints to another state agency or entity with jurisdiction, if appropriate, pursuant~~

~~to subsection (H)(2)(b)(4).~~

6. Exercises the authority and performs the duties specified under this chapter and those necessary to the operation of the division and the licensing and disciplinary processes for the professions and occupations governed under this chapter.

bD.Division Staff. Division staff assists in the administration of all licensing programs under the supervision of the division director by, for example shall:

- ~~(1.)Submit~~ Submitting completed applicant fingerprint cards and applicable fees ~~to the Arizona Department of Public Safety, in accordance with A.R.S. § 41-1750 and Public Law 92-544, pursuant to subsection (E)(1)(d)(3) under ACJA § 7-201.10;~~
- ~~(2.)Make~~ Making recommendations to the ~~board on~~ boards in all licensing matters, of applications and certification and including the application, renewal, complaint, investigation, disciplinary, and reinstatement processes; the unauthorized practice of a profession or occupation; and any other matters regarding involving applicants and certificate holders licensees as directed;
- ~~(3.)Provide~~ Providing updates to the board on program activities;
- ~~(4.)Maintain~~ Maintaining a current list of ~~certificate holders~~ licensees and post the list on the applicable Website and make the list available to the for public access on each program website;
- ~~(5.)Conduct~~ Conducting investigations of ~~allegations of alleged unprofessional conduct or violations that, if true, would warrant discipline acts of misconduct or violations of the statutes, court rules, or the applicable sections of the ACJA by applicants, certificate holders or non certificate holders and report the findings to the board; and~~
- ~~(6.)Conduct~~ Conducting compliance audits and monitoring ~~as required by this section activities under this chapter or the applicable sections of the ACJA.~~

Section 7-201.04: Professional and Occupational Boards

~~5. Role and Responsibilities of Professional and Occupational Boards.~~

aA.Establishment. ~~The supreme court shall establish a board for each profession or occupation~~ The professions and occupations regulated under this chapter are governed by boards established by the supreme court or established by statute and administered by the supreme court pursuant to this section and the applicable ACJA section. This section governs all professional and occupational boards under this chapter unless an article or rule specific to a profession or occupation provides to the contrary.

bB.Terms and Appointment of Members.

1. Terms. Members of professional and occupational boards serve at the pleasure of the chief justice for a regular term of 3 years except for the initial terms of a newly-established board or as provided in statute, rule, or the article applicable to the board governing a profession or occupation. Members may be appointed to successive terms at the discretion of the chief justice.
2. Initial appointments. ~~Upon establishment of~~ When the supreme court establishes a board, the chief justice ~~shall~~ must appoint members to initial ~~varying terms classified as of one, two, and three years or three-year terms,~~ with a roughly equal number of board members in each classification, and according to the composition requirements of this section ~~to encourage continuity of the board. Thereafter, all terms are for three years, unless otherwise noted in the applicable ACJA section. A member may continue to serve until the member's successor is duly appointed. The chief justice shall appoint the chair of each board who shall serve as chair no longer than three years, unless otherwise specified in the applicable ACJA section. If a vacancy occurs in a board member position, the chief justice shall fill the vacancy expeditiously in the manner provided for in the original appointment. The appointments shall provide geographical, gender and ethnic diversity and consist of members of the regulated profession or occupation, court staff, the public and other professionals pursuant to the applicable ACJA section. The chief justice may appoint members to serve successive terms. The members shall assist division staff in the recruitment of board members and in the recommendation to the chief justice regarding appointment of candidates to the board.~~
3. Composition of boards.
 - a. The total number of members on each board is as provided in this chapter or a statute, rule, or the article specific to that profession or occupation.
 - b. Each board must consist of members in the membership categories provided in a statute, rule, or the article specific to that profession or occupation. Examples of membership categories include members of the regulated profession or occupation, judicial officers, public members, and other professionals.
 - c. To the extent practicable, board membership should be inclusive to allow boards to benefit from a diversity of opinions and experiences.
 - d. Members of the regulated profession or occupation must not be in the majority of a board under this chapter.
4. Qualifications. To promote fairness and public confidence in the boards and committees, candidates are qualified for appointment who:
 - a. Have outstanding competence and reputation; and
 - b. Are sensitive to the needs of and held in high esteem by their personal and professional

communities.

5. Vacancies.

a. Definition. A board vacancy exists on a member's:

- (1) Death;
- (2) Resignation and its acceptance by the board on behalf of the chief justice;
- (3) Removal in the discretion of the chief justice before expiration of the member's term;
- (4) Removal of a member who is a member of the regulated profession or occupation by the chief justice on the recommendation of the board stating good cause bearing a reasonable relationship to the member's fitness to discharge the duties of the position;
- (5) Failure to belong to the membership category to which the member was appointed;
- (6) Removal by the chief justice on the recommendation of the board chair for an attendance problem under ACJA § 7-201.06(B);
- (7) Conviction of a felony or any crime of moral turpitude; or
- (8) If the member is a member of the regulated profession or occupation, conduct engaged in while practicing the regulated profession or occupation resulting in the member's conviction of any offense, a judgment of civil liability against the member, or any form of discipline ordered against the member under this chapter.

b. Appointment to fill a vacancy.

- (1) A member appointed to fill a vacancy must be a member of the regulated profession or occupation if the departing member was a member of the regulated profession or occupation. Otherwise, the member appointed must satisfy an eligible category of board membership.
- (2) A member appointed to fill a vacancy is appointed only for the remainder of the departed member's unexpired term, and the order making the appointment must state whose unexpired term is being filled and when that term expires.
- (3) Members are expected to assist in the recruitment and recommendation of candidates for appointment.

c. Holdover Member. A member whose term has expired or who has resigned, if willing and able, continues to serve until the member's successor is appointed.

C. Organization.

- 1. Chair. The chief justice must appoint a current or newly-appointed member, who is not a member of the regulated profession or occupation, to serve as chair for a term equal in length to the member's regular term. The chair presides over all meetings of the board and is authorized to administer oaths or affirmations.
- 2. Vice chair. The chair must select a vice chair from among the members eligible to serve as

chair. The vice chair serves a term equal in length to the member's regular term. The vice chair presides over all meetings in the chair's absence.

3. Subcommittees.

- a. Creation. The chief justice or chair may create subcommittees or work groups of members as needed to meet the board's responsibilities and accomplish its purpose.
- b. Appointments. The chief justice or chair may appoint the chair and members of each subcommittee or work group from the board membership or, if necessary to provide additional expertise, may appoint subcommittee or work group members who are not board members.
- c. Meetings; action. Meetings of subcommittees or work groups are exempt from the quorum requirement. By a simple majority of the eligible votes cast, a subcommittee or work group may recommend action to the full board.
- d. Dissolution. A subcommittee or work group may be dissolved by the chief justice or chair if it is deemed to have fulfilled its purpose.

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SHOWING How Proposed § 7-201.04(C) Revises Current § 7-201(I)(3)

3C. Organization.

- a1.** Chair. The chief justice ~~shall must~~ appoint a current or newly-appointed member, who is not a member of the regulated profession or occupation, to serve as ~~designate the chair for a term equal in length to the member's regular term. The chair presides over all meetings of the board, unless otherwise designated by the applicable ACJA section. If the chair resigns or ceases to be a member of the board, the chief justice shall appoint another person, either an existing member of the board or a new appointee, to serve as chair. The chair shall perform the duties normally associated with the office and shall preside over all general meetings of the board.~~
- b2.** Vice Chair-chair. The board ~~shall chair must elect select~~ a vice chair from among the ~~appointed~~ members of the board ~~eligible to serve as chair. The vice chair serves a term equal in length to the member's regular term. The vice chair presides over all meetings in the chair's absence shall serve in the capacity as vice chair for a specified term. If the vice chair resigns or ceases to be a member of the board, the board shall vote to elect a new vice chair from among the existing members. The vice chair shall act as chair in the absence of the chair.~~
- e3.** Subcommittees.

- a. Creation. ~~The chief justice or chair or the board may establish such create~~ subcommittees or work groups of members ~~as deemed necessary needed to adequately serve the needs of the applicable program meet the board's responsibilities and accomplish its purpose.~~
- b. Appointments. ~~Each subcommittee shall consist of a~~ The chief justice or chair may appoint the chair and members of each subcommittee or work group from ~~to be named by the board chair or the board and members who volunteer and are approved for service membership or, if necessary to provide additional expertise.~~ ~~The chair or the board may appoint additional individuals who are not appointed members of the board to a subcommittee or work group~~ members who are not board members.
- c. Meetings; action. Meetings of subcommittees or work groups are exempt from the quorum requirement. By a simple majority of the eligible votes cast, a subcommittee or work group may recommend action to the full board.
- d. Dissolution. A subcommittee or work group may be dissolved by the chief justice or chair if it is deemed to have ~~shall exist only so long as it serves a current, useful purpose. A subcommittee may be dissolved by the board chair or the board if it is deemed it has fulfilled its purpose.~~

D. Board Duties of the Board. The board's duties include:

- (1) ~~The board shall:~~
 - (a) ~~1. Make~~ Making recommendations to the supreme court ~~regarding rules, policies and procedures on any matter concerning for regulation of the profession or occupation, including:~~
 - (i) ~~a. applicant~~ Applicant qualifications;
 - (ii) ~~b. applicant~~ Applicant testing;
 - (iii) ~~c. fees~~ Fees;
 - (iv) ~~d. The a~~ code of conduct; and
 - (v) ~~e. continuing~~ Continuing education; ~~and.~~
 - (vi) ~~any other matter pertaining to the regulated profession.~~
 - (b) ~~2. Establish a~~ Establishing the passing score on ~~any an~~ examination ~~used for certification purposes, required of applicants under this chapter that is not other than a national validated examination;~~
 - (c) ~~3. Make all decisions regarding~~ Granting or denying requests for special consideration to sit for subsequent examinations pursuant to subsection (E)(1)(f)(2)(d)(ii) and (iii) a fifth

examination under ACJA § 7-201.11;

~~(d)4. Make all decisions regarding whether to certify~~ Granting or denying applicants applications for initial licensing, or licensing renewal, or licensing reinstatement of certification;

~~(e)5. Review~~ Reviewing the division director's dismissal of a complaint, pursuant to subsection (H)(2)(d);

~~(f)6. Review~~ Reviewing the probable cause evaluator's finding determination and the division director's recommendation pursuant to subsection (H)(5)(a) and make a decision to: then determining the appropriate action under ACJA § 7-201.27.

~~(i) Request division staff to conduct further investigation;~~

~~(ii) Refer the complaint to another entity with jurisdiction;~~

~~(iii) Determine no violation exists and dismiss the complaint with or without prejudice, pursuant to subsection (H)(24)(a)(3);~~

~~(iv) Order the preparation of documents necessary for informal or formal disciplinary actions pursuant to subsection (H)(7)(b), (H)(8)(b) or (H)(9)(b); or~~

~~(v) Order an immediate emergency suspension of a certificate and set a date for an expedited hearing, if the public health, safety or welfare are at risk, pursuant to subsection (H)(9)(d)(1); and~~

~~(g)7. Make~~ Making all final decisions regarding alleged acts of misconduct or violations of the statutes, court rules, or applicable sections of the ACJA by applicants, certificate holders or noncertificate holders pursuant to subsections (H)(24) and (H)(25). The board has the final decision and issuing orders as required under ACJA § 7-201.39 on the disposition of a complaint and may take any action pursuant to subsection (H)(24), regardless of the recommendations of the division director or hearing officer.

~~(2) The board may:~~

8. Obtaining additional information in licensing and disciplinary matters by:

a. Questioning applicants for initial licensing or renewal;

~~(a)b. Hold informal interviews of applicants regarding initial certification and issue~~ Issuing subpoenas for witnesses and documentary evidence, pursuant to subsection (E)(1)(a)(10) in investigations of licensing applications and disciplinary matters;

c. Requesting additional investigation of a licensing application or disciplinary complaint, including a complaint dismissed by the division director; and

d. Requesting a licensee to appear before the board to answer questions about a pending complaint.

- ~~(b) Hold informal interviews of certificate holders regarding renewal of certification and issue subpoenas for witnesses and documentary evidence, pursuant to subsection (G)(1)(b);~~
- ~~(c) Request additional investigation of a complaint dismissed by the division director, pursuant to subsection (H)(2)(d)(2);~~
- ~~(d) Hold formal interviews of certificate holders regarding disciplinary matters, whether any discipline is eventually imposed or not, and issue subpoenas for witnesses and documentary evidence, pursuant to subsection (H)(8); and~~

9. Approving consent agreements.

10. Determining ~~(e)~~ Make procedural determinations whether to consolidate or sever any a discipline disciplinary matter.

11. Authorizing legal action against:

- a. Those engaging in the unauthorized practice of the profession or occupation regulated by the board without a license;
- b. A former licensee for violating the terms of a consent agreement; or
- c. Those using a written instrument, as defined in A.R.S. § 13-2001(12), or device reasonably likely to induce others to believe the person is licensed to engage in a profession or occupation under this chapter;

12. Dismissing a complaint or statement of charges after the death or incapacity of the licensee or when the division loses jurisdiction over the licensee.

13. Taking other actions authorized under this chapter, a rule, or a statute.

- ~~d. The board shall follow the policies and procedures in subsection (I).~~
- ~~e. Persons appointed by the supreme court to serve on boards are immune from civil liability for good faith conduct relating to their official duties.~~

6. Computation of Time. For the purposes of this section and the ACJA specific section, the computation of days pursuant to Rule 6(a), Rules of Civil Procedure is calculated as follows:

~~[T]he day of the act, event or default from which the designated period of time begins to run shall not be included . . . if less than 11 days, intermediate Saturdays, Sundays and legal holidays shall not be included in the computation. When that period of time is 11 days or more, intermediate Saturdays, Sundays and legal holidays shall be included in the computation. The last day of the period so~~

~~computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday.~~

Section 7-201.05: Meetings and Actions

A. Meetings.

1. Regular meetings. Each board must hold regular meetings as specified in the article applicable to the profession or occupation the board governs. If the article does not specify the number or frequency of regular meetings, the board must hold regular meetings at least six times each year. In the chair's discretion, regular meetings may be called in addition to the minimum required.
2. Emergency meetings. The chair may call emergency board meetings for good cause, including to consider the emergency suspension of a license under ACJA § 7-201.29.
3. Public notice. The notice and agenda requirements of ACJA § 1-202 apply to board meetings.
4. Public participation. All meetings other than executive sessions must be open to public attendance under ACJA § 1-202.
5. Call to the public. All agendas must include at least one "Call to the Public."
 - a. The chair should facilitate the opportunity for members of the public to comment on an agenda item before the board concludes its business under that agenda item, but a failure to provide the opportunity to a member of the public under this section is not a basis for a legal or procedural challenge to board action.
 - b. In the chair's discretion, public comment may be taken out of order to facilitate (a) but the "Call to the Public" must also occur as stated in the published agenda.
6. Quorum. A board must not conduct business unless a quorum of members is present as defined in ACJA § 1-202.
7. Meeting procedures. The chair has the authority to adopt rules of procedure and take any other action necessary or appropriate, in the chair's sole judgment, for the proper conduct of the board meeting if the rules and actions are not in conflict with this chapter. When a provision in this chapter states the actions the board may take, it includes all other actions appropriate under the rules of parliamentary procedure.

SHOWING How Proposed § 7-201.05(A) Revises Current § 7-201(I)(4)

4.A. Board Meetings.

- a1. Regular Meetings-meetings. ~~The Each~~ board shall ~~meet~~ must hold regular meetings as specified in the article applicable to the profession or occupation the board governs. If the article does not specify the number or frequency of regular meetings, the board must hold regular meetings no less than at least six times per each year for regular meetings, unless other applicable ACJA sections state otherwise. ~~The~~ In the board chair may call additional chair's discretion, regular meetings at the discretion of the board chair may be called in addition to the minimum required.
- b2. Emergency Meetings-meetings. The board chair may call emergency board meetings of the board upon a showing of for good cause, including to consider consideration of the emergency suspension of a certificate license pursuant to subsection (H)(5)(e)(6) under ACJA § 7-201.29.
- e3. Public Notice-notice. The notice and agenda requirements of ACJA § 1-202 apply to All board meetings shall be publicly noticed.
4. Public Participation participation. and All meetings other than executive sessions must be open to the public attendance, in compliance with under ACJA § 1-202.
5. Call to the public. All agendas must include at least one "Call to the Public."
 - a. The chair should facilitate the opportunity for members of the public to comment on an agenda item before the board concludes its business under that agenda item, but a failure to provide such an opportunity to a member of the public under this section is not a basis for a legal or procedural challenge to board action.
 - b. In the chair's discretion, the public comment may be taken out of order to facilitate (a) but the "Call to the Public" must also occur as stated in the published agenda.
- d6. Quorum. ~~The board shall have~~ A board must not conduct business unless a quorum for all official actions of members is present as defined in ACJA § 1-202. ~~A quorum consists of a majority of the board.~~
7. Meeting procedures. The chair has the authority to adopt rules of procedure and take any other action necessary or appropriate, in the chair's sole judgment, for the proper conduct of the board meeting if the rules and actions are not in conflict with this chapter. When a provision in this chapter states the actions the board may take, it includes all other actions appropriate under the rules of parliamentary procedure.

B. Actions.

1. Voting.

- a. A board acts by a simple majority of at least one more than half of the eligible votes

cast. The chair has a vote.

- b. Votes are cast by voice unless a board member requests a recorded vote. In a recorded vote, the number and names of members voting for and against the motion or other item, or abstaining from voting, are stated on the record. If the vote for and against is tied, the motion or item that is the subject of the vote is defeated.
- c. A declaration by the chair that a motion is carried or defeated, which declaration is reflected in the recording or minutes of the meeting, is conclusive evidence of the board action.

- 2. Recusal. **Rule 2.11 (Personal Interests) of ACJA § 1-303, Code of Conduct for Judicial Employees is incorporated in this chapter and made applicable to board members.** Under this rule, a board member must withdraw from all participation on a matter that is or may be before the board in which the member has an actual or potential conflict of interest or where the member's voting or participation may result in the appearance of impropriety.

- a. Recusal is required to preclude:

- (1) The possibility of a member's personal interests, relationships, or influences from impacting the member's ability to impartially perform board duties; and
- (2) The appearance of a conflict of interest from lowering public confidence in board actions.

- b. Procedure.

- (1) As soon as a member becomes aware that they may have an actual or potential conflict of interest involving a matter within the board's authority or becomes aware that the member's participation in a matter might give the appearance of impropriety, the member must disclose the circumstances of the actual or potential conflict to division staff and the chair and must then refrain from voting on or participating in the matter whether during or outside of a board meeting.
- (2) For the duration of an actual or potential conflict of interest or the circumstances that may give the appearance of impropriety, division staff and the chair must ensure that the member does not receive or have access to non-public materials concerning the matter and that the member does not participate in discussion or voting on the matter.
- (3) Even if a member has reported to division staff the existence of a conflict of interest or circumstances that may give the appearance of impropriety, the member must state their recusal on the record at the beginning of the meeting at which the matter appears on the agenda or, at the latest, when the chair calls the agenda item. The member must not participate in the board discussion or action on the agenda item. The member must step down from their board member seat but may remain in the meeting room during the board's public consideration of the agenda item.
- (4) If the agenda item in which a member has a conflict or in which the member's

participation would give rise to an appearance of impropriety is the subject of an executive session, the member's attendance at that executive session is prohibited.

- c. The question of the existence of a conflict of interest or circumstances that may give the appearance of impropriety may be submitted to the AOC legal counsel for advice or determination. The determination of legal counsel is subject to review by the director on the request of the member whose recusal is at issue or of the chair.
- d. The provisions of this section should be interpreted in a manner consistent with ACJA § 1-303 and A.R.S. §§ 38-501, et seq. (Arizona's conflict of interest laws). This section controls if it is more restrictive.

3. Member attendance or voting by proxy is prohibited.

SHOWING How Proposed § 7-201.05(B) Revises Current § 7-201(I)(5)

5B. Actions.

a1. Voting.

- a. A board acts by a simple majority of at least one more than half of the eligible votes cast. ~~shall decide motions arising at any meeting of the board. All members may vote on any motion.~~ The chair has a vote.
- b. ~~All votes~~ Votes are ~~shall be taken~~ cast by voice vote, signified by "aye" or "nay." ~~Any unless a board member may require requests a recorded vote.~~ In a recorded vote, ~~to include the number and names of "ayes" or "nays" and the specific vote of the member~~ members voting for and against the motion or other item, or abstaining from voting, are ~~requesting the recorded vote stated on the record. In the case of an equality of votes~~ If the vote for and against is tied, the motion or item that is the subject of the vote is defeated.
- c. A declaration by the chair ~~that a motion has~~ is carried or defeated, which declaration is reflected in the recording or minutes of the meeting, ~~and an entry to that effect in the minutes is admissible in evidence as prima facie proof of the fact without proof of the number or proportion of the votes recorded in favor of or against such resolution being necessary~~ is conclusive evidence of the board action.

- b2. Recusal. Rule 2.11 (Personal Interests) of ACJA § 1-303, Code of Conduct for Judicial Employees is incorporated in this chapter and made applicable to board members. Under this rule, a board member ~~shall recuse~~ must withdraw from discussing and voting all participation on an issue a matter that is or may be before the board pertaining to an applicant or certificate holder who is related to in which the member has an actual or potential or in any other situations where there is a conflict of interest; or where the member's voting or participation may be result in the

appearance of ~~a conflict of interest~~ impropriety.

a. Recusal is required to preclude:

(1) The possibility of a member's personal interests, relationships, or influences from impacting the member's ability to impartially perform board duties; or

(2) The appearance of a conflict of interest from lowering public confidence in board actions.

~~(1) For purposes of this subsection:~~

~~(a) "related" includes the relationships of parent, child, sibling, spouse or cohabitant;~~

~~(b) "conflict of interest" includes situations where the member has a direct or indirect substantial interest in any contract, sale, purchase or service to the board or the AOC or who has, or whose relative has, a substantial interest in any decision of the board, or the existence of any situation where there is, or may be an appearance that the relationship is one that would affect the member's ability to be impartial. The fact a member or the entire board has been named in a lawsuit by an applicant or certificate holder does not automatically constitute a conflict of interest requiring the recusal of the member in an issue relating to the applicant or certificate holder.~~

~~(2) The purpose of this recusal provision is to remove or limit the possibility of personal influence which might bear upon a member's official decision, or provide the appearance of any impropriety in the member's decision.~~

~~(3) A member may seek legal advice regarding specific conflicts of interest or other ethical issues pertaining to membership and action from the AOC legal counsel.~~

~~(4) The member shall recuse at the beginning of the discussion of the issue by the board, or at the first instance the member realizes the conflict. The member shall not participate in the discussion by the board and shall leave the meeting room during board discussion of the issue in executive session. The recusal shall be noted in the official minutes of the meeting.~~

b. Procedure.

(1) As soon as a member becomes aware that they may have an actual or potential conflict of interest involving a matter within the board's authority or becomes aware that the member's participation in a matter might give the appearance of impropriety, the member must notify division staff.

(2) For the duration of an actual or potential conflict of interest or the circumstances that may give the appearance of impropriety, division staff must ensure that the member does not receive or have access to non-public materials concerning the matter and that the member does not participate in discussion or voting on the matter.

(3) Even if a member has reported to division staff the existence of a conflict of interest or circumstances that may give the appearance of impropriety, the member must state their recusal on the record at the beginning of the meeting at which the matter appears on the agenda or, at the latest, when the chair calls the agenda item. The member must not participate in the board discussion or action on the agenda item. The member must step down from their board member seat but may remain in the meeting room during the board's public consideration of the agenda item.

(4) If the agenda item in which a member has a conflict or in which the member's participation would give rise to an appearance of impropriety is the subject of an executive session, the member's attendance at that executive session is prohibited.

- c. The question of the existence of a conflict of interest or circumstances that may give the appearance of impropriety may be submitted to the AOC legal counsel for advice or determination. The determination of legal counsel is subject to review by the director on the request of the member whose recusal is at issue or of the chair.
- d. The provisions of this section should be interpreted in a manner consistent with ACJA § 1-303 and A.R.S. §§ 38-501, *et seq.* (Arizona's conflict of interest laws). This section controls if it is more restrictive.
- e3. ~~A member~~ Member attendance or voting shall not designate a by proxy for attendance or voting is prohibited.

Section 7-201.06: Board Member Conduct

- A. Duty.** It is the duty of each member of a professional or occupational board under this chapter to fairly and impartially apply the provisions of this chapter, court rules, and statutes for the protection of the public. Information members receive from the regulated community and other interested parties must not be given greater weight than protection of the public, which is the essential purpose of this chapter.
- B. Attendance.** Members are expected to attend and participate in board meetings and notify division staff of planned absences. If a member does not regularly attend and participate in board meetings, they may removed.

C. Benefits.

1. Compensation. Members must not receive compensation for their board service regardless of the source, except that a member's employer may pay the member's regular compensation for a time period that includes hours of board service without requiring the member to take paid leave for those hours.
2. Expense reimbursement. Members may receive reimbursement for their travel and other expenses incidental to the performance of their duties according to AOC Expense Reimbursement and Travel Policies.
3. Gifts. A member must not solicit or accept a gift from a person licensed by the board or known to have business with the board on which the member serves unless the gift is permitted under Rule 3.4(B), ACJA § 1-303.

4. Awards. A board or its members may accept an award, in recognition of service, from an entity that is not directly related to profession or occupation they regulate.
5. Business relationships. To avoid creating a conflict of interest or the appearance of impropriety:
 - a. Under Rule 2.11, ACJA § 1-303, a member must avoid making a contractual, financial, investment, or business arrangement, whether personal or professional, with a person licensed by the board on which the member serves. A member who makes such an arrangement or who has an ongoing arrangement pre-existing the member's board service, must follow the procedures in ACJA § 7-201.06(B)(2).
 - b. A member must exercise caution before recommending the services of a person licensed by the board on which the member serves to a member of the public.
 - c. A member must not accept a personal or professional recommendation or a professional referral from a person licensed by the board on which the member serves.

D. Professional Associations. A member must not hold an elected or appointed position in an organization relating to the profession or occupation regulated by the board on which the member serves during the member's service on a board under this chapter.

SHOWING How Proposed § 7-201.06 Revises Current § 7-201(I)(1)-(2)

IA. Policies and Procedures for Board Members~~Duty. The purpose of a board is to assist the supreme court in the protection of the public through the certification and oversight of certificate holders, to ensure conformance by certificate holders to the highest ethical standards and performance of responsibilities in a professional and competent manner.~~

1. ~~Establishment of Boards and Appointment and Terms of Members. The establishment of the boards and the appointment and terms of members are specified in subsections (D)(5)(a) and (b).~~
2. ~~Role and Responsibilities of Board Members. In addition to the provisions of subsection (D)(5)(c), the following provisions apply:~~
 - a. ~~Role. The primary role of It is the duty of each the board members member of a professional or occupational board under this chapter is protection of the public through the fair and impartial application of the applicable section of the ACJA and to fairly and impartially apply the provisions of this chapter, court rules, and statutes for the protection of the public. Members should consider the views and interests of Information members receive from the regulated community and other interested parties regulated professionals and the profession; however, members shall balance must not be given greater weight than this against the member's primary role of protection of the public, which is the essential purpose of this chapter.~~

bB. Attendance. Members ~~shall~~ must regularly attend and actively participate in board meetings and assist with the administration of board affairs at the chair's request. ~~Regular attendance by each member of the board helps ensure full contribution of all members. Therefore, members are required to regularly attend and participate in board meetings. The board chair shall address a board attendance issue regarding a member as follows:~~

~~(1.) A member has an board-attendance problem occurs if a member they:~~

- ~~(a.) Has two- Have 2 consecutive un-notified absences where the member did not provide without providing advance notification-notice of the absence to division staff the member would be absent;~~
- ~~(b.) Has three- Have 3 consecutive absences where the member did not provide with or without advance notification-notice to division staff the member would be absent; or~~
- ~~(c.) Misses- Miss one third 1/3 of the total number of regular board meetings in a twelve month 12-month period; or~~
- d. Although physically in attendance at board meetings, has a regular pattern of not actively participating because of lack of attention during the meeting or lack of preparation.

~~(2.) Upon determination of a board- When a member has an attendance problem;~~

- a. the- The chair shall- division director or division staff must discuss the issue- member's attendance record with the member.
- b. The division director must chair shall must share the member's response at with the next board chair, meeting and the board shall consider chair must determine whether to take one or both of the appropriate action- following actions to take regarding the member's membership on the board-;
 - (1) Asking the member to resign by letter to the chief justice by a specified date; or
 - (2) If the board decides to recommend- Making a recommendation to the chief justice for the termination of the membership of the member, the chair shall inform the member of the board's decision. The chair shall request a letter of resignation from the member and the return of any board materials. The board shall promptly initiate the process for the recruitment and recommendation of a new member.

eC. Expenses- Benefits.

- 1. Compensation. Members must not receive compensation for their board service regardless of the source, except that a member's employer may pay the member' regular compensation for a time period that includes hours of board service without requiring the member to take paid leave for those hours.
- 2. Expense reimbursement. Members shall not receive compensation for their services, but may receive reimbursement for their travel and other expenses incidental to the performance of their duties, pursuant to the adopted state guidelines according to AOC Expense Reimbursement and

Travel Policies.

d3. ~~Gifts and Awards.~~ A member ~~shall~~ must not solicit or accept ~~any a gift or award~~ from ~~any professional certified individual, business or association, including a testamentary gift, a person licensed by the board or known to have business with the board on which the member serves unless the gift giver is a relative of the member is permitted under Rule 3.4(B), ACJA § 1-303 or other recipient of the gift is related to the provider of the gift or award.~~ For the purposes of this paragraph, “gift” includes money, services, travel, food, or entertainment and “related persons” includes a spouse, child, grandchild, parent, grandparent or other relative or individual with whom the member maintains a close, familial relationship.

4. Awards. ~~It is acceptable for the A~~ board or ~~a member its members~~ to accept an award, in recognition of service, from an ~~association entity that is not directly related to their respective professional association profession or occupation they regulate, for example, the American Judicature Society.~~

e5. ~~Contractual Arrangements~~ Business relationships. To avoid creating a conflict of interest or the appearance of impropriety:

a. Under Rule 2.11, ACJA § 1-303, A ~~a member shall carefully consider~~ must avoid entering into ~~any a contractual, financial, investment, or business arrangement, whether personal or professional, with any professional certificate holder for the provision of any services related to the associated profession a person licensed by the board on which the member serves. A member who enters into such an arrangement or who has an ongoing arrangement pre-existing the member’s board service, must follow the procedures in ACJA § 7-201.06(B)(2). The member shall consider whether such an association could result in a conflict of interest, or the appearance of a conflict of interest.~~

fb. Referrals. ~~A member shall carefully consider whether to recommend~~ must exercise caution before recommending the services of ~~any professional certificate holder a person licensed by the board on which the member serves~~ to a member of the public.

c. A member must not or to accept a personal or professional recommendation or a professional referral from a regulated professional or regulated business person licensed by the board on which the member serves. ~~The member shall consider whether a referral could result in a conflict of interest, or the appearance of a conflict of interest.~~

gD. Professional Associations. ~~A member shall~~ must not ~~serve simultaneously hold an elected or appointed position in an as an officer or board member of a professional association for organization relating to the regulated profession or occupation regulated by the board on which the member serves during the member’s service and as a member of the on a board under this chapter.~~

E. Communications. The following applies to all board member communications about board business, whether verbal, written, or electronic, and regardless of whether an electronic communication is made on a public or personal account or device:

1. Records of board member communications are court administrative records. In addition to the requirements of this chapter, these records are subject to Rule 123’s public access

provisions and Administrative Order (AO) 2025-86, or its successor, governing their retention and disposition.

2. Board members must not communicate with each other about board business outside of official meetings of the board or its committees or work groups if the communications are conducted in a way that result in a quorum of board members discussing board business.
3. Board members must safeguard and prevent the unauthorized disclosure of all information made available or provided to them in their capacity as board members that is made confidential by law.
4. Board members must not disclose discussions or information presented during an executive session of the board.
5. Board members must not communicate about a licensing or disciplinary matter with:
 - a. A hearing officer;
 - b. Other board members or division staff outside of a board meeting;
 - c. An applicant, licensee, or their attorney of record outside of a board meeting;
 - d. The Office of the Arizona Attorney General, including an Assistant Attorney General representing the board or its members in a licensing or disciplinary matter; or
 - e. A third party.
6. Board members contacted by third parties must:
 - a. Refer all contacts from the media to the AOC public information officer.
 - b. Refer to the hearing officer an *ex parte* communication received from an applicant or licensee, or anyone on their behalf, or a third party about a licensing or disciplinary matter after a request for hearing is filed. If received after the hearing officer's recommendation report and before the board's final decision and order, the communication should be referred to division staff. For purposes of this provision, an "*ex parte* communication" means an oral or written communication not on the public record.
 - c. Refer all other inquiries about matters within the board's jurisdiction to division staff.
7. An individual board member does not speak for the board unless specifically authorized to do so. To avoid giving the impression that a board member is speaking for the board, the member must preface an oral or written statement with the following disclaimer: "The views and opinions expressed are my own and do not represent the views or opinion

of the board, the AOC, or the Arizona Supreme Court.”

SHOWING How Proposed § 7-201.06(E) Revises Current § 7-201(I)(7)

7E. Communications. The following applies to all board member communications about board business, whether verbal, written, or electronic, and regardless of whether an electronic communication is made on a public or personal account or device:

1. Records of board member communications are court administrative records. In addition to the requirements of this chapter, these records are subject to Rule 123’s public access provisions and Administrative Order (AO) 2025-86, or its successor, governing their retention and disposition.
2. Board members must not communicate with each other about board business outside of official meetings of the board or its committees or work groups.
3. Board members must safeguard and prevent the unauthorized disclosure of all information made available or provided to them in their capacity as board members that is made confidential by law.
4. Board members must not disclose discussions or information presented during an executive session of the board.
- a5. Board members ~~shall~~ must not ~~engage in improper ex parte communications~~ communicate about a licensing or disciplinary matter with:
- a. ~~a~~ A hearing officer;
- b. ~~other~~ Other board members or division staff outside of a board meeting on the record as to the merits of a case regarding an individual or business entity application for certification or a complaint alleging acts or misconduct or violations of statutes, court rules, or the ACJA that have been filed against a certificate holder. Except as may be provided in the applicable sections of the ACJA, all communications among a board member, division staff or a hearing officer in these situations shall occur during board meetings.
- c. An applicant, licensee, or their attorney of record outside of a board meeting on the record;
- d. The Office of the Arizona Attorney General, including an Assistant Attorney General representing the board or its members in a licensing or disciplinary matter; or
- e. A third party.
- b. ~~AOC legal counsel shall provide legal advice for the board. The Office of the Arizona Attorney General provides legal representation to the board as an entity or individual member, consistent with the Arizona constitution and statutes. AOC legal counsel shall coordinate with the Attorney General for representation.~~
- e. ~~Board members shall not engage in ex parte communications with applicants for certification or certificate holders regarding the board’s action or potential action. Members shall not~~

~~engage in ex parte communications with any other person, including the attorney of record of an applicant or certificate holder.~~

~~d6.~~ Board members contacted by third parties should must:

a. ~~refer~~ Refer all contacts from the media to the AOC public information officer.

b. Refer to the hearing officer an *ex parte* communication received from an applicant or licensee, or anyone on their behalf, or a third party about a licensing or disciplinary matter after a request for hearing is filed. If received after the hearing officer's recommendation report and before the board's final decision and order, the communication should be referred to division staff. For purposes of this provision, an "*ex parte* communication" means an oral or written communication not on the public record.

c. Refer all other inquiries about matters within the board's jurisdiction to division staff.

e. ~~Board members shall maintain the confidentiality of all information provided to the board during confidential executive sessions of the board and other documents that are confidential pursuant to court rules or law.~~

~~f7.~~ ~~Board members should always be cognizant they are seen as representatives of the board and the program at professional gatherings and in public settings, including, for example, at the legislature. An individual Board members should board member does not speak for the board unless specifically authorized to do so. To avoid giving the impression that Aa board member is speaking for the board, the member must preface an oral or written statement with shall make the following statement, either verbally or in writing, or both, disclaimer: "the The views and opinions expressed are my own and do not represent the views or opinion of the board, the AOC, or the Arizona Supreme Court."~~

g. ~~Board members shall refer inquiries from the public, certificate holders, applicants for certification and other governmental and private entities regarding matters within the board's jurisdiction to division staff. Division staff, in coordination with the board chair, shall refer appropriate issues to the full board at a regularly scheduled board meeting.~~

h. ~~These provisions apply to all forms of communication, including verbal, written and electronic.~~

Section 7-201.07: Deadlines

6A. Computation of Time.

1. Rules. ~~For the purposes of this section and the ACJA specific section, the~~ The rules for computation of days computing time periods in this chapter, orders issued by a board, orders issued by a hearing officer, a consent agreement, or communication from the division are as stated in pursuant to Rule 6(a), Rules of Civil Procedure is calculated as follows:

~~[T]he day of the act, event or default from which the designated period of time begins to run shall not be included . . . if less than 11 days, intermediate Saturdays, Sundays and legal holidays shall not be included in the computation. When that period of time is 11 days or more, intermediate Saturdays, Sundays and legal holidays shall be included in the computation. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday.~~

(1) *Day of the Event Excluded.* Exclude the day of the act, event, or default that begins the period.

(2) *Exclusions if the Deadline Is Less Than 11 Days.* Exclude intermediate Saturdays, Sundays, and legal holidays if the period is less than 11 days.

(3) *Last Day.* Include the last day of the period unless it is a Saturday, Sunday, or legal holiday. When the last day is excluded, the period runs until the next day that is not a Saturday, Sunday, or legal holiday.

(4) *Next Day.* The “next day” is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.

2. Days. Under Rule 6(a), time periods of less than 11 days means business days and time periods of 11 or more days means calendar days unless this chapter specifies to the contrary.

B. Extensions for Good Cause.

1. A deadline in this chapter may be extended for good cause as follows:
 - a. No later than 5 days before the deadline to be extended, a licensee may request an extension of the deadline on a form specified by the division, unless another section of this chapter provides a different deadline for making the request.
 - b. The request must specify the length of the extension requested.
 - c. The request must provide sufficient information to establish good cause for the request.
 - d. If the request is complete and the division director is satisfied that good cause exists, the division director may grant the requested extension.
2. A licensee may make more than one request to extend a particular deadline unless another section of this chapter provides for a one-time extension only.

Section 7-201.08: Notice to Applicants and Licensees

A. Written Notice.

1. Definition. When this article requires the division to give written notice to an applicant or licensee, unless a different method or deadline for giving written notice is specified, it means that:

a. An email is promptly sent to the email address the applicant or licensee most recently provided to the division; and

b. Either of the following:

(1) If available, the information is conveyed by promptly posting it to the applicant's or licensee's individual portal dashboard with an auto-generated email notifying the applicant of the posting; or

(2) If no portal is available, the information is deposited in the U.S. mail and addressed to the applicant or licensee at the address last provided to the division.

2. Attachment or enclosure. If the purpose of the written notice is to advise an applicant or licensee that a document has been issued, a copy of the document must be included.

B. When Complete. Written notice given by email is complete when the email is sent; written notice given by posting to a portal is complete when posted; and written notice given by mail is complete when deposited in the U.S. mail.

C. Date of Written Notice.

1. Whether written notice is given by email, U.S. mail, or by posting, the notice must clearly state the date the notice is sent or posted.

2. The definition of written notice in (A)(1) provides for redundant methods of giving written notice as a safeguard against the failure of any single method. Although the division should ensure that both forms of notice bear the same date, the redundant methods may result in notice by email and notice by U.S. mail stating different dates. If the methods of giving written notice result in notices bearing different dates, the earliest date is used to:

a. Determine compliance with a deadline for giving written notice; and

b. Calculate when an action must be taken within or after a specified number of days after the written notice.

Section 7-201.09: Licensing Eligibility

A. Professional Requirements. Those persons satisfying the education, training, knowledge, and experience, requirements of the article governing the profession or occupation in which licensing is sought are eligible for licensing.

B. Personal Qualifications. In addition to the professional or occupational requirements, applicants for licensing under this chapter must:

1. Be at least 21 years old, if an individual, unless the article governing the profession or occupation expressly provides that individual applicants must only be at least 18 years old.
2. Be a citizen or a legal resident of the United States, if an individual.
3. Not pose a risk to the public.

C. Factors for Board Consideration. The board will determine if a licensing applicant poses a risk to the public by considering the facts and circumstances of conduct in which the applicant:

1. Has been convicted of a serious crime, whether a misdemeanor or felony and regardless of whether civil rights have been restored.
2. Has been found civilly liable for material misrepresentation or omission, fraud, misappropriation, theft, conversion, or other conduct specified in the article governing the profession or occupation in which licensing is sought.
3. Has engaged in a material misrepresentation or omission, fraud, dishonesty, or corruption in a business matter or in a personal or business financial matter.
4. Is an entity applicant that has—or its employee, officer, board member, agent, or anyone authorized to act for the entity has—a record of dishonest or fraudulent conduct.
5. Is incompetent or a source of injury or loss to third parties or the public.
6. Has had a professional or occupational license denied, revoked, or suspended or has surrendered a professional or occupational license if the circumstances suggest that the license was surrendered or tendered for surrender to resolve a complaint or investigation or to avoid possible discipline.
7. Has received other discipline imposed by a professional or occupational regulatory body and the underlying conduct relates to the licensing sought.
8. Has received a termination, suspension, probation, or other discipline from an employer and the underlying conduct relates to the licensing sought.
9. Has violated a decision, order, or rule of a court, judicial officer, administrative tribunal, board, or professional regulatory body.
10. Has supported a licensing application of another person by making a false or misleading statement or verification.

11. Has made a false or misleading oral or written statement to division staff or the board.
12. Has failed to disclose information on the application.
13. Has engaged in a material misrepresentation or omission, fraud, dishonesty, or corruption in connection with the application or examination process.

Section 7-201.10: Initial Licensing; Application Process

A. Licensing Process. The purpose of the licensing process is to ensure that only those persons satisfying the requirements specific to the profession or occupation in which licensing is sought, and possessing the required personal qualifications, receive a license to practice in a profession or occupation under this chapter.

EB. Initial Certification Application.

~~1. Application for Initial Certification.~~

~~a1. Forms.—Application form. An applicant shall~~ Applicants for licensing in a profession or occupation under this chapter must file a completed application on the form specified by the division ~~apply for certification on approved forms and file them with division staff.~~

2. Fees. An application must be accompanied by payment of the fees specified in the article governing the profession or occupation in which licensing is sought and may include licensing, examination, and training fees. Fees are payable to the Arizona Supreme Court. Fees are not refundable and cannot be waived.

3. Photograph. An application must be accompanied by 1, color, passport-size photograph (2 x 2 inches) that must:

- a. Be of only the applicant's head, neck, and shoulders;
- b. Have been taken within the last 2 years; and
- c. Clearly identifies the applicant.

4. Fingerprints.

a. When required by statute. An application for the following licenses must include a full set of applicant's fingerprints plus the applicable fee required for the division to obtain the applicant's criminal history records information from the department of public safety (DPS) for review by the division in making a suitability determination:

- (1) Fiduciary, as required by A.R.S. § 14-5651(B);
- (2) Confidential Intermediary, as required by A.R.S. § 8-134(K);

- (3) Private Process Server, as required by A.R.S. § 12-3301(B)
- (4) Certified Reporter, as required by A.R.S. § 32-4005(B)(5); and
- (5) Legal Document Preparer, as required by A.R.S. § 12-323(B) [12-102(B)].

b. Unreadable fingerprints. If an applicant for a license listed in (1) submits fingerprints that are not readable, the following steps must be completed for the application to be complete:

- (1) The applicant must pay the costs of subsequent re-fingerprinting and resubmission to DPS.
- (2) If, after 2 attempts, the federal bureau of investigation (FBI) determines the applicant's fingerprints are not readable, the applicant must submit a written statement to the division, under oath, that the applicant has not been arrested, charged, indicted, convicted of, or pled guilty to any felony or misdemeanor other than as disclosed on the application.

5. Other. An application must include other items required under the article governing the profession or occupation in which licensing is sought.

C. Changes. Applicants must notify the division within 5 days of the occurrence of changes to information provided on their application.

D. Incomplete Application.

- 1. Application form. An application form submitted without answering all questions or providing all information requested is incomplete and will not be processed.
- 2. Fees. An application submitted without the applicable fees is incomplete and will not be processed.
- 3. Photograph. An application submitted without a photograph in compliance with (B)(3) is incomplete and will not be processed.
- 4. Fingerprints. An application for Fiduciary, Confidential Intermediary, Certified Reporter, and Legal Document Preparer licenses is incomplete and will not be processed if the application is submitted without a full set of fingerprints and, if the fingerprints are not readable, without completing the steps in (B)(4)(b).
- 5. Minimum qualifications. If the information provided in the application is unclear about whether the applicant has the minimum personal and professional qualifications required for licensing in the profession or occupation, division staff will request whatever information or explanation is reasonably necessary for the division to form a recommendation to the licensing board about whether the applicant meets the licensing requirements. The application is incomplete and will not be processed until the applicant provides sufficient information.

E. Preliminary Review.

- ~~(1.)~~ Division staff ~~shall conduct a preliminary review~~ must review of the ~~a~~ submitted application ~~and to determine if the application is deficient~~ complete under (C), the required supporting documents are deficient, fees are deficient, or a combination of these requirements are deficient.
2. If an application is incomplete:
- ~~(2)~~a. ~~Division staff shall advise~~ must give the applicant ~~in writing of the written~~ notice of the application's deficiencies, instructions on how to correct the deficiencies, and that the application will be on hold until it is complete.
- ~~(3)~~b. The applicant ~~shall~~ must ~~provide the information and a written response to correct or explain the deficiencies, or otherwise remedy the defects in the application, supporting documents or fees~~ provide the information and a written response to correct or explain the deficiencies, or otherwise remedy the defects in the application, supporting documents or fees within 60 days from the date of the written notice of deficiency or, from the date of an extension if the applicant is granted a one-time extension for good cause under ACJA § 7-201.07(B).
3. If an application is not completed within 90 days of the date of the written notice of deficiency or by an extended deadline, the application is administratively terminated by the division. There is no right to a hearing from an administrative termination. After termination, the applicant may continue to seek licensing only by submitting a new application satisfying the requirements under ACJA § 7-201.09(B)(1).
- ~~(4)~~ Division staff ~~may require the applicant to provide additional information or an explanation reasonably necessary to determine if the applicant meets the required qualifications specified in this section or the applicable sections of the ACJA.~~

F. Completed Application. After confirming receipt of a completed application, division staff:

- ~~(5)~~1. ~~Upon receipt of a complete application, division staff may conduct~~ Investigates the applicant's background and verifies the information provided on the application ~~a personal credit review and review records regarding an application for initial certification, consistent with the policies and procedures developed by the director pursuant to subsection (D)(2)(a)(5).~~
2. Must review the application for:
- a. Any remaining questions about satisfaction of the licensing requirements; and
- b. Any grounds for board denial of the application under ACJA § 7-201.12.
3. Must contact the applicant for any additional information or explanations necessary for the division to form a licensing recommendation.

- ~~(6) The applicant shall notify division staff of any changes relevant to the application for certification within five days of the change.~~

G. Applicant and Licensee Records. Unless otherwise provided by law, the following applies to applicant and licensee records:

1. Applicant and licensee records are open to the public but may not be disclosed until after personally identifying information (PII) and other confidential information, except for the applicant's or licensee's name, have been redacted.
2. The division must retain applicant and licensee records for a period of 5 years after the calendar year in which the license expires or the date of the last activity under AO 2025-086 (Record Retention and Disposition Schedule for use by the Administrative Office of the Courts). If a successor Administrative Order establishes a different retention period, the successor Administrative Order retention period governs.
3. Applicant or licensee records destroyed at the end of the retention period must be destroyed in a manner that ensures the non-disclosure of PII or other confidential information.
4. Applicants or licensees may obtain copies of their own records without redaction of their PII.
5. An applicant or licensee may sign a release, on a form specified by the division, authorizing the division to provide the applicant's or licensee's unredacted records directly to the applicant's or licensee's employer or potential employer.

SHOWING How Proposed § 7-201.10(G) Revises Current § 7-201(E)(4)

4G. Applicant and Licensee Records of Applicants for Certification and Certificate Holders. Unless otherwise provided by law, the following applies to applicant and ~~certificate holder~~ licensee records:

- a1. Applicant and ~~certificate holder's certification~~ licensee records are open to the public, but may not be disclosed until after ~~home addresses, home or cellular telephone numbers, social security numbers and all other~~ personally identifying information (PII) and other confidential information, except for the applicant's or licensee's name ~~of the certificate holder~~, have been redacted.
- b. ~~The Division staff shall~~ division must retain applicant and ~~certificate holder~~ licensee records for a period of ~~five~~ 5 years ~~from after the calendar year in which their license expires or the date of the last activity, in the record~~ which is the retention period set in Administrative Order 2025-086 (Record Retention Schedule for Use By the Administrative Office of the Courts). If a successor Administrative Order establishes a different retention period, the successor Administrative Order retention period governs.
- c. Applicant or licensee records destroyed at the end of the retention period must be destroyed in a manner that ensures the non-disclosure of PII or other confidential information. ~~Division staff~~

~~shall take appropriate methods to ensure the confidentiality of any destroyed records.~~

- d. An applicant or licensee may obtain copies of their own records without redaction of their PII.
- ee. If an applicant or ~~certificate holder~~ licensee may sign a release, on a form specified by the division, authorizing the division to provide the applicant's or licensee's unredacted records directly to the applicant's or licensee's ~~needs to have personally identifying information contained in their files released to an employer or potential employer, the applicant or certificate holder shall sign a release of information form. Division staff shall provide the applicant or certificate holder with an approved form for this purpose.~~

H. Division Report and Recommendation.

1. Contents. The division staff must prepare a report and recommendation for the board's consideration and decision. The report and recommendation must include:
- (7)a. ~~Upon a final review of the application, division staff shall prepare and forward to the board a~~ A written recommendation regarding on the applicant's qualifications and eligibility for ~~certification~~ licensing;
- (8)b. ~~Division staff shall advise the board in any written recommendation regarding certification of an applicant, of Information about evidence of any acts, or any complaints alleging acts, of unprofessional misconduct conduct or violations of an ACJA section, rule, statute, court rules or order, this section, or the applicable sections of the ACJA, if the allegations acts occurred during the time when the applicant held an active certificate any professional or occupational license and were received after the but a complaint was not made until after the applicant's certificate license expired or the division or other professional regulatory entity otherwise lacked jurisdiction to investigate or impose discipline;~~
- (9)c. The division staff's written recommendation to the board shall note Information about any deficiencies in the application as submitted, the written notice of deficiency issued by division staff, and the applicant's response correcting or explaining the deficiencies; A deficient application for initial certification is lacking one or more of the following requirements:
- (a) ~~An explanation or correction of any deficiencies, pursuant to subsection (E)(1)(a)(4);~~
- (b) ~~Payment of all appropriate fees, pursuant to subsection (E)(1)(b);~~
- (c) ~~A photograph, pursuant to subsection (E)(1)(c); or~~
- (d) ~~A readable fingerprint card or affidavit in lieu of a fingerprint card, pursuant to subsection (E)(1)(d).~~
- d. Information about any unresolved factual or legal issues about the applicant or the application;

e. Information about whether the applicant will attend the board meeting at which the application will be considered and will be available at that meeting to answer questions; and

f. If necessary, the division's request for guidance from the board.

2. Criminal history pending. If the article governing the profession or occupation requires a fingerprint-based criminal history records determination and the division is awaiting applicant's required criminal history records information but the division's review of the completed application is otherwise final, division staff need not postpone preparation of the report and recommendation, division staff may submit the report and recommendation for the board's consideration, and the board may decide to license the applicant on the following conditions:

a. That a board decision to license the applicant is not effective until the division has received and reviewed the criminal history records information and determined that the applicant is suitable for licensing.

b. If division staff later receives and reviews the criminal history records information but does not find the applicant suitable for licensing:

(1) Division staff must revise and resubmit a recommendation to the board based on the criminal history records information; and

(2) The board must consider whether to reconsider its licensing decision and issue a denial or allow its prior licensing decision to become effective.

I. Administrative Licensing Approval.

1. Eligibility. An applicant is eligible for administrative licensing approval if:

a. The applicant has passed any required licensing examination;

b. The division is not awaiting any fingerprint-based criminal history records information required under the article governing the profession or occupation;

c. The division report and recommendation on the application states that the division found:

(1) No evidence of acts of unprofessional conduct or violations that could be a basis for denial;

(2) No deficiencies in the application;

(3) No factual or legal issues about the applicant or the application;

(4) No concerns about the applicant's qualifications or eligibility; and

(5) No possible grounds for denial under ACJA § 7-201.12.

d. The division report recommends licensing without reservation.

2. Licensing. The division director is authorized to approve issuing a license to an eligible applicant on the signature of the division director and without requiring board approval, except where the article governing a profession or occupation provides that the final licensing decision rests with the supreme court.

3. Report to board. At each regular board meeting, the division must report to the board on the licenses administratively issued by the division director since the board's last meeting. The board may determine the extent of the information desired in this report.

~~(10) The board, upon review of the division staff recommendation, may request an informal interview with an applicant for certification, pursuant to subsection (D)(5)(c)(2)(a), to establish if:~~

~~(a) Additional information is needed to determine if the applicant meets all qualifications for certification in this section and the applicable section of the ACJA;~~

~~(b) An explanation of the information provided by the applicant is needed to determine if the applicant meets all qualifications for certification in this section and the applicable section of the ACJA; or~~

~~(c) Any complaints, regarding allegations of misconduct or violations of the statutes, court rules or applicable sections of the ACJA, received after the applicant's original certificate expired, require investigation by division staff pursuant to subsection (E)(1)(a)(4).~~

~~(11) Notwithstanding anything in this subsection to the contrary, division staff may prepare and forward to the board a written recommendation regarding an applicant's qualifications and eligibility for certification if the division is awaiting the results of the applicant's fingerprint check; the division's review of the application is otherwise final; and there are no deficiencies in the application. Any board decision under subsection (E)(2)(a) to issue a certificate to an applicant recommended under this paragraph becomes effective upon the division's notification to the applicant that the division has received the applicant's fingerprint results with no deficiencies. If division staff identifies any deficiency in the applicant's fingerprint results, the board decision under this paragraph is not effective and division staff must revise and resubmit a recommendation to the board under subsection (E)(1)(a)(7).~~

~~b. Fees. The applicant shall submit, with the application, any applicable certification, examination and training fees specified in the applicable sections of the ACJA. Fees are not refundable or waivable. An applicant shall make the payment for any fee payable to the Arizona Supreme Court. An application submitted without fees is deficient.~~

~~c. Photograph. The applicant for certification shall provide with the application, one color passport size photograph, two inches by two inches of the applicant's head, neck and shoulders only. The applicant shall ensure the photograph was taken within the last two years and clearly identifies the applicant. An application submitted without a~~

~~photograph is deficient.~~

- d. ~~Fingerprinting. If required pursuant to law, the applicant shall submit with the application, a full set of fingerprints, with the fee established by law, for the purpose of obtaining a state and federal criminal records check. An application submitted without a fingerprint card, if required by law, is deficient.~~
- (1) ~~The applicant shall provide a readable and complete fingerprint card. The applicant shall pay any costs attributable to the original fingerprinting or subsequent re-fingerprinting due to unreadable fingerprints and any fees required for the submission or resubmission of fingerprints.~~
- (2) ~~If after two attempts, the FBI determines the fingerprints provided are not readable, the applicant shall submit a written statement, under oath, the applicant has not been arrested, charged, indicted, convicted of or pled guilty to any felony or misdemeanor, other than as disclosed on the application.~~
- (3) ~~Division staff shall submit completed applicant fingerprint cards and the applicable fees to the Arizona Department of Public Safety, pursuant to A.R.S. § 41-1750, Public Law 92-544 and subsection (D)(4)(b)(1).~~
- e. ~~Initial Training. If required by the applicable section of the ACJA, an applicant shall attend and complete the initial training session. Division staff shall provide the applicant with a document signifying the applicant completed the training. If required by the applicable section of the ACJA, an applicant shall attend the entire training session for eligibility to sit for a certification examination.~~

Section 7-201.11: Examinations

A. Applicability. ~~The article governing the profession or occupation in which the applicant seeks to be licensed states whether there is an examination requirement.~~

¶B. Examination Requirement. ~~If an examination is required for licensing in a profession or occupation, required by the applicable section of the ACJA, an applicant shall must take and pass earn a passing score on the applicable examination for initial certification. Specific examination requirements are located in subsection (E) of the applicable ACJA section.~~

C. Examination Administration.

1. National examination administration. ~~National examinations shall be~~ are administered at the time and place ~~scheduled~~ set by the administering entity.
- ~~(12.)~~ Division examination administration ~~Administration of the Initial Examination. In administering the examination, For initial examinations administered by the division, division staff shall must:~~
- ~~(a.)~~ Set the date, time, and place for the examinations. ~~Offer the examination on dates in~~

~~conjunction with the initial training for certification, if~~ If the article governing the profession or occupation in which the applicant seeks to be licensed requires initial training, the division must offer examinations combined with initial training is required by the applicable section of the ACJA;

~~(b.) Set a date and place for the examination;~~

~~(eb.) Promptly notify qualified~~ If the examination is being administered after an applicant submits their licensing application, give written notice to the applicants applicant about their eligibility to sit for an examination and in writing they are permitted to sit for the examination, specifying the date, time, and place of such the examination;

~~(dc.)~~ For examinations other than national examinations:

~~(1) Publish in advance of~~ Prepare the examination; content specifications for the examination and a study guide, as approved by the applicable board and make the specifications and study guide available to applicants update content specifications as necessary;

(2) Submit examination content specifications and updates to the director for approval;

(3) Make the examination content specifications available to applicants in advance of the examination.

~~(ed.) Announce, in~~ In advance of the examination, announce the passing score for the examination, as established set by the applicable board. The passing score shall be consistent with the job analysis conducted at the direction of the board. An applicant shall pass with a final score on the examination meeting the guidelines established by the board;

~~(fe.) Use~~ Prepare and use multiple versions of the examination, except that when national examinations are administered, division staff must follow the national examination protocol.

f. Secure all versions and ensure no copies of the examination are released from disclosure or release to applicants or the public;

~~(g.) Inform each applicant in writing as to whether the applicant passed or failed the~~ Give applicants written notice of examination results and if the grade is failing, a whether reexamination is required to meet all qualifications for certification licensing; and.

h. Allow an applicant who fails the initial examination, and requests the opportunity, to review the grading of the applicant's answer sheet if:

(1) The review is at the division offices or by a secure online video conferencing process arranged by the division, during regular business hours, and observed by division staff;

- (2) The applicant is not allowed to make written or other copies of the materials reviewed; and
- (3) In the case of a national examination, the national examination authority permits review.

~~(h.k.) Make and keep~~ For each examination administration, maintain an accurate record of ~~each examination all versions used at each administration of the examination and the~~ each applicant's score of each person taking the examination.

D. Reexaminations.

~~(2) Administration of Reexaminations. Division staff shall allow an applicant who fails the first examination to:~~

~~(a) Review the answer sheet and grade of the applicant, upon written request. The applicant shall conduct the review during business hours in the presence of division staff and the applicant shall not copy materials provided for review.~~

~~(b)1. An applicant who does not achieve a passing score on an initial examination may~~ Retake ~~retake the examination two-3 more times under the following conditions if:~~

~~(i)a. The applicant is not otherwise disqualified from retaking the examination;~~

~~(ii)b. Within 30 days of written notice to the applicant of examination results, The the applicant sent a written request registers for reexamination to retake the examination to division staff within 30 days of the date of the notice of the examination results unless the applicant is granted a good cause extension under ACJA § 7-201.07(B);~~

~~(iii)c. The applicant files a new application and pays the applicable examination fee for each time reexamination when registering for reexamination; and~~

~~(iv)d. The applicant takes retakes the second or third reexamination examination within 90 days of after the date of the written notice to the applicant that the applicant of failed the examination being retaken results indicating the applicant failed either the first or second examination; and.~~

~~(v) An applicant who does not submit a written request for reexamination within the 30 day time frame specified in subsection (E)(1)(f)(2)(b)(ii), may request an extension of time from the board upon a showing of good cause.~~

~~(e) An applicant taking and failing the examination three times, unless otherwise noted in the applicable ACJA section, shall not be permitted to take any subsequent examination unless granted permission by the board.~~

~~(d)2. Subsequent After 4 Examinations.~~

- (i)a. ~~Any~~ An eligible applicant who was unsuccessful on the third attempt to pass the
~~has failed 4 examination examinations may must request and receive the board for~~
~~permission to sit for a fourth take a fifth examination.~~
- b. ~~The~~ An applicant shall submit a written request to the may request board to sit for
~~a fourth permission to take a fifth examination under the following conditions if~~
~~the applicant:~~
- a) ~~The applicant has filed a new application with division staff and paid~~
~~the appropriate examination fee;~~
- (b1) ~~The applicant is Is not otherwise disqualified from taking the subsequent~~
~~examination;~~
- (e2) ~~The applicant has provided Provides a written statement and supporting~~
~~documentation attached to the new application stating the of the applicant's~~
~~additional study and preparation the applicant has made to qualify for a~~
~~fourth fifth examination; and~~
- (d3) ~~The applicant has provided Provides a written statement documentation~~
~~attached to the new application demonstrating of the circumstances and~~
~~reasons for believing the applicant believes they now have sufficiently~~
~~mastered now possesses the knowledge of the minimum competencies of the~~
~~profession or occupation to pass the fourth examination if allowed a fifth~~
~~opportunity.~~
- (ii)c. ~~If the~~ The board may approve the applicant's request to take a fifth examination if
~~finds the an applicant demonstrates additional study, and preparation, and the~~
~~circumstances, and reasons to believe the applicant has now possesses the~~
~~sufficiently mastered knowledge of the minimum competencies of the profession~~
~~or occupation to pass the examination, the board may, pursuant to subsection~~
~~(D)(5)(c)(1)(e), approve the applicant's request to sit for the fourth examination.~~
~~Division staff shall inform the applicant of the board's decision to allow the~~
~~applicant to sit for the fourth examination within ten days of the board's decision.~~
~~The notice shall state the earliest date for which the applicant may sit for the fourth~~
~~examination.~~
- (iii)d. ~~If the board finds the applicant does not demonstrate additional study and~~
~~preparation and the circumstances and reasons to believe the applicant now~~
~~possesses the knowledge of the minimum competencies of the profession or~~
~~occupation, the board shall, pursuant to subsection (D)(5)(c)(1)(e), deny the~~
~~applicant's request to sit for the fourth examination. Division staff shall must~~
~~inform give the applicant written notice of the board's decision to deny the~~
~~applicant's request to sit for the fourth examination within ten 5 days of the board's~~
~~decision.~~
- (1) If the board approves the request, the written notice must state the earliest
date on which the applicant may sit for the fifth examination.
- (2) If the board denies the request, the written The notice shall must state the

reasons for the ~~board's~~ denial. The board's decision ~~by the board~~ to deny the request is final and there is no right to a hearing.

~~(iv)~~c. If ~~the an applicant's~~ applicant fails 4 examinations without requesting permission ~~request to sit for the a fourth-fifth examination or the board is denied applicant's request to take a fifth examination,~~ the applicant may file a new application no sooner than twelve 12 months after the written notice of failing the fourth examination or the board's decision to deny the request for a fifth examination, whichever is later.

~~(v) An applicant who was unsuccessful on the fourth or any subsequent examinations may request permission from the board to sit for a subsequent examination pursuant to subsection (E)(1)(f)(2)(d).~~

E. Validity of Passing Score. A passing score on an examination or reexamination is valid for 1 year from the date on which applicant is given written notice of receiving the passing score.

~~g.~~**F. Permanent Ban.** An applicant is disqualified from taking ~~any a~~ future examination under this chapter if the board determines the applicant engaged in fraud, dishonesty, or corruption ~~while taking the examination or in connection with an any subsequent examination under this chapter.~~

~~h. Updating of Examinations. Division staff shall update examinations as needed and may ask representatives from the court community, regulated profession or occupation, the public, or any other knowledgeable resource to assist in the development and validation of examinations for the applicable sections of the ACJA.~~

Section 7-201.12: Grounds for Denial

A. Mandatory Denial. The board must deny licensing if an applicant does not meet the following requirements for licensing:

1. The personal qualifications of ACJA § 7-201.09(B); and
2. The professional requirements specified in the article governing the profession or occupation in which licensing is sought.

B. Discretionary Denial. The board may deny licensing to an applicant if, in the board's judgment of the facts and circumstances of applicant's conduct, denial is necessary to protect the public, including if there is evidence the applicant or—if the applicant is an entity—an officer, director, partner, member, trustee, manager, agent, or anyone authorized to act on behalf of the applicant:

1. Has engaged in a material misrepresentation or omission, fraud, dishonesty, or corruption in connection with the application or examination process;

2. Has engaged in a material misrepresentation or omission, fraud, dishonesty, or corruption in a business matter or a personal or business financial matter;
3. Is incompetent or a source of injury or loss to the public;
4. Has been convicted of a serious crime, whether a misdemeanor or felony and regardless of whether civil rights have been restored, or a criminal offense specified in the article governing the profession or occupation in which licensing is sought or having a reasonable relationship to the practice of the profession or occupation;
5. Has had a professional or occupational license denied, revoked, or suspended or has surrendered a professional or occupational license if the circumstances suggest that the license was surrendered or tendered for surrender to resolve a complaint or investigation or to avoid possible discipline;
6. Has received discipline imposed by another professional or occupational regulatory body if the underlying conduct relates to the licensing sought;
7. Has received a termination, suspension, probation, or discipline from an employer if the underlying conduct relates to the licensing sought;
8. Has been found civilly liable in for material misrepresentation or omission, fraud, misappropriation, theft, or conversion or in a case involving matters specified in the article governing the profession or occupation in which licensing is sought;
9. Is currently on probation or parole;
10. If an entity applicant, or its employee, officer, board member, agent, or anyone authorized to act for the entity, has a record of dishonest or fraudulent conduct.
11. Has violated a decision, order, or rule of a court, judicial officer, administrative tribunal, board, or professional regulatory entity;
12. Has supported a licensing application of another person by making a false or misleading statement or verification;
13. Has made a false or misleading oral or written statement to division staff or the board;
14. Failed to disclose information on the application; or
15. Lacks good moral character.

C. Consideration of Criminal Convictions. When, under (B)(4), the board considers an applicant's criminal conviction, proof of the conviction is conclusive evidence of the applicant's guilt of the crime. But the board may consider the facts and circumstances of an applicant's conduct to determine if denial is necessary to protect the public, including:

1. The applicant's age at the time of the conduct;

2. The applicant's experience and general level of sophistication at the time of the conduct;
3. The overall impact of the conduct, including the degree of violence, injury, or property damage;
4. The applicant's level of disregard of ethical or professional obligations exhibited by the conduct;
5. Whether the applicant's resulted in harm to others;
6. The recency of the conviction;
7. Evidence presented by or on behalf of the applicant about applicant's post-conviction rehabilitation or positive societal contributions;
8. The conviction's relevance to the profession or occupation in which the applicant seeks licensing;
9. The applicant's candor during the application process;
10. The significance of applicant's omissions or misrepresentations during the application process; and
11. The applicant's overall licensing qualifications separate from the conviction.

SHOWING How Proposed § 7-201.12 Revises Current § 7-201(E)(2)(c)(1)–(3)

Section 7-201.12: Grounds for Denial

- eA. Mandatory Denial of Initial Certification.** ~~(1) The board shall must deny certification of the applicant licensing if, at the time of application, the an applicant does not meet the qualifications or eligibility following requirements for licensing at the time of the application described in this section or the applicable section of the ACJA; or has not submitted a complete application with all deficiencies corrected, the applicable documents and fees.;~~
1. The personal qualifications of ACJA § 7-201.08(B); and
 2. The professional requirements as specified in the article governing the profession or occupation in which licensing is sought.
- (2)B. Discretionary Denial.** ~~The board may deny certification of licensing to any an applicant if one or more of the following is found if, in the board's judgment of the facts and circumstances of applicant's conduct, denial is necessary to protect the public, including if there is evidence the~~

applicant or—if the applicant is an entity—an officer, director, partner, member, trustee, manager, agent, or anyone authorized to act on behalf of the applicant:

- ~~(a)~~ Material misrepresentation, omission, fraud, dishonesty, or corruption on the part of the applicant in the examination for certification;
- ~~(b)~~ 1. The applicant or an officer, director, partner, member, trustee, or manager of the applicant:
 - ~~(i)~~ Has committed engaged in a material misrepresentation, or omission, fraud, dishonesty, or corruption in the application form in connection with the application or examination process;
 - ~~(ii)~~ 2. Has committed any act constituting engaged in a material misrepresentation, or omission, fraud, dishonesty, or corruption in a business matter or a personal or business financial matters matter;
 - ~~(iii)~~ 3. Has conduct showing the applicant or an officer, director, partner, member, trustee, or manager of the applicant is Is incompetent or a source of injury and or loss to the public;
 - ~~(iv)~~ 4. Has a conviction by final judgment been convicted of a serious crime, whether a misdemeanor or felony, regardless of whether civil rights have been restored, or a criminal offense specified in the article governing the profession or occupation in which licensing is sought or having a reasonable relationship to the practice of the profession or occupation;
 - ~~(v)~~ Has a conviction by final judgment of a misdemeanor if the crime has a reasonable relationship to the practice of the certified profession or occupation, regardless of whether civil rights have been restored;
 - ~~(vi)~~ 5. Has had a professional or occupational license denied, revoked, or suspended or has surrendered a denial, revocation, suspension or any disciplinary action of any professional or occupational license or certificate if the circumstances suggest that the license was surrendered or tendered for surrender to resolve a complaint or investigation or to avoid possible discipline;
 - ~~(vii)~~ 6. Has received a censure, probation or any other disciplinary action of any professional or occupational license or certificate by other licensing or discipline imposed by another professional or occupational regulatory entities body if the underlying conduct is relevant relates to the certification licensing sought;
 - ~~(viii)~~ 7. Has received a termination, suspension, probation, or any other disciplinary action discipline regarding past employment from an employer if the underlying conduct is relevant relates to the certification licensing sought;
 - ~~(ix)~~ 8. Has been found civilly liable in an action involving for material misrepresentation, material or omission, fraud, misappropriation, theft, or conversion or in a case involving matters specified in the article governing the profession or occupation in which licensing is sought;
 - ~~(x)~~ 9. Is currently on probation or parole;

10. If an entity applicant, or its employee, officer, board member, agent, or anyone authorized to act for the entity, has a record of dishonest or fraudulent conduct.

~~(xi)~~ 11. Has violated any a decision, order, or rule of a court, judicial officer, administrative tribunal, board, issued by a or professional regulatory entity;

~~(xii)~~ Has violated any order of a court, judicial officer, administrative tribunal, or the board;

~~(xiii)~~ 12. Has supported a licensing application of another person by making made a false or misleading statement or verification in support of an application for a certificate filed by another person;

~~(xiv)~~ 13. Has made a false or misleading oral or written statement to division staff or the board;

~~(xv)~~ 14. Failed to disclose information on the certification application subsequently revealed through the background check; or

15. Lacks good moral character.

~~(xvi)~~ Failed to respond or furnish information to the division staff or the board when the information is legally requested and is in the applicant's control or is reasonably available to the applicant and pertains to certification or investigative inquiries; or

~~(xvii)~~ If the applicant is a business, a record of conduct constituting dishonesty or fraud on the part of an employee, board member, or the business.

~~(3)~~ C. Consideration of Criminal Convictions. The board may consider When, under (B)(4), the board considers an applicant's criminal any or all of the following criteria when reviewing the application for certification of an applicant with a misdemeanor or felony conviction, proof of the conviction is conclusive evidence of the applicant's guilt of the crime. But the board may consider the facts and circumstances of an applicant's conduct to determine if denial is necessary to protect the public, including pursuant to subsection (E)(2)(c)(2)(b)(iv) and (v):

~~(a)~~ 1. The applicant's age at the time of the conviction conduct;

~~(b)~~ 2. The applicant's experience and general level of sophistication at the time of the pertinent conduct and conviction;

~~(c)~~ 3. The overall impact of the conduct, including the degree of violence, injury, or property damage and the cumulative effect of the conduct;

~~(d)~~ 4. The applicant's level of disregard of ethical or professional obligations exhibited by the conduct;

~~(e)~~ The reliability of the information regarding the conduct;

~~(f)~~ 5. If Whether the offenses applicant's conduct involved fraud, deceit or dishonesty on the part of the applicant resulting resulted in harm to others;

- ~~(g)~~6. The recency of the conviction;
- ~~(h)~~7. ~~Any evidence of~~ Evidence presented by or on behalf of the applicant about applicant's post-conviction rehabilitation or positive ~~social-societal~~ contributions ~~since the conviction occurred as offered by the applicant~~;
- ~~(i)~~ — The relationship of the conviction to the purpose of certification;
- ~~(j)~~8. The ~~relationship of the conviction~~ conviction's relevance to the ~~applicant's field of certification~~ profession or occupation in which the applicant seeks licensing;
- ~~(k)~~9. The applicant's candor during the application process;
- ~~(l)~~10. The significance of ~~any applicant's~~ omissions or ~~misrepresentation~~ misrepresentations during the application process; and
- ~~(m)~~11. The applicant's overall licensing qualifications ~~for certification~~ separate from the conviction.

Section 7-201.13: Decision on Licensing Application

- A. Board Agenda.** After division staff issues the report and recommendation on an application, the application may be placed on the board's agenda. Once division staff issues the report and recommendation to the board, the applicant cannot withdraw their application.
- B. Board Action.** After reviewing the division staff report and recommendation about an application, the board must consider the application at a board meeting when the application is on the agenda for consideration and possible action. The board's possible actions include:
1. Asking the applicant questions relevant to the licensing decision, including questions about the application, the applicant's qualifications, the division's background investigation, information provided or omitted by the applicant, and areas of concern;
 2. Requesting additional information from the applicant;
 3. Requesting that division staff conduct additional investigation;
 4. Responding to division staff's request for guidance, if any;
 5. Postponing the licensing decision to a future board meeting; and
 6. Granting or denying the licensing application.

SHOWING How Proposed § 7-201.13(B) Revises Current § 7-201(E)(1)(a)(10)

~~(10) B. Board Action. The board, upon review of~~ After reviewing the division staff report and recommendation, ~~may~~ about an application, the board must consider the application at a board meeting when the application is on the agenda for consideration and possible action. The board's possible actions include ~~request an informal interview with an applicant for certification, pursuant to subsection (D)(5)(c)(2)(a), to establish if:~~

~~(a) 1. Asking the applicant questions relevant to the licensing decision, including questions about the application, Additional information is needed to determine if the applicant meets all qualifications the applicant's qualifications for certification in this section and the applicable section of the ACJA; the division's background investigation, information provided or omitted by the applicant, and areas of concern.~~

~~(b) An explanation of the information provided by the applicant is needed to determine if the applicant meets all qualifications for certification in this section and the applicable section of the ACJA; or~~

~~(c) Any complaints, regarding allegations of misconduct or violations of the statutes, court rules or applicable sections of the ACJA, received after the applicant's original certificate expired, require investigation by division staff pursuant to subsection (E)(1)(a)(4).~~

2. Requesting additional information from the applicant;

3. Requesting that division staff conduct additional investigation;

4. Responding to division staff's request for guidance, if any;

5. Postponing the licensing decision to a future board meeting; and

6. Granting or denying the licensing application.

2C. Decision Regarding Certification-Granting License.

1. Standard. An applicant who meets all licensing requirements must be granted a license. Conditional licenses are prohibited under this chapter.

~~a 2. Notification of Certification-Notice. Except as provided in subsection (E)(1)(a)(11), upon~~ When the board's decision board votes to issue a certificate grant a license, division staff ~~shall promptly~~ must give the applicant written notice of the decision ~~notify qualified applicants of certification in writing, pursuant to this section and the applicable section of the ACJA.~~

3. License.

- a. ~~After a license is granted and effective, division staff must issue a~~ Each qualified applicant shall receive a document, badge, or card evidencing certification, stating the applicant's licensee's name, date of certification, certificate license number, issue date, and expiration date of the certification. Each certificate shall expire as provided in the applicable section of the ACJA.
- b. ~~Division staff must also provide the new licensee with~~ In addition, unless previously provided, each applicant granted certification shall receive a copy of this section and the applicable section of the ACJA, detailing the responsibilities of the certificate holder article and the article governing the applicable profession or occupation.
- b. ~~Certificate Status. All certificates are valid until expired, surrendered, suspended or revoked.~~
- c. ~~Denial of Initial Certification.~~
 - (1) ~~The board shall deny certification of the applicant if the applicant does not meet the qualifications or eligibility requirements at the time of the application described in this section or the applicable section of the ACJA; or has not submitted a complete application with all deficiencies corrected, the applicable documents and fees.~~
 - (2) ~~The board may deny certification of any applicant if one or more of the following is found:~~
 - (a) ~~Material misrepresentation, omission, fraud, dishonesty, or corruption on the part of the applicant in the examination for certification;~~
 - (b) ~~The applicant or an officer, director, partner, member, trustee, or manager of the applicant:~~
 - (i) ~~Has committed material misrepresentation, omission, fraud, dishonesty, or corruption in the application form;~~
 - (ii) ~~Has committed any act constituting material misrepresentation, omission, fraud, dishonesty or corruption in business or financial matters;~~
 - (iii) ~~Has conduct showing the applicant or an officer, director, partner, member, trustee, or manager of the applicant is incompetent or a source of injury and loss to the public;~~
 - (iv) ~~Has a conviction by final judgment of a felony, regardless of whether civil rights have been restored;~~
 - (v) ~~Has a conviction by final judgment of a misdemeanor if the crime has a reasonable relationship to the practice of the certified profession or occupation, regardless of whether civil rights have been restored;~~
 - (vi) ~~Has a denial, revocation, suspension or any disciplinary action of any professional or occupational license or certificate;~~
 - (vii) ~~Has a censure, probation or any other disciplinary action of any professional or occupational license or certificate by other licensing or regulatory entities if the underlying conduct is relevant to the certification sought;~~
 - (viii) ~~Has a termination, suspension, probation or any other disciplinary action~~

~~regarding past employment if the underlying conduct is relevant to the certification sought;~~

- ~~(ix) Has been found civilly liable in an action involving misrepresentation, material omission, fraud, misappropriation, theft or conversion;~~
 - ~~(x) Is currently on probation or parole;~~
 - ~~(xi) Has violated any decision, order, or rule issued by a professional regulatory entity;~~
 - ~~(xii) Has violated any order of a court, judicial officer, administrative tribunal, or the board;~~
 - ~~(xiii) Has made a false or misleading statement or verification in support of an application for a certificate filed by another person;~~
 - ~~(xiv) Has made a false or misleading oral or written statement to division staff or the board;~~
 - ~~(xv) Failed to disclose information on the certification application subsequently revealed through the background check;~~
 - ~~(xvi) Failed to respond or furnish information to the division staff or the board when the information is legally requested and is in the applicant's control or is reasonably available to the applicant and pertains to certification or investigative inquiries; or~~
 - ~~(xvii) If the applicant is a business, a record of conduct constituting dishonesty or fraud on the part of an employee, board member, or the business.~~
- ~~(3) The board may consider any or all of the following criteria when reviewing the application for certification of an applicant with a misdemeanor or felony conviction, pursuant to subsection (E)(2)(c)(2)(b)(iv) and (v):~~
- ~~(a) The applicant's age at the time of the conviction;~~
 - ~~(b) The applicant's experience and general level of sophistication at the time of the pertinent conduct and conviction;~~
 - ~~(c) The degree of violence, injury or property damage and the cumulative effect of the conduct;~~
 - ~~(d) The applicant's level of disregard of ethical or professional obligations;~~
 - ~~(e) The reliability of the information regarding the conduct;~~
 - ~~(f) If the offenses involved fraud, deceit or dishonesty on the part of the applicant resulting in harm to others;~~
 - ~~(g) The recency of the conviction;~~
 - ~~(h) Any evidence of rehabilitation or positive social contributions since the conviction occurred as offered by the applicant;~~
 - ~~(i) The relationship of the conviction to the purpose of certification;~~
 - ~~(j) The relationship of the conviction to the applicant's field of certification;~~
 - ~~(k) The applicant's candor during the application process;~~
 - ~~(l) The significance of any omissions or misrepresentation during the application process; and~~
 - ~~(m) The applicant's overall qualifications for certification separate from the conviction.~~

D. Decision Denying License.

1. Standard. The standards for granting or denying an initial license are as stated in ACJA §§ 7-201.09 and 7-201.12.

2. Form of decision. If the board votes to deny licensing, it must issue a formal denial by written decision and order within 5 days of the board's vote. The written decision and order must include a statement of the:
 - a. Board's reasons for denial; and
 - b. Applicant's right to appeal from the denial by requesting a hearing.
3. Reason for denial. If a written decision and order states the failure to meet a requirement of this chapter as a reason for denial, the decision and order must both identify the requirement by citation to the code number and include a concise and explicit statement of the underlying facts supporting the failure to meet the requirement.
- ~~(4).~~ Notice. Upon the board's decision to deny certification, division staff shall, notify each applicant denied certification of the reasons for the denial and the right of the applicant to a hearing, pursuant to subsection (E)(2)(c)(5). The Within 3 days after the board issues its written decision and order, division staff shall provide the notice in writing and shall send the notice within ten days after the board's decision must give written notice to the applicant under ACJA § 7-201.08.

E. Appeal of Decision.

- ~~(5)~~ 1. Hearing. An applicant is entitled to may appeal a hearing on the a decision to deny certification, licensing if the disciplinary clerk receives a written request for a hearing within fifteen 15 days after division staff mails the notice of the denial written notice to the applicant of the written decision and order by-; The applicant is the moving party at the hearing and has the burden of proof. The provisions of subsections (H)(12) through (H)(23) and (H)(25) through (H)(27) apply regarding procedures for the hearing and appeal.
 - a. Filing a written request for a hearing with the disciplinary clerk with a copy of the board decision and order being appealed; and
 - b. Delivering a copy of the request for hearing to the division.
2. Untimely Request for Hearing. If an applicant files an untimely request for hearing for good cause and the division director determines that good cause exists for the late request for hearing, the division director may authorize the board's counsel to forego filing a motion to dismiss the untimely request for hearing, waive the defense that the request for hearing is untimely, and proceed to defend the board decision on the merits.

Section 7-201.14: Reapplication After Denial

A. General Requirements.

~~(6)~~1. New application. An applicant denied ~~certification~~ licensing by a final decision of the board, regardless of whether or not the decision was appealed and a hearing was requested and held, may reapply submit a new licensing application for certification, ~~pursuant to subsection (E), under the following circumstances if:~~

~~(a.)~~ It has been at least twelve 12 months since the board's final decision by the board to deny, except as provided in this section;

b. The applicant has corrected all deficiencies stated as reasons for the denial; and

c. The article applicable to the profession or occupation in which licensing is sought does not otherwise prohibit the applicant's licensing.

2. Exception to 12-month waiting period.

a. Reapplication within the 12 months after the board's final decision is allowed if the denial was solely for lack of education or experience and the applicant has since completed the education or experience requirement the board found lacking at the time of denial.

b. If an applicant reapplies under this exception and the board again denies for lack of the same education or experience, the applicant may only reapply if it has been at least 12 months since the board's final decision to deny the reapplication.

~~(b)~~**B. Education and Experience Deficiency.** ~~If the initial reasons for denial were~~ On reapplication, an applicant denied for failure to meet the education and experience requirements, the applicant shall must attach to the new application written new documentation demonstrating how detailing the circumstances have changed how and why the applicant now to meet meets these the requirements;.

~~(i)~~1. Division staff shall must review the new application reapplication and supporting documentation and consider to determine if the whether the applicant has demonstrated that they now meets meet the education and experience requirements;.

~~(ii)~~2. ~~Division~~ If division staff determines that the reapplication demonstrates that applicant now meets the education and experience requirements, division staff shall notify must give written notice to the applicant in writing and recommend that the board grant licensing. within ten days if the applicant has now provided sufficient documentation to demonstrate the applicant meets the education and experience requirements pursuant to this section and the applicable ACJA sections or has not provided sufficient documentation to demonstrate the applicant now meets the education and experience requirements;

- ~~(iii)~~ If the applicant has met the education and experience requirements necessary for certification, division staff shall forward the application to the board pursuant to subsection (E)(1)(a)(7);
- ~~(iv)~~ 3. If division staff determines that the reapplication applicant has not met fails to demonstrate that applicant meets the education and experience requirements necessary for certification;
 - a. ~~division~~ Division staff shall must give written notice to the applicant of the deficiencies and recommend that the board deny licensing forward the application to the board noting the deficiencies and a recommendation for denial pursuant to subsection (E)(1)(a)(9) and provide written notice to the applicant of the deficiencies and recommendation; and.
 - ~~(v)~~ b. The applicant may request an informal interview with opportunity to address the board in response to division staff's recommendation of denial to review the recommendation of division staff for denial of certification because of the deficiencies, if the by making a written request on a form specified by the division is submitted to the board in writing within ten 10 calendar days of the date of the notification after the written notice of the reapplication's deficiency.
 - c. The applicant's failure to make a request to address the board does not preclude the board from exercising its discretion to ask questions of the applicant.
 - d. Even if the applicant does not request the opportunity to address the board in response to division staff's recommendation of denial, division staff must notify the applicant of the date and time of the board meeting at which the reapplication will be considered and encourage the applicant to be present to respond to board questions.

C. Other Deficiencies.

- ~~(e)~~ 1. If the board denied ~~certification licensing~~ for reasons other than failure to meet the education or experience requirements, ~~the applicant shall a reapplication must present~~ attach new documentation to address how and why the original issues the board's initial reason for resulting in denial should not result in denial on reapplication including and must include demonstration of all of the following both:
 - ~~(i)~~ a. ~~Demonstration of acceptance~~ Applicant's acceptance of responsibility for the conduct leading to the denial by the board; and
 - ~~(ii)~~ b. ~~Establishment of~~ Applicant's good moral character.
- ~~(d)~~ In determining whether the applicant has established good moral character, the board shall conduct an informal interview with the applicant, no later than 60 days after the applicant has submitted a

~~completed application.~~

2. Division staff must review the reapplication and supporting documentation to determine whether the applicant has demonstrated that the board's initial reason for denial should not prevent denial on reapplication.
3. If division staff determines that the reapplication demonstrates that the board's initial reason for denial of the initial application is no longer an issue and should not result in denial of the reapplication, division staff must recommend that the board grant licensing and give written notice to the applicant.
4. If division staff determines that the reapplication has not demonstrated the lack of the board's initial reason for denial as a continued basis for denial on reapplication, including that the applicant has failed to demonstrate acceptance of responsibility for the conduct or has good moral character:
 - a. Division staff must recommend that the board deny licensing.
 - b. Division staff must give written notice to the applicant of this determination and recommendation.
 - c. The applicant may request an opportunity to address the board in response to division staff's recommendation of denial by making a written request on a form specified by the division within 10 calendar days after the written notice of the division staff recommendation.
 - d. The failure of the applicant to make a request to address the board does not preclude the board from exercising its discretion to ask questions of the applicant, particularly if the applicant's acceptance of responsibility and good moral character is an issue.
 - e. Even if the applicant does not request the opportunity to address the board in response to division staff's recommendation of denial, division staff must notify the applicant of the date and time of the board meeting at which the reapplication will be considered and encourage the applicant to be present to respond to board questions.

D. Board Decision.

1. If the board is satisfied that the reapplication demonstrates that the board's initial reason for denial should no longer result in denial, the board must grant licensing.
2. If the board denies a reapplication, it must issue a written decision and order and give notice to the applicant under ACJA § 7-201.13(D).
3. The applicant may appeal the decision by requesting a hearing under ACJA § 7-201.13(E).

~~(e) Upon a showing of good cause, the applicant may apply for certification~~

~~sooner than twelve months if denied solely for lack of education or experience necessary for certification, if those circumstances have changed.~~

~~(f) The applicant may not reapply for certification if there are statutory provisions prohibiting certification as specified in the applicable ACJA section.~~

~~3. Time Frames for Certification.~~

~~a. The director shall develop time frames for the processing of certification applications by division staff, pursuant to subsection (D)(2)(a)(7).~~

~~b. An applicant shall respond timely to requests for information from division staff pertaining to the applicant's application. Unless the applicant can show good cause as to why the board should grant additional time, the board shall not approve any applicant for certification unless the applicant successfully completes all requirements within 90 days from the date division staff received the original initial application for certification or within 90 days of the applicant passing the examination for certification if required by the applicable section of the ACJA.~~

~~c. If an applicant needs additional time to comply with division staff requests or to complete the application process within the time frames specified in this subsection, the applicant shall file a written request for an extension with division staff. The request shall state the reasons for additional time to comply with time frames and certification requirements. The applicant shall file the request for additional time to complete the initial application at a minimum, ten days prior to the 90 day deadline, unless the applicant makes a showing of good cause. Failure to complete the certification process or file a written request for an extension of time within this time period shall nullify and void the original application and supporting documents, including fingerprints, fees and the applicable examination scores.~~

~~d. Division staff shall forward the written request for an extension of time to the board at the next scheduled board meeting.~~

~~e. If the applicant fails to meet the 90 day deadline or is not granted additional time by the board to complete the initial certification process, the applicant is considered a new applicant. The applicant shall submit a new application including a fingerprint card and fee if applicable and certification and training fees. The applicant is not required to sit for the examination if the applicant submits the new application within one year of having successfully passed the required examination.~~

~~4. Records of Applicants for Certification and Certificate Holders. Unless otherwise provided by law, the following applies to applicant and certificate holder records:~~

~~a. Applicant and certificate holder's certification records are open to the public, after home addresses, home or cellular telephone numbers, social security numbers and all~~

~~other personally identifying information, except for the name of the certificate holder, have been redacted.~~

~~b. Division staff shall retain applicant and certificate holder records for a period of five years from the last activity in the record. Division staff shall take appropriate methods to ensure the confidentiality of any destroyed records.~~

~~c. If an applicant or certificate holder needs to have personally identifying information contained in their files released to an employer or potential employer, the applicant or certificate holder shall sign a release of information form. Division staff shall provide the applicant or certificate holder with an approved form for this purpose.~~

~~5. Unlawful Use of Designation or Abbreviation. A person who has received a certificate to practice in a specific profession or occupation from the board is authorized to utilize the designation of "Arizona certified" in connection with their title or name and may use any appropriate abbreviation connected with this certification. No other person or business shall assume or use the title, designation or abbreviation or any other title, designation, sign or card, the use of which is reasonably likely to induce others to believe the person or business holds valid certification issued by the Arizona Supreme Court in the specified profession or occupation. The certificate holder shall not sell, transfer or assign its certification to any other entity.~~

~~6. Cease and Desist Order. The board, upon completion of an investigation or disciplinary proceeding, may issue a cease and desist order pursuant to subsection (H)(24)(a)(6)(g). A hearing officer or a superior court judge, upon petition by the board, may enter an order for an individual or business entity to immediately cease and desist conduct constituting engagement in the practice of the profession or occupation without the required certification.~~

Section 7-201.15: License

A. Duration. A license is effective when issued and remains in effect through its expiration date, except:

1. A license that is surrendered or revoked terminates before its expiration date.

2. A license is not effective during a period of inactive status or suspension.

B. Expiration Date. A license expires on the date stated in the article governing the applicable profession or occupation.

C. Unauthorized Conduct. A person must not:

1. Engage in the unauthorized practice of the profession or occupation regulated by a board under this chapter without a license.

2. Use a written instrument, as defined in A.R.S. § 13-2001(12), or device reasonably likely to induce others to believe the person is licensed to engage in a profession or occupation under this chapter title.

Section 7-201.16: Voluntary License Surrender

7A. Voluntary Surrender Conditions. ~~A certificate holder~~ licensee in good standing may voluntarily offer to surrender their certificate ~~license~~ to the board by written notice to the board of the licensee's intent to voluntarily surrender their license. The written notice to the board must be submitted to the division on a form provided by the division and signed by the licensee under penalty of perjury.

1. ~~However, the~~ A license surrender of the certificate ~~is not valid~~ effective to terminate a license until ~~accepted~~ acceptance by the board during a public meeting.
2. The board or division staff may ~~require~~ obtain additional information as reasonably necessary to determine if the ~~certificate holder~~ licensee ~~has violated any provision of the statutes, court rules and this section or the applicable section of the ACJA engaged in conduct that is appropriate for discipline but not yet the subject of a complaint, investigation, or disciplinary action.~~
3. The board's receipt of a licensee's voluntary offer to surrender their license does not ~~prevent the commencement of subsequent discipline preclude a division-initiated complaint, investigation, or disciplinary proceedings for any~~ against a licensee for conduct of the surrendered certificate holder occurring prior to engaged in before the submission of the written notice of intent to voluntarily surrender.

B. Board Action. Within 120 days of the division's receipt of the licensee's written notice to the board of intent to voluntarily surrender their license, the board must vote to accept the surrender, deny the surrender because of a pending complaint or disciplinary matter, or begin disciplinary proceedings against the licensee for conduct engaged in before the submission of the written notice of intent to voluntarily surrender.

- a1. ~~Division staff shall~~ must present the matter of the licensee's voluntary license surrendered ~~certificate surrender to the board at the next available board meeting after receiving the surrender as soon as practicable.~~
2. ~~Upon~~ If the board's acceptance of board accepts the voluntary surrender, the license is terminated and ~~division staff shall~~ must:
 - a. Give written notice to the licensee of the board's action; and
 - b. designate ~~Change the certificate of the certificate holder as a~~ licensee's status to "license in good standing voluntarily surrendered ~~certificate holder in good standing".~~

~~Division staff shall notify the certificate holder in writing within ten days after the board's acceptance of the surrender.~~

3. The board must not accept a voluntary license surrender if the licensee is the subject of pending complaints or disciplinary action or the licensee has engaged in conduct appropriate for discipline but not yet the subject of a complaint, investigation, or disciplinary action.
- ~~b4. The If the board shall does not vote to accept the voluntary surrender if there is because of a pending complaint, compliance audit, or disciplinary matter, pending against the certificate holder. However, this section does not preclude the board from entering into resolving all pending matters by a consent agreement to resolve the pending complaint pursuant to subsection (H)(24)(a)(6)(c) by with terms including that include the voluntary license surrender of the certificate.~~
- ~~e. The board shall, within 120 days of the receipt of the surrendered certificate by division staff either accept the surrender or, based upon the recommendations of division staff, institute disciplinary proceedings pursuant to subsection (H).~~
5. If after the board accepts a voluntary license surrender, the division receives a complaint or other information alleging that the former licensee engaged in conduct before the license surrender that would have warranted discipline, and the division substantiates an allegation, division staff must:
 - a. Advise the board of the post-surrender allegations division staff has substantiated;
 - b. If the board approves, subsequently imposes a sanction pursuant to subsections (H)(24) and (H)(25) upon the certificate of the surrendered certificate holder, division staff shall change update the licensee's status of the certificate holder from "surrendered certificate holder in good standing" to that of a person so disciplined reflect the existence of unresolved, post-surrender allegations. These allegations must be addressed if the former licensee applies to the division for any license issued under this chapter.

Section 7-201.17: License Transfer to Inactive Status

8A. Inactive Status.

1. If a license is placed on inactive status by the board, the license is not effective during the period of inactive status.
2. A licensee with a license on inactive status must not:
 - a. Engage in paid or unpaid activities of the profession or occupation for which licensing is required.

- b. Represent themselves as holding a license.
- 3. Other restrictions or conditions on inactive status, including how long a licensee may remain on inactive status, are as specified in the article governing the profession or occupation.
- 4. A license on inactive status must be reactivated to be in effect.

B. Process for Transfer to Inactive Status.

- a1. ~~A certificate holder licensee in good standing may make a written request for transfer to inactive status on a form approved by the division, upon written request to the board.~~
- 2. ~~Upon~~ After reviewing the request, ~~recommendation of~~ division staff recommends whether the board should grant or deny the request.
- 3. ~~If the board may accept grants the licensee's request, the board will order the license transfer of the certificate holder transferred to inactive status, and division~~ Division staff shall must update the licensee's status to "inactive" and give written notice to the licensee that the license is on inactive status note in the certification database the certificate holder is on inactive status, in good standing. The inactive certificate holder shall not engage in the practice of the profession or occupation of certification pro bono or for a fee or other compensation while on inactive status and shall not present themselves as a certificate holder.
- 4. There is no right to a hearing from the board's denial of a request for transfer to inactive status.

C. Reactivation Process.

- 1. Application. To reactivate an inactive license:
 - a. The former licensee seeking reactivation must apply for reactivation by the board.
 - b. ~~Upon application and payment of any applicable fee for reactivation of certification, required by the applicable section of the ACJA, the board may require the~~ The applicant for reactivation to comply with the following must:
 - (1) Submit an application on a form required by the division.
 - (2) Pay a reactivation fee under the article governing the profession or occupation.
 - (+3) Submit proof of compliance with the continuing education requirements for continuing education;
 - (24) ~~Submit other proof required by the board to demonstrate the applicant for reactivation:~~
 - (a) ~~Demonstrate the applicant possesses~~ Possesses the skills necessary to practice in the profession or occupation;

- (b) ~~Demonstrate the applicant remains~~ Remains in compliance with ~~the applicable ACJA sections this chapter;~~ and
 - (c) ~~Demonstrate compliance~~ Complies with other licensing requirements ~~for certification.~~
 - (5) Identify all jurisdictions where the licensee engaged in the profession or occupation while the license issued under this chapter was inactive.
 - (36) If the applicant for reinstatement license reactivation engaged in the profession or occupation in another jurisdiction during the time while the certificate holder's certificate their license issued under this chapter was inactive, the applicant shall submit all of the following:
 - (a) Proof of the applicant's authorization to practice in the profession or occupation in ~~the~~ that other jurisdiction;
 - (b) An affidavit affirming the applicant has not been disciplined in ~~another~~ that other jurisdiction; and
 - (c) An affidavit affirming the applicant is not the subject of a complaint, investigation, or pending to discipline or being investigated in ~~another~~ that other jurisdiction.
 - (47) Pass the examination for licensing in the profession or occupation ~~If if~~ the applicant has been inactive for more than ~~one year~~ 5 years ~~the board may require the applicant to sit for and pass the applicable examination.~~
 - (8) Satisfy all requirements of the article governing the profession or occupation.
2. Review. Division staff must review an application for reactivation for satisfaction of the requirements of this section and the article governing the profession or occupation.
- a. If incomplete, division staff will follow the process used for incomplete licensing applications under ACJA § 7-201.10(D)(2) and (3).
 - b. When complete, division staff will make a recommendation to the board about whether to grant or deny the application for reactivation or whether the board should require the licensee to comply with additional conditions.
3. Approval. The board determines whether to approve or deny a request for reactivation.

eD. Reactivation. If the applicant meets the requirements of this subsection to the satisfaction of the board, the board shall must return the ~~inactive certificate holder~~ license to active status. Division staff shall must change the licensee's status of the ~~certificate holder~~ from "inactive" to "active" and ~~notify~~ give written notice to the ~~certificate holder~~ licensee of the board's decision within ~~ten~~ 5 days.

~~d. A certificate holder shall only remain in an inactive status as specified by the applicable ACJA section.~~

Section 7-201.18: License Reinstatement After Suspension or Revocation.

9A. Reinstatement Application after Suspension or Revocation. The board may approve the reinstatement of a license that was suspended or revoked under this chapter if the former licensee demonstrates rehabilitation, compliance with all disciplinary orders and rules, and that that the former licensee meets the minimum competencies of the profession or occupation and the requirements for initial licensing.

1. Eligibility. A ~~certificate holder whose certificate was~~ license suspended or revoked by a final order of the board may apply for reinstatement under the following conditions is eligible for reinstatement if:

- a. For a suspended license, when the licensee has satisfied all requirements of the suspension order.
- b. For a revoked license, when it has been at least 1 year since the date of the final revocation order and the former licensee has satisfied all requirements of the revocation order.

2. A person seeking reinstatement must:

- a. ~~An applicant for reinstatement shall file~~ Submit a written application for reinstatement with division staff, accompanied by the appropriate fees and the following documents on a form required by the division, which includes the information required under (3)(a)-(1);
- b. Pay the fee required under the article governing the profession or occupation; and
- c. Satisfy the requirements for reinstatement under the article governing the profession or occupation.

3. The application for reinstatement is not complete without:

- (1a.) ~~The reinstatement form and a~~ A copy of the final order of suspension or revocation suspending or revoking applicant's license;
- (2b.) A detailed description of the applicant's business or employment occupation and sources of income or earnings derived during the period time between the filing of the final order by the disciplinary clerk suspending or revoking applicant's license and the date of application for reinstatement application after suspension or an initial application for recertification;
- c. A detailed list of the applicant's sources and amounts of earnings and other income, and sources and amounts of funds or resources made available to applicant for personal use, between the final order suspending or revoking applicant's license and the reinstatement application;

- ~~(3d.)~~ A ~~statement~~ detailed list of every civil or criminal action and a copy of the action, case, where the in which applicant was ~~either a plaintiff or defendant, filed or initiated since the submission of the applicant's last renewal application for initial licensing or renewal, whichever is more recent or, if no renewal application has been submitted, then since the initial application was submitted;~~
- e. For a civil or criminal case listed in (d), copies of all key documents, including charging documents or complaints; responsive pleadings; minute entries or orders disposing of claims or issues; and final judgments or orders.
- ~~(4f.)~~ A detailed list of all civil or criminal or civil final judgments or orders since the applicant's last submission of the last renewal application for initial licensing, or if no renewal, whichever is more recent application has been submitted, then since the initial application was submitted;
- ~~(5g.)~~ A list of all applicant residences residence and business addresses used since the applicant's last submission of the last renewal application for initial licensing, or if no renewal, whichever is more recent application has been submitted, then since the initial application for certification and the date division staff receive the application for reinstatement;
- ~~(6h.)~~ A concise statement of ~~concise facts of~~ how the applicant for reinstatement has maintained the minimum competencies and knowledge required of a licensee during the period of time from the date since the final order of the suspension suspending or revoking applicant's license order until the date division staff receives the reinstatement application;
- ~~(7.)~~ A statement of ~~concise facts of~~ how the applicant for recertification has maintained the minimum competencies and knowledge during the period of time from the date of the order revoking the applicant's certificate until the date division staff receive the application for certification;
- ~~(8i.)~~ A statement of the facts and circumstances supporting reinstatement of applicant's license to practice the profession or occupation after suspension or revocation; or a statement of facts supporting certification again to the profession or occupation; and
- ~~(9j.)~~ A statement of ~~all the facts and circumstances~~ demonstrating ~~the~~ applicant's rehabilitation and acceptance of responsibility during the period of time from since the date of the board's final order revoking the suspending or revoking applicant's certificate or suspending the applicant's certificate license, until the date division staff receive the application for reinstatement or initial certification;
- k. Information demonstrating that applicant has satisfied all terms and conditions of the order suspending or revoking applicant's license; and

1. A statement of the facts and circumstances demonstrating that applicant will pose no threat to the public if their license is reinstated.

B. Review Process.

1. Division review. Division staff must review an application for reinstatement, including the information provided under (A)(3)(a)–(l), for clarity and completeness.
 - a. If division staff is unable to conclude that the application is complete, division staff must:
 - (1) Request additional information to clarify the application or to supply information that is missing or incomplete.
 - (2) Follow the process used for incomplete licensing applications under ACJA § 7-201.10(D)(2) and (3).
 - b. When an application for reinstatement is complete, division staff must make a recommendation to the board about granting or denying the application for reinstatement or requiring the applicant to submit additional information or comply with additional conditions.
2. Board review. ~~Division staff or the~~ The board may require the applicant to:
 - a. ~~additional~~ Submit additional information demonstrating ~~the~~ that applicant meets the minimum competencies of the profession or occupation.
 - b. ~~The board may require the applicant sit~~ Sit for and pass the ~~applicable~~ licensing examination ~~in order to process the application or determine if the applicant meets the minimum competencies of~~ for the profession or occupation.

C. Reinstatement.

1. Burden of proof. The applicant has the burden of ~~proof to demonstrate by clear and convincing evidence~~ demonstrating, to the board's satisfaction, ~~the applicant's~~ their rehabilitation, compliance with all ~~discipline~~ disciplinary orders and rules, and, ~~the~~ that applicant meets they meet the minimum competencies of the profession or occupation.
2. Board decision.
 - a. If the board is satisfied that applicant has satisfied their burden, the board must grant reinstatement.
 - b. If the board denies reinstatement, it must issue a written decision and order, and give notice to the applicant, under ACJA § 7-201.13(D).
 - c. An applicant denied reinstatement ~~by the board has the right~~ may appeal the decision

~~by requesting to a hearing pursuant to subsection (H)(12) under ACJA § 7-201.13(E), except if the applicant fails to provide the information within the requested time frame. Failure to provide the information shall result in automatic denial of reinstatement without the right to a hearing.~~

~~e. Upon submission of all requirements of subsection (E)(9)(a), the applicant shall meet all requirements of initial certification pursuant to subsection (E)(1). The applicant, for reinstatement after a suspension or revocation, shall pay the fee for reinstatement, pursuant to subsection (K) in the applicable section of the ACJA.~~

~~d. The board shall not issue any certification under this section to any person or business entity whose certification has been suspended until:~~

- ~~(1) The person or business entity seeking reinstatement of a suspended certificate has demonstrated all the requirements of the suspension order have been met; and~~
- ~~(2) The person or business entity qualifies in accordance with the applicable provisions of this section or other sections of the ACJA.~~

~~e. The board shall not issue any certification under this section to any person or business entity whose certification has been revoked until:~~

- ~~(1) One year has passed from the date of the board's final order of revocation;~~
- ~~(2) The person or business entity seeking certification provides proof of satisfaction of any and all requirements in the order of revocation; and~~
- ~~(3) The person or business entity again qualifies in accordance with the provisions of subsection (E)(1) and the applicable sections of the ACJA.~~

~~F. Role and Responsibilities of Certificate Holders.~~

~~1. Code of Conduct. Each individual certificate holder shall adhere to the code of conduct or standards of conduct, subsection (J) in the applicable section of the ACJA.~~

~~2. Identification. Upon request by any judicial officer, court employee or member of the public, a certificate holder shall provide proof of certification.~~

~~3. Assumed Business Name. A certificate holder shall not transact business in this state under an assumed name or under any designation, name or style, corporate or otherwise, other than the legal name of the individual or business entity unless the person or business entity files with division staff a statement indicating the name for transaction of the business and the legal full name of the certificate holder.~~

~~4. Response. A certificate holder shall respond by the specific time stated in any request for information from, and shall provide documents to the director, deputy director, division staff, or board pertaining to certification, renewal of certification, complaints alleging acts of misconduct or violations by the certificate holder, investigative inquiries and compliance audits or defensive driving course monitorings of the practice of the certificate holder. A~~

~~certificate holder shall respond to any subpoenas or orders issued by the director, division director, board, or any judicial officer. Failure to comply with this subsection by a certificate holder constitutes grounds for discipline pursuant to subsection (H)(6)(c) or denial of renewal of certification pursuant to subsection (G)(3) and (G)(4). Failure to comply with this subsection by a certificate holder in completion of a corrective action plan or defensive driving course monitoring may constitute grounds for discipline, pursuant to subsection (H)(6)(b).~~

~~5. Candor.~~

~~a. A certificate holder shall not knowingly:~~

- ~~(1) Make a false statement of material fact or law to a tribunal; or~~
- ~~(2) Fail to disclose a material fact to a tribunal, except as required by applicable law.~~

~~b. A certificate holder shall notify division staff within ten days of a misdemeanor or felony conviction.~~

~~6. Change of Name or Address. A certificate holder shall notify division staff of any change in name or business, directory, mailing or home address, telephone number or email address within 30 days of any change, pursuant to the applicable sections of the ACJA. The certificate holder shall make this notice in writing by U.S. Post, facsimile or email.~~

Section 7-201.19: License Renewal

G. Renewal of Certification.

~~1. Expiration Date. Certificates expire on the date specified by the applicable section of the ACJA except as otherwise provided in this section. All certificates shall continue in force until expired, voluntarily surrendered, placed on inactive status, suspended or revoked.~~

~~**2A. Renewal Application.** A certificate holder is responsible for applying licensee must apply for a license renewal certificate.~~

- ~~1. The certificate holder shall apply for renewal of certification on On the a form provided specified by the division staff; and~~
- ~~2. The Filed with the division by the deadline set by the board shall set a deadline renewal application date, in advance of the expiration date, to allow a reasonable time frame for processing to process the renewal application before the expiration date, unless the applicant is granted a one-time, good cause extension under ACJA § 7-201.07(B).~~

~~**a.B. Effect of Filing Timely Renewal Application.** When a certificate holder has filed a By timely and filing a complete renewal application, the licensee's existing certification license does not expire until during the administrative renewal process for review of the renewal~~

~~application has been completed.~~

1. When a renewal application is granted, the effective date of the renewed license begins the day after the previous license expired, even if that date has already passed.
2. When a renewal application is denied, the existing license does not expire until midnight on the last day to request a hearing on the denial or, if a hearing is requested, until the board's final written decision and order.

C. Failure to Timely File Renewal Application.

1. Effect of not timely filing renewal application. If no renewal application is filed with the division by the deadline or a deadline extended for good cause, the license expires on its expiration date.
2. Effect of filing for renewal after license expiration. A renewal application filed after the expiration date must be treated as an initial application satisfying the requirements of ACJA § 7-201.10(B)(1), unless, within the 90 days after their license expiration, the licensee requests to file an untimely renewal application.
3. Request to file untimely renewal application. Within 90 days after their license expiration date, the licensee may request board permission to file an untimely renewal application by submitting to the division:
 - a. A request for permission to file an untimely renewal application and statement of good cause explaining the circumstances of the failure to file a timely renewal application.
 - b. Whenever possible, factual information in the statement of good cause explaining the circumstances of the failure to file a timely renewal application should be accompanied by supporting documentation;
 - c. A statement by the licensee about whether the licensee has been engaged in the profession or occupation following license expiration and, if they have been engaged, the licensee must include the facts and circumstances explaining why they have been engaged in the profession or occupation under an expired license.
 - d. A complete renewal application on the form specified by the division; and
 - e. The late fee specified in the article governing the profession or occupation.
4. Incomplete request defined. A request for permission to file an untimely renewal application not meeting the requirements in (C)(3) is incomplete.
5. Division staff review. Division staff must review a request to file an untimely renewal application for compliance with the requirements in (C)(3).

a. If division staff determines the request is incomplete:

- (1) The provisions of ACJA § 7-201.10(D)(2) and (3) do not apply to a request to file an untimely renewal application, including the renewal application itself. Division staff will not give licensee a notice of deficiency, ask for additional information, or give licensee an opportunity to amend to complete the request.
- (2) Division staff will transmit the request to the division director with an explanation of why the request is incomplete.
- (3) If the division director agrees that the request is incomplete, the division director must deny the request and the license remains expired.
- (4) There is no right to a hearing on the division director's decision that the request is incomplete and denying the request.

b. If division staff determines the request is complete:

- (1) Division staff will transmit the request to the division director with a recommendation to grant the request.
- (2) If the division director agrees that the request is complete:
 - (a) The renewal application, as submitted with the request to file an untimely renewal application, is filed as of the date the request was submitted.
 - (b) The licensee's existing license is returned to active status and will not expire during the renewal process.
 - (c) During the renewal process, division staff must investigate whether a licensee's conduct in engaging in the profession or occupation under an expired license should result in denial of the license renewal application.

~~b. When a certificate holder requests to file an untimely renewal application, the division director may process the untimely application and recommend to the applicable Board to renew a certificate if the untimely renewal applicant demonstrates to the director good cause for the untimely filing. In addition, the following shall apply:~~

- ~~(1) The applicant shall submit a complete renewal application and applicable fees, and any other documentation requested by division staff to verify the grounds for the good cause exception requested.~~
- ~~(2) The applicant shall not practice in the applicant's profession:~~
 - ~~(a) until the director decides in writing based on good cause to process the application or~~
 - ~~(b) if the director decides not to process the untimely application, until an initial application is processed and the applicant is granted certification pursuant to the AJCA § 7-201(E) and the applicable sections of §§ 7-202 through 7-210.~~

~~e. When a timely renewal application is denied, the existing certification does not expire until the last day for seeking a hearing on the denial decision pursuant to subsection (E)(2)(c)(5); or if a hearing is requested, until the final decision is made by the board pursuant to subsection (H)(25).~~

- ~~d. The board may request an informal interview with the applicant for renewal, pursuant to subsection (D)(5)(c)(2)(b), to establish if additional information or an explanation of the information provided by the applicant is needed to determine if the applicant continues to meet the qualifications for certification in this section and the applicable section of the ACJA.~~
- ~~e. The certificate of a certificate holder who does not supply a complete renewal application and payment of the renewal fee in the specified time and manner to division staff shall expire as of the expiration date in the applicable section of the ACJA. Division staff shall treat any renewal application received after the expiration date as a new application, except when the certificate holder requests to file an untimely renewal application pursuant to subsection (G)(2)(b).~~

D. Processing Renewal Application.

1. Preliminary review. Division staff must review a timely-filed renewal application to determine if it is complete. If incomplete, division staff will follow the process used for incomplete licensing applications under ACJA § 7-201.10(D)(2) and (3).
- ~~32. Additional Information-information. Before recommending renewal of certification, Even if a renewal application, whether timely or untimely filed, is complete, division staff may~~ require obtain additional information or explanations necessary for the division to make a licensing recommendation, including:
 - a. Information reasonably necessary to determine if the renewal applicant continues to meet the licensing qualifications specified in this section of this article and the article governing the profession or occupation, which may include:
 - ~~a. Background information, pursuant to subsection (E)(1)(a) and the applicable section of the ACJA;~~
 - ~~b. A personal credit review background check and review of records pertaining to the applicant by division staff, pursuant to subsection (E)(1)(a)(5); and~~
 - ~~c. Fingerprinting pursuant to subsection (E)(1)(d) Additional or updated criminal history; and~~
 - d. Information related to the grounds for board denial of the application under ACJA § 7-201.12

E. Division Report and Recommendation.

1. Contents. The division staff must prepare a report and recommendation for the board's consideration and decision. The report and recommendation must include:
 - a. A written recommendation on the applicant's qualifications and eligibility for

licensing;

- b. Information about deficiencies in a timely-filed application, the written notice of deficiency issued by division staff, and the applicant's response correcting or explaining the deficiencies;
- c. Information about pending complaints or disciplinary matters against the applicant for renewal;
- d. Information about unresolved factual or legal issues with the applicant or application;
- e. Information about applicant's conduct that would be grounds for denial of an initial application;
- f. Information about whether the applicant will attend the board meeting and be available to answer questions; and
- g. If necessary, division staff's request for guidance from the board.

F. Decision on Renewal Application.

1. Board agenda. After division staff issues the report and recommendation on a renewal application, the renewal application may be placed on the board's agenda.
2. Board action. After reviewing the division staff report and recommendation about an application, the board may consider the application at a board meeting when the application is on the agenda for consideration and possible action. The board may take various actions, including:
 - a. Asking the applicant questions relevant to the licensing decision, including about the renewal application, the applicant's continued qualifications, the division's review, information provided or omitted by the applicant, the practice of the profession or occupation after license expiration if the application was allowed to be untimely filed, and areas of concern;
 - b. Requesting additional information from the applicant;
 - c. Requesting that division staff conduct additional investigation;
 - d. Responding to division staff's request for guidance, if any;
 - e. Postponing the licensing decision to a future, regular board meeting; and
 - f. Granting or denying the licensing application.
3. Standard. The standards for granting or denying license renewal are the standards for

granting or denying an initial license as stated in ACJA §§ 7-201.09 and 7-201.12.

4. Decision ~~Regarding Renewal~~ granting renewal.

~~a. The board may renew a certification if the certificate holder:~~

- ~~(1) Meets all requirements for renewal as specified in this section and the applicable section of the ACJA;~~
- ~~(2) Submits a completed renewal application; and~~
- ~~(3) Pays the renewal fees on or before the expiration date as specified by the applicable section of the ACJA.~~

~~ba. When the board votes to grant license renewal, Division division staff shall promptly notify must give the licensee written notice of the decision the applicant in writing of the board's decision to renew the applicant's certificate in accordance with this section and the applicable section of the ACJA.~~

~~b. Each After a license is renewed, applicant shall receive division staff must issue a document, badge, or card evidencing renewal of certification, stating the applicant's licensee's name, date of certification, certification license number, issue date, and expiration date.~~

~~e5. Decision denying renewal. The If the board may votes to deny license renewal: of certification for any of the reasons stated in subsection (E)(2)(c). Division staff shall promptly notify the applicant, in writing within ten days of the board's decision to deny renewal of certification. The notice shall include the board's reasons for the denial of renewal of certification and the right of the applicant to a hearing, pursuant to subsection (G)(4)(d).~~

~~a. It must issue a written decision and order, and give notice to the applicant, as provided in ACJA § 7-201.13(D)~~

~~db. An The written decision and order must include a statement that the applicant is entitled to may appeal the decision by requesting a hearing, under ACJA § 7-201.13(E). on the decision to deny renewal of certification if the disciplinary clerk receives a written request for a hearing within fifteen days after the date of the notice of denial. The applicant is the moving party at the hearing and has the burden of proof. The provisions of subsections (H)(12) through (H)(23) and (H)(25) through (H)(27) apply regarding procedures for hearing and appeal.~~

Section 7-201.20: Licensee Conduct

A. Code of Conduct. A licensee must abide by this section and the code or standards of conduct in the article governing the profession or occupation.

B. Identification. Upon request, a licensee must provide proof of licensing.

C. Assumed Business Name. A licensee must not transact business in this state under a name other than the licensee's legal name on file with the division.

D. Response. A licensee must timely respond to a request for information or documents under this chapter and to a subpoena or order issued by a court or judicial officer.

E. Candor. A licensee has a duty of candor to a tribunal and the division. In addition:

1. A licensee must not knowingly:

a. Make a false statement or omission of material fact or law to a tribunal or the division;
or

b. Fail to disclose a material fact to a tribunal or the division unless the disclosure is prohibited by law and the licensee states in response to the request that the disclosure is not made for that reason.

2. A licensee convicted of a misdemeanor or felony must notify the division within 10 calendar days after entry of the judgment of conviction.

F. Change of Name or Address. A licensee must give notice to the division of a change in name or business, directory, mailing, or home address; telephone number; or email address within 30 days of the change, except as provided in the article governing the profession or occupation. The licensee must give this notice to the division in writing on the form and by the method specified by the division.

G. Use of Designation or Abbreviation. A person who is licensed to practice in a specific profession or occupation under this chapter is authorized to use the applicable designation "Arizona licensed" or "Arizona certified," followed by the name or recognized of the profession or occupation (for example, "Arizona licensed fiduciary"), with their title or name.

H. Transfer Prohibited. Licenses issued under this chapter are not transferable.

SHOWING How Proposed § 7-201.20 Revises Current §§ 7-201(F) and 7-201(E)(5)

~~**F. Role and Responsibilities of Certificate Holders.**~~

~~**A. Code of Conduct.** Each individual certificate holder shall adhere to~~ A licensee must abide by this section and the code of conduct or standards of conduct, subsection (J) in the applicable section of the ACJA article governing the profession or occupation.

2B. Identification. Upon request by any judicial officer, court employee or member of the public, a ~~certificate holder shall~~ licensee must provide proof of ~~certification~~ licensing.

3C. Assumed Business Name. A ~~certificate holder shall~~ licensee must not transact business in this state under ~~an assumed name or under any designation, a name or style, corporate or otherwise,~~ other than the legal name of the ~~individual or business entity unless the person or business entity files~~ licensee on file with the division staff a statement indicating the name for transaction of the business and the legal full name of the certificate holder.

4D. Response. A ~~certificate holder shall~~ licensee must timely respond by the specific time stated in to a any request for information from, and shall provide or documents under this chapter to the director, deputy director, division staff, or board pertaining to certification, renewal of certification, complaints alleging acts of misconduct or violations by the certificate holder, investigative inquiries and compliance audits or defensive driving course monitorings of the practice of the certificate holder. A certificate holder shall respond and to any subpoenas or orders subpoena or order issued by the director, division director, board, or any a court or judicial officer. Failure to comply with this subsection by a certificate holder constitutes grounds for discipline pursuant to subsection (H)(6)(e) or denial of renewal of certification pursuant to subsection (G)(3) and (G)(4). Failure to comply with this subsection by a certificate holder in completion of a corrective action plan or defensive driving course monitoring may constitute grounds for discipline, pursuant to subsection (H)(6)(b).

5E. Candor. A licensee has a duty of candor to a tribunal and the division.

~~a1.~~ A ~~certificate holder shall~~ licensee must not knowingly:

- ~~(1)a.~~ Make a false statement or omission of material fact or law to a tribunal or the division; or
- ~~(2)b.~~ Fail to disclose a material fact to a tribunal or the division, ~~except as required by applicable law~~ unless the disclosure is prohibited by law and the licensee states in response to the request that the disclosure is not made for that reason.

~~b2.~~ A ~~certificate holder shall~~ licensee convicted of a misdemeanor or felony must notify the division staff ~~within ten~~ 10 calendar days of after entry of the judgment of a misdemeanor or felony conviction.

6F. Change of Name or Address. A ~~certificate holder shall~~ licensee must ~~notify~~ give notice to the division staff of any a change in name or business, directory, mailing, or home address; telephone number; or email address within 30 days of ~~any the~~ the change, pursuant to the applicable sections of the ACJA, except as provided in the article governing the profession or occupation. The ~~certificate holder shall make this~~ licensee must give this notice in writing by U.S. Post, facsimile or email to the division in writing on the form and by the method specified by the division.

G. Use of Designation or Abbreviation. A person who is licensed to practice in a specific profession or occupation under this chapter is authorized to use the applicable designation "Arizona licensed" or "Arizona certified," followed by the name or recognized of the profession or occupation (for example, "Arizona licensed fiduciary"), with their title or name.

H. Transfer Prohibited. Licenses issued under this chapter are not transferable.

Section 7-201.21: Grounds for Discipline

A. Licensee Violations. A licensee may be disciplined for:

1. Failing to perform a duty imposed on a licensee by this chapter, a rule, or a statute.
2. Violating or failing to comply with a federal, state, or local law or rule governing the practice of the profession or occupation.
3. Violating or failing to comply with a code of conduct, rule of professional conduct, or professional standard applicable to the licensee's profession or occupation, including a violation of ACJA § 7-201.20, that is in effect in this or any jurisdiction where the licensee is authorized to practice a profession or occupation.
4. A knowing violation of a rule or court order, including child support orders.
5. A knowing violation of the rules of or orders issued by a state, tribal, territory, or federal court.
6. Violating or failing to comply with a duty or requirement in a disciplinary or disability investigation or proceeding that is imposed on a licensee under this chapter, a rule, or a statute in this or any jurisdiction in which the licensee is or was licensed.
7. Violating or failing to comply with a provision of this chapter, including a provision under the article governing the licensee's profession or occupation.
8. Violating or failing to comply with a corrective action plan resulting from an audit or monitoring.
9. Violating or failing to comply with the terms of a consent agreement in any jurisdiction in which the licensee is or was licensed.
10. Violating or failing to comply with a license limitation or restriction in any jurisdiction in which the licensee is or was licensed.
11. Violating or failing to comply with a term of probation in any jurisdiction in which the licensee is or was licensed.
12. Receiving professional discipline in another jurisdiction.
13. Knowingly making or filing false reports or records in the practice of the profession or occupation.
14. Exercising influence over a client or customer to the licensee's benefit, financial or otherwise, or to the benefit of anyone other than the client or customer.

15. Failing to cooperate or provide information as required or requested under this chapter.
16. Aiding or assisting another person in engaging in the unauthorized practice of a profession or occupation under this chapter without a license.
17. Conviction in any jurisdiction of a serious crime, whether misdemeanor or felony, relevant to the licensee's profession or occupation under this chapter.
18. Gross negligence in the performance of duties or the practice of the licensee's profession or occupation.
19. Incompetence in the performance of duties or the practice of the licensee's profession or occupation.
20. Evading service of process or refusing to cooperate with division staff, the disciplinary clerk, the hearing officer, or any other official performing duties under this chapter.
21. Engaging in conduct that would have been grounds for denying licensee's initial, renewal, or reinstatement application or that would be grounds for denial of a future license renewal.
22. Endangering the public.
23. Engaging in more than an isolated instance of unprofessional conduct.

B. Unprofessional Conduct. A licensee may be disciplined for unprofessional conduct, including:

1. Assisting another applicant or licensee in the use of deception, dishonesty, or fraud to secure a license or renewal under this chapter.
2. Failing to comply with an order of a court, board, or regulatory agency if the order is related to the profession or occupation.
3. Failing to retain client or customer records for a period of 3 years unless another applicable law or rule provides a different retention period.
4. Failing to exercise a duty of care to avoid actions or omissions that may harm clients or customers of licensee's services, including by using unsafe, unacceptable, or prohibited practices.
5. Failing to exercise the level of competence and diligence that a reasonable licensee in the profession or occupation must provide to clients or customers under the same or similar conditions and regardless of the level of harm or injury to the client or customer.
6. Using a false, misleading, or deceptive statement, representation, or omission in the sale

or advertisement of goods or services.

7. Using a supreme-court-issued license to deceive the public about a licensee's level of skills or abilities.
8. Failing to file reports or other documents required in the practice of the profession or occupation.
9. Delegating professional or occupational responsibilities or duties to another person the licensee knows or should know lacks the level of education, experience, skills, or credentials required to perform the duties of the profession or occupation except as authorized under this chapter, including when the licensee is supervising individuals working to satisfy an experiential licensing requirement.
10. Engaging in the licensee's profession or occupation when medically or psychologically unfit.
11. Engaging in habitual substance abuse;
12. Violating a confidentiality requirement under this chapter, a rule, or a statute.
13. Being the subject of a professional disciplinary investigation or proceeding in another jurisdiction.
14. Committing violations under (A).

SHOWING How Proposed § 7-201.21 Revises Current § 7-201(H)(6)

Section 7-201.21: Grounds for Discipline

- 6A. ~~Grounds for Discipline-Licensee Violations. A certificate holder-licensee is subject to disciplinary action may be disciplined if the board finds the certificate holder has engaged in one or more of the following for:~~
- a1. ~~Failed~~ Failing to perform any a duty to discharge any obligation imposed on a licensee in the course of the certificate holder's responsibilities as required by law this chapter, court rules a rule, this section or the applicable section of the ACJA a statute;
 2. Violating or failing to comply with a federal, state, or local law or rule governing the practice of the profession or occupation.
 3. Violating or failing to comply with a code of conduct, rule of professional conduct, or professional standard applicable to the licensee's profession or occupation, including a violation of ACJA § 7-201.20, that is in effect in this or any jurisdiction where the licensee is authorized to practice a profession or occupation.

4. A knowing violation of a rule or court order, including child support orders.
5. A knowing violation of the rules of or orders issued by a state, tribal, territory, or federal court.
6. Violating or failing to comply with a duty or requirement in a disciplinary or disability investigation or proceeding that is imposed on a licensee under this chapter, a rule, or a statute in this or any jurisdiction in which the licensee is or was licensed.
7. Violating or failing to comply with a provision of this chapter, including a provision under the article governing the licensee's profession or occupation.
- ~~b~~8. Failed-Violating or failing to comply with or complete a corrective action plan resulting from an audit or course-monitoring.
9. Violating or failing to comply with the terms of a consent agreement in any jurisdiction in which the licensee is or was licensed.
10. Violating or failing to comply with a license limitation or restriction in any jurisdiction in which the licensee is or was licensed.
11. Violating or failing to comply with a term of probation in any jurisdiction in which the licensee is or was licensed.
12. Receiving professional discipline in another jurisdiction.
13. Knowingly making or filing false reports or records in the practice of the profession or occupation.
14. Exercising influence over a client or customer to the licensee's benefit, financial or otherwise, or to the benefit of anyone other than the client or customer.
- ~~e~~15. Failed-Failing to cooperate with or supply provide information to the director, deputy director, division staff or board by the specific time stated in any request as required or requested under this chapter.
- ~~d~~16. Aided or assisted-Aiding or assisting another person or business entity to provide services requiring certification if the other person or entity does not hold the required certification in engaging in the unauthorized practice of a profession or occupation under this chapter without a license.
- ~~e~~17. Conviction in any jurisdiction of a criminal offense while certified by final judgment of a serious crime, whether misdemeanor or felony, relevant to certification the licensee's profession or occupation under this chapter.
- ~~f.~~Failed to provide information regarding a criminal conviction;
- ~~g~~18. Exhibited gross-Gross negligence in the performance of duties or the practice of the licensee's profession or occupation.

~~h19. Exhibited incompetence~~ Incompetence in the performance of duties or the practice of the licensee's profession or occupation;

~~i20. Evaded~~ Evading service of a subpoena or notice process or refusing to cooperate with of the director, division director or board staff, the disciplinary clerk, the hearing officer, or any other official performing duties under this chapter;

~~j21. The existence of any cause for which original certification~~ Engaging in conduct that would have been grounds for denying licensee's initial, renewal, or of certification reinstatement application could have been or that would be grounds for denial of a future license renewal denied pursuant to subsections (E)(2)(c) or (G)(4)(c) and the applicable section of the ACJA;

22. Endangering the public.

23. Engaging in more than an isolated instance of unprofessional conduct.

***B. Unprofessional Conduct.** ~~Engaged in~~ A licensee may be disciplined for unprofessional conduct, including:

~~(1.) Assisted an~~ Assisting another applicant or certificate holder licensee in the use of deception, dishonesty, or fraud to secure an initial certificate a license or renewal of a certificate under this chapter;

~~(2.) Failed~~ Failing to comply with any an order of a court order, board, order or other regulatory agency order relevant if the order is related to the profession or occupation;

~~(3) Failed~~ Failing to comply with any a federal, state, or local law or rule governing the practice of the profession or occupation;

~~(4) Failed to comply with any terms of a consent agreement, restriction of a certificate or corrective action plan;~~

~~(5)3. Failed~~ Failing to retain client or customer records for a period of three 3 years unless another applicable law or rule allows for provides a different retention period;

~~(6)4. Failed to practice competently~~ Failing to exercise a duty of care to avoid actions or omissions that may harm clients or customers of licensee's services, including by use of using unsafe, or unacceptable, or prohibited practices;

~~(7)5. Failed~~ Failing during the performance of any responsibility or duty of the profession or occupation to use exercise the degree level of care, skill and proficiency commonly competence and diligence that a reasonable licensee in the profession or occupation must provide to clients or customers exercised by the ordinary skillful, careful and prudent professional certificate holder engaged in similar practice under the same or similar conditions and regardless of any the level of harm or injury to the client or customer;

~~(8) Failed to practice competently by reason of any cause on a single occasion or on multiple occasions by performing unsafe or unacceptable client or customer care or failed to conform to the essential standards of acceptable and prevailing practice;~~

- ~~(9)6.~~ Using a false, misleading, or deceptive statement, representation, or omission in the sale or advertisement of goods or services advertising intended to or having a tendency to deceive the public;
- ~~(10)7.~~ Using a supreme-court-issued license to deceive the public in about a licensee's level of skills or abilities;
- ~~(11)~~ Willfully made or filed false reports or records in the practice of the profession or occupation;
- ~~(12)8.~~ Failing to file required reports, records or pleadings other documents required in the practice of the profession or occupation;
- ~~(13)9.~~ Delegating professional or occupational responsibilities or duties to an employee or another person who the certificate holder knows does not possess the licensee knows or should know lacks the necessary level of education, experience, skills, or credentials required to perform the duties of the profession or occupation except as unless authorized under this chapter, including to when the licensee is supervising individuals working to satisfy an experiential licensing requirement do so by the applicable section of the ACJA;
- ~~(14)10.~~ Engaging in the responsibilities or duties of the profession or occupation when medically or psychologically unfit to do so;
- ~~(15)11.~~ Engaging in habitual substance abuse;
- ~~(16)~~ Engaged in undue influence over a client or customer to the benefit, financial or otherwise, of the certificate holder or a third party; or
- ~~(17)12.~~ Violating a any statutory, court rule, or the applicable ACJA section regarding a confidentiality requirement under this chapter, a rule, or a statute.
- 13. Being the subject of a professional disciplinary investigation or proceeding in another jurisdiction.
- 14. Committing violations under (A).

Section 7-201.22: Complaints

~~H. Complaints, Investigations, Disciplinary Actions, Proceedings and Certification and Disciplinary Hearings.~~

~~1A. Complaints: Filing a Complaint and General Provisions.~~

- 1. Time limit. A complaint must be brought within 3 years of the licensee's alleged conduct unless the time is extended by the division director for good cause.
- ~~#2. Filing of Complaint~~ Duty to file complaint. All judicial ~~Judicial~~ officers, court, judicial

~~employees, and certificate holders shall~~ licensees must, ~~and any person may, notify file~~
a complaint with the division staff if it appears a certificate holder they have reason to
believe a licensee has violated statutes, court rules, this section or the applicable section
of the ACJA engaged in conduct that is grounds for discipline under ACJA § 7-201.21.

3. Permissive complaint. Individuals who are not judicial officers, judicial employees, or
licensees, may file a complaint with the division if they have reason to believe a licensee
has engaged in conduct that is grounds for discipline under ACJA § 7-201.21.

4. Form of complaint.

a. ~~The complainant shall provide the~~ The complaint must:

- (1) Be in writing on a form specified by the division and signed by the complainant;
- (2) ~~with~~ Contain sufficient specificity detail about the facts and circumstances giving
the complainant reason to believe a licensee has engaged in conduct that, if true,
is grounds for discipline under ACJA § 7-201.21 and sufficient to warrant further
for investigation-; and
- (3) ~~The complaint form shall provide~~ Contain the complainant's printed name,
daytime and evening telephone number, email address, mailing address, and
physical home or business address of the complainant.

b. Anonymous complaints will not be accepted.

5. Pre-Licensing Complaints. Complaints alleging conduct that would be grounds for
discipline of a licensee under ACJA § 7-201.21 may be made against individuals who are
authorized or required to work in a profession or occupation before licensing. Complaints
filed against these individuals alleging conduct committed pre-licensing must be
investigated as part of the licensing process and not under this section.

~~bB. Director~~ Division-Initiated Complaints.

1. ~~In accordance with the policies and procedures developed pursuant to subsections (D)(2)(a)(6)~~
~~and (D)(2)(b)(2), the~~ The division director may direct find it necessary for protection of the
public to authorize filing a division staff to investigate allegations of acts of misconduct or
violations of statutes, court rules, or the ACJA, which may result in a complaint in the name
of the division, if such investigation protects and serves the best interest of the public. This
shall include an investigation where the complainant does not wish to have their identity
disclosed to the certificate holder including when-;

(1)a. Review of allegations. Division staff shall The division director has reason to believe
a licensee has engaged in conduct that is grounds for discipline under ACJA § 7-
201.21 that is sufficient to warrant further investigation and:

(a1) ~~Review the allegations and determine if~~ It is within the supreme court has court's
jurisdiction;

- ~~(b2) Determine if there~~ There is sufficient information to permit for an investigation;
and
- ~~(c) Verify details in the allegations including the certificate holder's status and, if available, any addresses, phone numbers or other relevant factors;~~
- ~~(d) Corroborate, by independent observations and information, the allegations of acts of misconduct or violations of statutes, court rules or the ACJA, to determine if the allegations are credible and reliable; and~~
- ~~(e) Meet with the division director to confirm jurisdiction and relevant factors contained in the allegations.~~
- (3) The conduct engaged in, if true, would warrant discipline.

b. A complainant establishes good cause for requesting that they not be identified as the complainant.

- ~~(2) Division staff shall, upon completion of the review, prepare a written report of the allegations and include the following:~~
 - ~~(a) Confirmation of supreme court jurisdiction;~~
 - ~~(b) Determination, if the allegations are true, they would warrant discipline;~~
 - ~~(c) Verification of details in the allegations; and~~
 - ~~(d) Corroboration of relevant facts by independent observations.~~
- ~~(3) Division staff shall forward the written report to the director for review and schedule a meeting with the director and division director.~~
- ~~(4) The director shall review the written report and direct staff to:~~
 - ~~(a) Conduct further review of the allegations;~~
 - ~~(b) Initiate a complaint naming the director as the complainant, pursuant to subsection (D)(2)(b)(3); or~~
 - ~~(c) Determine the allegations do not warrant the filing of a director initiated complaint.~~

2. A division-initiated complaint is subject to the provisions of this article applicable to complaints filed by third parties, except as stated in this section.

- ~~c. Anonymous Complaints. Division staff shall not accept anonymous complaints.~~
- ~~d. Authority after Expiration. If a complaint or investigation is pending prior to the expiration date of a certificate, the provisions of subsection (G)(1) and the applicable sections of the ACJA do not affect the authority of:~~
 - ~~(1) The director to initiate a complaint, pursuant to subsection (D)(2)(b)(3);~~
 - ~~(2) Division staff to investigate a complaint, pursuant to subsection (D)(4)(b)(5); or~~
 - ~~(3) The board to take disciplinary action regarding the certification of a certificate holder, pursuant to subsection (D)(5)(e)(1)(g).~~

C. Confidentiality.

1. Confidential complaint and investigative records. Complaint and investigative records are

confidential until there has been a probable cause finding, except as provided in this section or by law. Confidential complaint and investigative information or records includes:

a. Information and records received by the division in connection with a report of unprofessional conduct or violations, regardless of the existence of a complaint.

b. Information and records of the division:

(1) Received as part of a complaint;

(2) Received or generated by the division during the investigation of a complaint; and

(3) Received or generated by the division during an investigation to determine whether to open a division-initiated complaint.

2. Disclosure of complaint and investigative records.

a. Confidential complaint and investigative records may be disclosed during an investigation and before a finding of probable cause as follows, unless the disclosure is prohibited by law or court rule:

(1) To AOC staff, the attorney general, county attorney, law enforcement, or other regulatory or disciplinary officials; or

(2) If, in response to a request for the records, the director determines disclosure is in the public interest and there is no countervailing interest against disclosure by law or court rule.

b. After a finding of probable cause, the complaint and investigative records are no longer confidential under this section and may be disclosed unless:

(1) A law or court rule prohibits disclosure; or

(2) There is a finding of probable cause on fewer than all allegations and the probable cause evaluator directs further investigation of the remaining allegations.

3. Dismissed complaints.

a. When complaints are dismissed by the division director before a finding of probable cause, the complaint and investigative records remain confidential.

b. When complaints are dismissed by the board after a finding of probable cause, the complaint and investigative records are no longer confidential under this section and may be disclosed unless a law or court rule prohibits disclosure.

SHOWING How Proposed § 7-201.22(C) Revises Current § 7-201(H)(1)(g)

§C. Confidentiality of Complaints.

1. Confidential complaint and investigative records. ~~The director, deputy director, division staff, board and court employees shall keep~~ Complaint and investigative information or documents obtained or generated by the director, deputy director, division staff, board or court employees in the course of an open investigation or received in an initial report of misconduct confidential, except as mandated by court rules or this section. records are confidential until there has been a probable cause finding, except as provided in this section or by law or court rule. Confidential complaint and investigative information or records includes:

a. Information and records received by the division in connection with a report of misconduct, regardless of the existence of a complaint.

b. Information and records received or generated:

(1) By the division during the investigation of a complaint; and

(2) During an investigation to determine whether to open a division-initiated complaint.

~~(4)~~2. Disclosure of complaint and investigative records.

a. Confidential complaint and investigative information records may also be disclosed during the course of an open investigation and before a finding of probable cause as follows, unless the disclosure is prohibited by law or court rule:

(a1) To court AOC staff, the attorney general, county attorney, law enforcement, and or other regulatory or disciplinary officials; or

(b2) If, in response to a request for the records, the director makes a finding the determines disclosure is in the best public interest of the public and the interest is not outweighed by any other interests there is no countervailing interest against disclosure by law or court rule; or.

(c) ~~Is not contrary to law.~~

(2)b. ~~Once~~ After a finding of probable cause, has been entered all the complaint and investigative information and documents records are no longer confidential under this section and open for public inspection may be disclosed unless:

(a1) ~~Confidential by~~ A law or public record rules adopted by the supreme court rule prohibits disclosure; or

(b2) ~~If the deputy director, as probable cause evaluator, determines~~ There is a finding of probable cause on fewer than all allegations and the probable cause evaluator directs further investigation is necessary, the information or documents and those compiled in the further investigation shall remain confidential until probable cause is determined of the remaining allegations.

~~(3)~~3. Dismissed Complaints complaints.

a. When complaints are dismissed by the division director before a finding of probable cause, the complaint and investigative records remain pursuant to subsection (H)(2)(b) for lack of jurisdiction or clear insufficiency are confidential and not a matter of public record for inspection.

~~(4)b. Complaints~~ When complaints are dismissed by the board after a finding of probable cause, the complaint and investigative records pursuant to subsection (H)(24)(a)(3) are a matter of public record for inspection no longer confidential under this section and may be disclosed unless a law or court rule prohibits disclosure.

Section 7-201.23: Complainants

eA. Standing of Complainant Status.

1. Non-party status. A complainant ~~does is~~ not a party to a disciplinary, reinstatement, or reapplication matter.
2. No standing. A complainant has no ~~have~~ right, standing, or interest other than as a member of the public unless specifically authorized in this chapter regarding any proceedings and is not a party to any proceedings.

B. Submission to Jurisdiction. ~~The~~ By filing a complaint, a complainant submits to the jurisdiction of the ~~supreme court's certification and licensing division and the hearing officer~~ for all purposes relating to ~~the~~ resulting proceedings.

C. Immunity. Communications to the division, division director, division staff, or hearing officer, including testimony provided in a disciplinary hearing or statements in an affidavit or declaration are absolutely privileged conduct, and no civil action based on the making of these communications may be brought against any complainant or witness.

D. Communications.

- ~~(1.)~~ The A complainant ~~shall keep~~ must inform the division staff informed of any changes a change of mailing address, telephone number, ~~or~~ email address, and physical home or business address during the investigation and any disciplinary proceedings.
- ~~(2.)~~ The division will send the following to complainant ~~Division staff shall provide correspondence or notice to the complainant by electronic mail and may provide correspondence or notice to the complainant by United States mail to the last by email or by depositing a copy in the U.S. mail addressed to the complainant at the address of record with division staff last provided to the division-~~
- ~~(3)~~ To the extent practicable, division staff shall provide the complainant with the following information:
 - ~~(a.)~~ A written acknowledgement of the Notice of the division's receipt of the complaint;
 - ~~(b.)~~ A copy of the division's letter sent to notifying the certificate holder licensee requiring a response to the alleged acts of misconduct or violations and the initial

~~of the complaint and licensee's response by the certificate holder, within 20 days of receipt of the certificate holder's initial response deadline;~~

c. A copy of the licensee's response to the complaint;

~~(e)d.~~ Notice of any public proceeding a board meeting at which concerning the complaint will be on the agenda;

e. ~~or any~~ A copy of non-confidential documents consent agreement and a copy of the complaint materials being submitted to the board in support of an agenda item concerning the complaint;

f. Notice of action by the board concerning the complaint;

g. Notice of a finding of probable cause on the complaint's allegations;

h. Notice of the licensee's request for hearing;

i. Notice of the disciplinary hearing; and

~~(d)j.~~ Notice of the final disposition of each allegation, including dismissal of all or part of the complaint and a final decision and order; and.

~~(e)~~ Notice of the dismissal of the complaint within 10 days of the determination by the division director, if applicable, pursuant to subsection (H)(2)(b).

~~(4)3.~~ Before board consideration of an agenda item related to the complaint, Division staff shall inform the division will advise the board of the division's regarding staff compliance with this subsection the notice requirements of this section.

4. The division's Failure by division staff failure to comply with the notice requirements of this section is to provide the complainant with information as required by this subsection shall not affect the ultimate disposition of any allegations of acts of misconduct or violations by the certificate holder a basis for a legal or procedural challenge to board action.

~~(5.)~~ The A complainant may file a request for board review by the board of the division director's dismissal of the complaint or its allegations, within no later than 10 days of the date of the division's notice to complainant of the dismissal pursuant to subsection (H)(2)(e).

~~¶E. Non-abatement~~Abatement.

1. Investigation continues. The division's authority to investigate and process a filed complaint is unchanged by later events, including if:

- a. The complainant is unwilling to proceed or withdraws all or part of the complaint;
- b. Unwillingness, failure of the ~~The complainant to~~ does not cooperate with the division staff or the board, division's investigation ~~withdrawal of the complaint or a specific allegation of misconduct or violation contained in the complaint;~~
- c. There is a settlement or compromise between the complainant and the ~~certificate holder, licensee;~~ or
- d. restitution ~~Restitution has been paid by the certificate holder licensee shall not abate the processing of any complaint or disciplinary proceeding.~~

2. Division-initiated complaint. If a complainant is unwilling to proceed or withdraws all or part of the complaint, the investigation will proceed as a division-initiated complaint as if the complaint originated as a division-initiated complaint.

~~g. Confidentiality of Complaints. The director, deputy director, division staff, board and court employees shall keep information or documents obtained or generated by the director, deputy director, division staff, board or court employees in the course of an open investigation or received in an initial report of misconduct confidential, except as mandated by court rules or this section.~~

~~(1) Confidential information may also be disclosed during the course of an open investigation:~~

- ~~(a) To court staff, the attorney general, county attorney, law enforcement and other regulatory officials;~~
- ~~(b) If the director makes a finding the disclosure is in the best interest of the public and the interest is not outweighed by any other interests; or~~
- ~~(c) Is not contrary to law.~~

~~(2) Once a finding of probable cause has been entered all information and documents are open for public inspection unless:~~

- ~~(a) Confidential by law or public record rules adopted by the supreme court; or~~
- ~~(b) If the deputy director, as probable cause evaluator, determines further investigation is necessary, the information or documents and those compiled in the further investigation shall remain confidential until probable cause is determined.~~

~~(3) Complaints dismissed by the division director, pursuant to subsection (H)(2)(b) for lack of jurisdiction or clear insufficiency are confidential and not a matter of public record for inspection.~~

~~(4) Complaints dismissed by the board, pursuant to subsection (H)(24)(a)(3) are a matter of public record for inspection.~~

~~h. Investigative Subpoenas. Upon the recommendation of division staff and a demonstration of good cause, the division director, pursuant to subsection (D)(4)(a)(1), may issue an investigative subpoena to any person or entity:~~

- ~~(1) For the purpose of securing documents or information from any person or entity, if the documents or information are related to a pending investigation of alleged acts of misconduct or violations regarding statutes, court rules, this section or the applicable section of the ACJA.~~
- ~~(2) Subpoenas issued by the division director shall be issued and served in the same manner as provided by the Arizona Rules of Civil Procedure. An employee of the court or any other person as designated by the Arizona Rules of Civil Procedure may serve the subpoena.~~

~~i. Processing Time Frames. Division staff shall:~~

- ~~(1) Prepare any complaint the division director has dismissed pursuant to subsections (H)(2)(b) and (c) and forward the complaint to the board for review, pursuant to subsection (H)(2)(d), at the next regularly scheduled board meeting.~~
- ~~(2) Prepare and forward to the board for review at the next regularly scheduled board meeting, any investigated complaint the deputy director has reviewed and entered a finding regarding probable cause, pursuant to subsection (H)(5)(c).~~
- ~~(3) Prepare the documents for informal discipline no later than 30 days following the order of the board, pursuant to subsections (H)(7)(b) and (H)(25), unless the board extends the time for good cause.~~
- ~~(4) Prepare the documents for formal discipline no later than 30 days following the order of the board pursuant to subsections (H)(9)(b) and (H)(25), unless the board extends the time for good cause.~~
- ~~(5) File the formal statement of charges with the disciplinary clerk and arrange for service no later than 30 days following the order of the board, pursuant to subsection (H)(10), unless the board extends the time for good cause.~~
- ~~(6) Serve the board's order of emergency summary suspension and expedited hearing immediately on the certificate holder, pursuant to subsection (H)(9)(d)(2).~~
- ~~(7) Except as provided in subsections (H)(1)(i)(6) and (8), deposit in the United States mail addressed to the last known address on file with division staff, written notice of the board's final decision and order, regarding a complaint matter, to the certificate holder and complainant within ten days after the board's decision, pursuant to subsection (H)(26)(b) and (c). Notice by mail is complete upon deposit in the United States mail.~~
- ~~(8) Mail the board's final order of suspension or revocation of the certificate, pursuant to subsection (H)(26)(b) to the certificate holder, by certified mail return receipt requested, within two days, after the board's decision, addressed to the last known address on file with division staff; and~~
- ~~(9) Process complaints timely, with the goal of processing 98 percent of all complaints within 22 months from date of receipt to final decision by the board.~~

Section 7-201.24: Administrative Review; Dismissal

- A. Licensee Response.** Within 30 days after a complainant files or the division initiates a complaint against a licensee, division staff must give the licensee written notice of the

complaint and an opportunity to respond.

1. Written notice to the licensee must:

a. Include a copy of the complaint and records filed with the complaint.

b. Inform the licensee of the right to file a written response to the complaint within 30 days from the date of the notice. The licensee's response deadline may be extended by the division director for good cause under ACJA § 7-201.07(B)

2. A licensee must have the opportunity to respond to a complaint before discipline is initiated or imposed, except when the board will consider emergency license suspension under ACJA § 7-201.29.

3. The board never loses its power to impose discipline because a licensee fails to timely respond to a complaint.

SHOWING How Proposed § 7-201.24(A) Revises Current § 7-201(H)(3)(b) and (c)

~~**A. Licensee Response.** Notification to Certificate Holder of Complaint. Division staff shall send the complaint to the certificate holder within fifteen days of receiving the complaint or the date the division files a complaint or the date the director initiates a complaint pursuant to subsections (D)(2)(b)(3) and (H)(1)(b)(4)(b) against a licensee, division staff must give the licensee written notice of the complaint and an opportunity to respond.~~

1. Written notice to the licensee must:

a. Include a copy of the complaint and records filed with the complaint.

~~b. Certificate Holder's Response to Notification of Complaint. The certificate holder shall provide~~
Inform the licensee of the right to file a written response to the complaint within thirty 30 days of the notification of the complaint from the date of the notice. The licensee's response deadline may be extended by the division director for good cause.

~~2. The board shall not proceed with disciplinary action without providing the certificate holder the complaint and an opportunity to respond to the complaint, except in a matter regarding an emergency suspension pursuant to subsection (H)(9)(d). A licensee must have the opportunity to respond to a complaint before discipline is imposed, except when the board will consider emergency license suspension under ACJA § 7-201.29. Failure by the certificate holder to accept notification of a complaint or failure to respond to the complaint shall not prevent division staff from proceeding with an investigation and the board from taking any disciplinary action.~~

~~(1) If the certificate holder is unable to respond to a complaint within the time frame established by subsection (H)(3)(e), the certificate holder may submit a written request to the division director for an extension of time to respond. The request for an extension of~~

~~time to respond shall demonstrate good cause exists for an extension and shall provide a proposed date for fulfillment of the response requirement. The certificate holder shall file the written request for an extension of time to respond to the complaint, no later than five days prior to the date the response is due.~~

~~(2) The division director shall determine if good cause exists for an extension. Division staff shall notify the certificate holder of the division director's decision on the request for an extension of time for providing a written response, within five days of the request for extension from the certificate holder.~~

2B. Initial Screening of a Complaint. ~~Upon receipt of a complaint:~~

~~a1. Division Complaint defects. When a complaint is filed, division staff shall~~ must review the complaint for compliance with ACJA § 7-201.22(A)(4) and note defects, including if:

~~(1) Consider if a complaint:~~

~~(a.) Falls~~ The complaint is against a person or alleges conduct or outside the supreme court's jurisdiction;

~~(b.) Does~~ The complaint does not provide the name of a certificate holder identify the licensee;

~~(c.) Does~~ The complaint does not contain sufficient information detail about the facts and circumstances to permit an for investigation;

~~(d.) Does~~ The complaint does not provide specific allegations of acts of misconduct or violations of the statutes, court rules, this section or the applicable section of the ACJA sufficient detail about the facts and circumstances giving the complainant reason to believe a licensee has engaged in conduct that, if true, is grounds for discipline under ACJA § 7-201.21;

~~(e.) Contains allegations of acts of misconduct or violations~~ The alleged conduct, that if true, would is not constitute a violation of the statutes, court rule, this section or the applicable section of the ACJA, the certificate holder is required to comply with grounds for discipline under ACJA § 7-201.21;

~~(f.) Does~~ The complaint does not provide the name of contain the complainant's printed name and signature; or

~~(g.) Does warrant further investigation and evaluation.~~ A complaint against the licensee for the same conduct has been investigated and dismissed, and the new complaint contains no new information.

2. Nature of defects. Defects resulting from the complaint's failure to comply with ACJA § 7-201.22(A)(4) are listed in (A)(1)(a)-(f).
3. Recommendation. If division staff identifies a defect in compliance with ACJA § 7-201.22(A)(4) or other reason a complaint should not be investigated, division staff must provide a written recommendation to the division director stating the reasons for and against the complaint's possible administrative dismissal.
 - ~~(2) Recommend the division director dismiss the complaint if the complaint:~~
 - ~~(a) Falls outside the jurisdiction of the supreme court, court rules, this section, the applicable section of the ACJA, or the laws applicable to the certificate holder;~~
 - ~~(b) Does not provide the name of a certificate holder;~~
 - ~~(c) Does not contain sufficient information to permit an investigation;~~
 - ~~(d) Does not provide specific allegations of acts of misconduct or violations of the statutes, court rules, this section or the applicable section of the ACJA;~~
 - ~~(e) Contains allegations of acts of misconduct or violations that if true, would not constitute a violation of the statutes, court rules, this section or the applicable section the certificate holder is required to comply with; or~~
 - ~~(f) Does not provide the name of the complainant.~~

C. Division Director Review.

1. If the division director receives a division staff recommendation for possible dismissal:
 - a. The division director must dismiss the complaint for defects listed in (A)(1)(a) and (c).
 - ~~(3) Report all complaints dismissed by the division director to the board at the next regularly scheduled board meeting following the determination by the division director; and~~
 - ~~(4) Provide written notice to the complainant and the certificate holder of the division director's decision to dismiss the complaint for the reasons in subsection (H)(2)(b) and (c), within ten days of the division director's decision.~~
 - b. The If the recommendation for dismissal is based on defects listed in (A)(1)(b)-(d) and (f), the division director may:
 - (1) Direct division staff to return an incomplete complaint to give the complainant a deadline and instructions for supplying the missing or additional information needed to cure the defects; or
 - ~~(2) Dismiss a complaint, pursuant to subsection (D)(4)(a)(2), with or without prejudice, if the complaint falls outside the jurisdiction of the supreme court, the statutes, court rules, this section or the applicable section of the ACJA;~~
 - ~~(3) Dismiss a the complaint, pursuant to subsection (D)(4)(a)(3), with or without prejudice, if the complaint meets any of the criteria of subsection (H)(2)(a)(2)(b) through (f); or.~~

~~(4) Refer the complaint to another state agency or entity with jurisdiction, if appropriate, pursuant to subsection (D)(4)(a)(4).~~

~~e2. The If the division director gave the complainant the opportunity to supply the missing or additional information to cure the complaint's defects and the complainant fails to do so by the deadline, including a deadline extended for good cause at complainant's request, then the director shall must dismiss the complaint, if the complainant does not supply documents or other information to remedy an insufficient complaint or demonstrate the alleged acts of misconduct or violations are within the certificate holder's responsibilities as required by statutes, court rules, this section or the applicable section of ACJA.~~

3. If the division director dismissed the complaint because it was against a person, or alleged conduct, outside the supreme court's jurisdiction, the director should, if possible, refer the complaint to an appropriate federal, state, or local agency.

D. Notice of Dismissal.

1. Before each regular board meeting, the division must notify the board of the complaints dismissed by the division director since the board's last meeting.
2. Within 10 days after the division director's dismissal of a complaint, the division must provide written notice of the dismissal to the complainant.

E. Board Review of Administrative Dismissal.

1. Request for review. No later than 10 days after the date of the written notice to the complainant of the division director's dismissal, the complainant may file a request for the board to review the division director's decision. The request must be filed on a form specified by the division.
2. Documentation. Division staff must provide the board members with a copy of the complaint, records submitted with the complaint, the division staff recommendation to the division director, and the complainant's request for review. The copies provided to the board for its review are confidential under ACJA § 7-201.22(C).
3. Consideration. The board considers administratively dismissed complaints:
 - a. Collectively, if on the consent agenda.
 - b. Individually, if:
 - (1) Removed from the consent agenda by vote of the board; or
 - (2) Board review is requested by the complainant.
4. Confidentiality. To preserve confidentiality under ACJA § 7-201.22(C), the dismissed complaints are listed and identified only by complaint number:

- a. On the board's consent agenda of dismissed complaints; or
 - b. As a separate agenda item if the complainant requested board review.
5. Consent agenda. The board's regular meeting agenda must include a consent agenda listing the complaint numbers dismissed by the division director between the last board meeting and the preparation of the board agenda.
- a. On the successful motion of a board member, a dismissed complaint may be removed from the consent agenda for separate consideration by the board.
 - ~~db. The board shall review, pursuant to subsection (D)(5)(e)(1)(e), the~~ The division director's dismissal of a complaint the complaints remaining on the consent agenda is affirmed or rejected by a single vote to approve or disapprove the consent agenda and do one of the following:
 - ~~(1) Affirm the division director's dismissal; or~~
 - ~~(2) Request additional investigation of the dismissed complaint; pursuant to subsection (D)(5)(e)(2)(e).~~
6. Individual consideration. For dismissed complaints that are removed from the consent agenda or are already separate agenda items because the complainant requested board review the board must consider them individually.
- a. The board's individual consideration of a complaint dismissed by the director must occur in executive session if it would reveal the contents of the complaint or investigative materials that must be kept confidential under ACJA § 7-201.22(C).
 - b. After consideration of a dismissed complaint, the board may take action, including:
 - (1) Voting in public session to:
 - (a) Affirm the division director's dismissal; or
 - (b) Reverse the division director's dismissal and send the complaint for investigation.
 - (2) Giving direction to division staff about the nature or scope of the investigation requested, but the board must do so in executive session to preserve the confidentiality required under ACJA § 7-201.22(C).
 - ~~e. The complainant may request the board review the division director's dismissal of the complaint pursuant to subsection (H)(2)(b) or (e) by submitting a written request for review, specifying the requested reasons for the board's review. The complainant shall submit the request for review to division staff within ten days of the written notice of the division director's dismissal of the complaint.~~

Section 7-201.25: Complaint Investigations

~~3A. Investigation. Division staff shall investigate the complaint, after completion of the Complaints that are not administratively dismissed after initial screening are investigated of the complaint and the determination a complaint is within the jurisdiction of the supreme court and warrants further investigation pursuant to determine the validity of the complaint's allegations-subsection (H)(2)(a)(1)(g).~~

~~a. Preliminary Investigation. Division staff shall conduct an investigation of all complaints not dismissed by the division director to determine if a certificate holder has violated statutes, court rules, this section, or the applicable section of the ACJA; or for the purpose of securing information useful in the lawful administration of the law; this section, or the applicable sections of the ACJA.~~

~~b. Notification to Certificate Holder of Complaint. Division staff shall send the complaint to the certificate holder within fifteen days of receiving the complaint or the date the director initiates a complaint pursuant to subsections (D)(2)(b)(3) and (H)(1)(b)(4)(b).~~

~~c. Certificate Holder's Response to Notification of Complaint. The certificate holder shall provide a written response to the complaint within thirty days of the notification of the complaint. The board shall not proceed with disciplinary action without providing the certificate holder the complaint and an opportunity to respond to the complaint, except in a matter regarding an emergency suspension pursuant to subsection (H)(9)(d). Failure by the certificate holder to accept notification of a complaint or failure to respond to the complaint shall not prevent division staff from proceeding with an investigation and the board from taking any disciplinary action.~~

~~(1) If the certificate holder is unable to respond to a complaint within the time frame established by subsection (H)(3)(c), the certificate holder may submit a written request to the division director for an extension of time to respond. The request for an extension of time to respond shall demonstrate good cause exists for an extension and shall provide a proposed date for fulfillment of the response requirement. The certificate holder shall file the written request for an extension of time to respond to the complaint, no later than five days prior to the date the response is due.~~

~~(2) The division director shall determine if good cause exists for an extension. Division staff shall notify the certificate holder of the division director's decision on the request for an extension of time for providing a written response, within five days of the request for extension from the certificate holder.~~

B. Investigative Subpoenas. The division director may issue an investigative subpoena to a person to compel the production of documents, information, tangible things, or sworn testimony as necessary to investigate a complaint.

1. The division may obtain evidence through the voluntary cooperation of witnesses and licensees but is not required to establish a lack of cooperation before issuing a subpoena to compel production.

2. Subpoenas under this section must be served by an individual who is at least 18 years old by delivering a copy to the named person in a manner authorized under Rule 5(c)(2), Arizona Rules of Civil Procedure.

SHOWING How Proposed § 7-201.25(B) Revises Current § 7-201(H)(1)(h)

hB. Investigative Subpoenas. ~~Upon the recommendation of division staff and a demonstration of good cause, the~~ The division director, pursuant to subsection (D)(4)(a)(1), may issue an investigative subpoena to any a person or entity, to compel the production of documents, information, or tangible things as necessary necessary to investigate a complaint.

~~(1.) The division may obtain evidence through the voluntary cooperation of witnesses and licensees but is not required to establish a lack of cooperation before issuing a subpoena to compel production. For the purpose of securing documents or information from any person or entity, if the documents or information are related to a pending investigation of alleged acts of misconduct or violations regarding statutes, court rules, this section or the applicable section of the ACJA.~~

~~(2.) Subpoenas under this section issued by the division director shall be issued and must be served in the same manner by an individual who is at least 18 years old by delivering a copy to the named person as provided by the in a manner authorized under Rule 5(c)(2), Arizona Rules of Civil Procedure. An employee of the court or any person as designated by the Arizona Rules of Civil Procedure may serve the subpoena.~~

C. Discovery of Additional Violations.

1. If evidence of possible violations or unprofessional conduct other than those specified in a complaint are discovered during investigation of the complaint, the other violations or misconduct may be investigated and resolved as part of the existing complaint as if they had been included in the complaint.
2. The investigative summary must disclose that these other possible violations or misconduct were discovered by division staff during their complaint investigation.

Section 7-201.26: Compliance Audits

A. Authority. A compliance audit of a licensee occurs:

1. As required by law.
2. At the division director's instruction, according to procedures approved by the division director, for administrative purposes, including:
 - a. To determine if one or more randomly selected licensees are in compliance with

- applicable requirements of their profession or occupation; and
- b. To survey and evaluate the practices of one or more groups of licensees for purposes of improving the supreme court's regulation of the profession or occupation.
3. As approved by the director as part of an investigation.
4. When ordered by the board in final resolution of a complaint or a final order in a disciplinary proceeding.

B. Requirements.

1. Procedures. The schedule, guidelines, and procedures for conducting compliance audits are as approved by the division director.
2. Confidentiality.
- a. Division staff's compliance audit working papers are confidential records closed to the public. They may be disclosed to AOC staff performing official duties, the attorney general, county attorney, public regulatory entities, or law enforcement agencies.
- b. A final audit report issued to the licensee is not confidential and is open to public inspection.
3. Subpoenas. The division director may issue a subpoena to a person to compel the production of records, to compel the production of documents, information, tangible things, or sworn testimony as necessary for purposes of the audit. The provisions for investigative subpoenas in ACJA § 7-201.25(B)(1) and (2) apply.
4. Corrective action plan. A final audit report may include a corrective action plan for the licensee. The board may order the licensee to comply with a corrective action plan.
5. Complaint. The division director may authorize the filing of a division-initiated complaint under ACJA § 701.22(B), or make a referral to an appropriate federal, state, or local agency, based on information obtained during a compliance audit.

- C. Violations or Noncompliance.** If a licensee fails to comply with a subpoena issued under this section, or with an order issued by the board as part of a corrective action plan, the division may apply to the presiding disciplinary judge or hearing officer for an order directing the licensee to comply. The failure to obey a resulting compliance order is punishable as contempt of court.

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SHOWING How Proposed § 7-201.26 Revises Current § 7-201(D)(2)(b)(4)

A. Authority. A compliance audit of a licensee occurs:

1. As required by law.
2. At the division director's instruction, according to procedures approved by the division director, for administrative purposes, including:
 - ~~(4)a.~~ Pursuant to the applicable sections of the ACJA, administrative orders and A.R.S. §§ 28-3399 and 41-2401(D)(8), initiate a compliance audit of a certificate holder to To determine if the certificate holder one or more randomly selected licensees are is in compliance with statutes, court rules, administrative orders, court orders, local rules, the ACJA and any other legal or ethical requirement relating to the certificate holder's applicable requirements of their profession or occupation; and
 - b. To survey and evaluate the practices of one or more groups of licensees for purposes of improving the supreme court's regulation of the profession or occupation.
3. As approved by the director as part of an investigation.
4. When ordered by the board in final resolution of a complaint or a final order in a disciplinary proceeding.

B. Requirements. The following provisions apply to audits:

- ~~(a)~~1. Timeframes-Procedures. The director shall develop timeframes schedule, guidelines, and procedures for division staff conducting compliance audits are as approved by the division director.
- ~~(b)~~2. Confidentiality.
 - ~~(i)~~a. Division staff's Working papers associated with the compliance audit working papers maintained by division staff are not public records and are confidential records closed to the public. They may be disclosed to not subject to disclosure, except to court AOC staff in connection with their performing official duties, the attorney general, county attorney, public regulatory entities, or law enforcement agencies.
 - ~~(ii)~~b. Upon completion of an audit the A final audit report issued to the affected party licensee is a public record subject not confidential and is open to public inspection.
- ~~(c)~~3. Subpoena-Subpoenas. The division director may issue a subpoena subpoena to a person witnesses or documentary evidence, to compel the production of documents, information, tangible things, or sworn testimony as necessary administer oaths and examine under oath any individual relative to for purposes of the audit. The provisions for investigative subpoenas in ACJA § 7-201.25(B)(1) and (2) apply.

4. Corrective action plan. A final audit report may include a corrective action plan for the licensee. The board may order the licensee to comply with a corrective action plan.

~~(d)~~5. Referral-Complaint. The division director may authorize the filing of a division-initiated complaint under ACJA § 701.22(B), or make a referral to an appropriate federal, state, or local agency, based on information obtained during a compliance audit. ~~refer the audited certificate holder to an applicable agency or division staff for investigation of alleged acts of misconduct or violations of the statutes, court rules, this section or the applicable sections of the ACJA. If the director refers the audited certificate holder to division staff for investigation of allegations of acts of misconduct or violations, the division staff shall process the complaint pursuant to subsection (H).~~

~~(e)~~C. Violations or Noncompliance. If a licensee fails to comply with a subpoena issued under this section, or with an order issued by the board as part of ~~Wilful violation of or wilful noncompliance with an order of the director regarding the audit, or wilful noncompliance with a~~ corrective action plan, the division may apply to the presiding disciplinary judge or hearing officer for ~~resulting from an audit, may result in an order directing the certificate holder licensee to comply. The director may forward a copy of the order or report to the superior court and request the superior court issue an order to require the appearance of a person or business, compliance with the director's order, or both. The superior court may treat the failure to obey a resulting compliance~~ the order is punishable as contempt of court and may impose penalties as though the certificate holder had disobeyed an order issued by the superior court.

Section 7-201.27. Probable Cause

4A. Preparation of Investigation Summary.

1. After investigation. Upon completion of ~~the~~ an investigation, division staff ~~shall~~ must prepare a written investigation summary for review by the probable cause evaluator, except as provided in this chapter. The investigation summary ~~shall~~ must include:

- a. ~~an~~ An analysis of the ~~allegations of misconduct and~~ violations and unprofessional conduct alleged or discovered during the investigation and the conduct required to establish each;
- b. The facts verified or established during the investigation and whether those facts support the existence of the alleged or discovered violations or unprofessional conduct; and
- c. ~~a~~ A written recommendation from the division director as to whether the probable cause evaluator should find ~~exists demonstrating that the investigation summary has established reasonable grounds for belief that the certificate holder licensee has committed violations or any of the alleged acts of misconduct unprofessional conduct or violations warranting discipline.~~

2. Emergency. When the division has information during an investigation that emergency suspension is necessary to address an imminent risk to the public health, safety, or welfare, division staff must prepare a written investigation summary for review by the probable cause evaluator while the investigation is ongoing.

5B. Probable Cause Review. ~~Pursuant to subsection (H)(4) division staff shall forward the investigation summary to the probable cause evaluator for review and determination as to whether probable cause exists misconduct or violations occurred and are demonstrated in the investigation summary.~~

- ~~a1.~~ The deputy director, ~~serving in the capacity of as~~ probable cause evaluator ~~pursuant to subsection (D)(3)(a), shall must~~ review the written investigation summary ~~of the allegations of acts of misconduct or violations. The deputy director may agree or disagree with the recommendations contained in the summary and may do one or more of the following and~~ make written findings that:

- ~~(1)a.~~ ~~Direct division staff to investigate further~~ Additional investigation is required before a probable cause finding is possible, including information about the additional investigation needed;

- ~~(2)b.~~ ~~Determine probable~~ Probable cause does not exist ~~demonstrating the certificate holder has committed any acts of misconduct because there is no reasonable grounds for belief that the licensee has committed acts of unprofessional conduct or violations of the statutes, court rules, this section, or the applicable section of the ACJA and enter a written finding to that, if true, effect would warrant discipline; or~~

- ~~(3)c.~~ ~~Determine probable~~ Probable cause exists ~~demonstrating the certificate holder has committed one or more acts of misconduct because there is reasonable grounds for belief that the licensee has committed acts of unprofessional conduct or violations of the statutes, court rules, this section, or the applicable section of the ACJA and enter a written finding to that, if true, effect would warrant discipline.~~

2. The deputy director must make a separate written finding for each allegation of the complaint presented in the investigation summary.

- ~~b3.~~ If the probable cause evaluator ~~directs division staff to~~ requires additional investigation of an allegation, the additional investigation must be given priority and resolved as soon as possible to facilitate transmission of all ~~investigate the complaint further, pursuant to subsection (H)(5)(a)(1), division staff shall do so immediately~~ allegations to the board together, unless the deputy director or division director determine that it is in the public interest to transmit specific allegations to the board ahead of those requiring additional investigation.

eC. Board Determination.

1. Transmission to the board. Upon review of the finding by the probable cause evaluator, pursuant to subsection (H)(5)(a)(2) and (3), division staff shall ~~The division must transmit probable cause findings forward to the board for its review, pursuant to subsection (H)(1)(i)(2), including:~~
 - a. ~~the~~ The division's investigation summary;
 - b. The deputy director's written finding by the findings of whether probable cause evaluator exists; and
 - c. The division director's a-written recommendation by the division director for on the appropriate disposition of the complaint, including ~~The written recommendation by the division director shall include any applicable sanctions if applicable, pursuant to subsections (H)(7), (H)(9), (H)(24)(a)(6) and (H)(24)(b).~~
2. Meeting schedule. A complaint for which there is a probable cause finding must be placed on the agenda of the next possible regular board meeting for presentation to the board and the board's consideration, discussion, and possible action.
3. Board action. The board shall review these documents at the next regularly scheduled board meeting and do one ~~may take one or more of the following actions after considering the complaint, of the following which may include a combination of discipline:~~
 - (1)a. Determine the ~~certificate holder~~ licensee did not commit any alleged acts of misconduct unprofessional conduct or violations and dismiss all or part of the complaint, pursuant to subsections (D)(5)(c)(1)(g) and (H)(24)(a)(3) with or without prejudice;
 - b. Determine that licensee's conduct not rising to the level of acts of unprofessional conduct or violations warrants an advisory letter to the licensee about the need to modify or eliminate practices or activities to avoid future complaints and disciplinary action;
 - (2)c. Determine the ~~allegations of licensee committed acts of misconduct unprofessional conduct or violations that do not warrant discipline pursuant to subsection (D)(5)(c)(1)(g), but the certificate holder's actions but that licensee should receive a confidential advisory letter addressing concerns about specific licensee conduct need to be modification or elimination and send an advisory letter to the certificate holder pursuant to subsections (H)(24)(a)(4) and (H)(24)(b)(1) modified or eliminated;~~
 - (3) ~~Determine the allegations of acts of misconduct or violations may be resolved through informal discipline proceedings pursuant to subsection (H)(7);~~
 - (4)d. Determine the licensee committed acts of misconduct unprofessional conduct or violations that may be resolved through a formal interview, pursuant to subsection

- ~~(H)(8)~~ appropriate for resolution by consent agreement or other negotiated settlement before beginning disciplinary proceedings;
- e. Determine the licensee committed acts of unprofessional conduct or violations appropriate for discipline;
 - ~~(5)f.~~ Determine the licensee committed acts of misconduct-unprofessional conduct or violations may be resolved through a appropriate for discipline proceeding, pursuant to subsection (H)(9); or
 - ~~(6)g.~~ Determine the licensee's acts of misconduct or violations pose harm or conduct poses a-an imminent risk to the public health, safety, or welfare and require resolution through an warranting emergency summary suspension, pursuant to subsection (H)(9)(d). An emergency summary suspension is a formal discipline proceeding pending resolution of the investigation;
 - h. Request additional investigation of one or more allegations and, to the extent practicable, specify the issues, areas, or facts requiring additional investigation; and
 - i. Table action on the complaint and request the licensee to appear at the next regular board meeting to answer the board's questions under oath or affirmation administered by the board chair.
4. Procedural decisions. The board may decide to consolidate or sever disciplinary matters against a licensee.
6. ~~Grounds for Discipline. A certificate holder is subject to disciplinary action if the board finds the certificate holder has engaged in one or more of the following:~~
- ~~a. Failed to perform any duty to discharge any obligation in the course of the certificate holder's responsibilities as required by law, court rules, this section or the applicable section of the ACJA;~~
 - ~~b. Failed to comply with or complete a corrective action plan resulting from an audit or course monitoring;~~
 - ~~c. Failed to cooperate with or supply information to the director, deputy director, division staff or board by the specific time stated in any request;~~
 - ~~d. Aided or assisted another person or business entity to provide services requiring certification if the other person or entity does not hold the required certification;~~
 - ~~e. Conviction of a criminal offense while certified by final judgment of a felony relevant to certification;~~
 - ~~f. Failed to provide information regarding a criminal conviction;~~

- ~~g. Exhibited gross negligence;~~
- ~~h. Exhibited incompetence in the performance of duties;~~
- ~~i. Evaded service of a subpoena or notice of the director, division director or board;~~
- ~~j. The existence of any cause for which original certification or renewal of certification could have been denied pursuant to subsections (E)(2)(c) or (G)(4)(c) and the applicable section of the ACJA;~~
- ~~k. Engaged in unprofessional conduct, including:~~
 - ~~(1) Assisted an applicant or certificate holder in the use of deception, dishonesty or fraud to secure an initial certificate or renewal of a certificate;~~
 - ~~(2) Failed to comply with any court order, board order or other regulatory agency order relevant to the profession or occupation;~~
 - ~~(3) Failed to comply with any federal, state or local law or rule governing the practice of the profession or occupation;~~
 - ~~(4) Failed to comply with any terms of a consent agreement, restriction of a certificate or corrective action plan;~~
 - ~~(5) Failed to retain client or customer records for a period of three years unless law or rule allows for a different retention period;~~
 - ~~(6) Failed to practice competently by use of unsafe or unacceptable practices;~~
 - ~~(7) Failed during the performance of any responsibility or duty of the profession or occupation to use the degree of care, skill and proficiency commonly exercised by the ordinary skillful, careful and prudent professional certificate holder engaged in similar practice under the same or similar conditions regardless of any level of harm or injury to the client or customer;~~
 - ~~(8) Failed to practice competently by reason of any cause on a single occasion or on multiple occasions by performing unsafe or unacceptable client or customer care or failed to conform to the essential standards of acceptable and prevailing practice;~~
 - ~~(9) Used advertising intended to or having a tendency to deceive the public;~~
 - ~~(10) Used a supreme court certification to deceive the public in level of skills or abilities;~~
 - ~~(11) Willfully made or filed false reports or records in the practice of the profession or occupation;~~
 - ~~(12) Failed to file required reports, records or pleadings in the practice of the profession or occupation;~~
 - ~~(13) Delegated professional or occupational responsibilities or duties to an employee or person who the certificate holder knows does not possess the necessary level of education, experience, skills or credentials to perform the duties of the profession or occupation unless authorized to do so by the applicable section of the ACJA;~~
 - ~~(14) Performed the responsibilities or duties of the profession or occupation when medically or psychologically unfit to do so;~~
 - ~~(15) Engaged in habitual substance abuse;~~
 - ~~(16) Engaged in undue influence over a client or customer to the benefit, financial or~~

~~otherwise, of the certificate holder or a third party; or~~
~~(17) Violated any statutory, court rule, or the applicable ACJA section regarding a confidentiality requirement.~~

Section 7-201.28: Licensee Appearance; Board Questions

A. Licensee Request to Appear.

1. Notice to licensee. When the division transmits probable cause findings to the board, it must transmit written notice to the licensee of the complaint allegations for which there was a finding of probable cause, including:
 - a. The division's investigation summary of those allegations;
 - b. The deputy director's finding of probable cause as to those allegations; and
 - c. The division director's disposition recommendation as to those allegations.
2. Request to appear. The applicant may request an opportunity to address the board in response to a finding of probable cause and the division director's disposition recommendation by making a written request on a form specified by the division within 5 days after the date of written notice to the licensee.
 - a. By making a request to address the board, the licensee also agrees to respond to board questions under oath or affirmation at the board meeting.
 - b. The licensee's failure to make a request to address the board does not preclude the board from exercising its discretion to request the licensee to appear to respond to questions under oath or affirmation.

B. Board Request for Licensee to Appear.

1. Board questions. In considering the appropriate action to take on a complaint, the board may table action on the complaint and request the licensee to appear at the next regular board meeting to answer the board's questions under oath or affirmation administered by the board chair.
 - a. The division must provide written notice to the licensee of the date and time of the requested appearance.
 - b. The licensee must be advised that they may appear with counsel, but the board's questions must be answered by the licensee and not by counsel.
 - c. If the licensee declines the board's request to appear or fails to appear to answer questions, the licensee does not forfeit the right to request a hearing after being served

with a formal statement of charges.

2. Following its questioning of the licensee or the licensee's failure to appear or failure to answer questions, the board may take one or more actions on the complaint, including those listed in ACJA § 7-201.28(C)(3).

SHOWING How Proposed § 7-201.28 Revises Current § 7-201(H)(8)

A. Licensee Request to Appear.

1. Notice to licensee. When the division transmits probable cause findings to the board, it must transmit written notice to the licensee of the complaint allegations for which there was a finding of probable cause, including:
 - a. The division's investigation summary of those allegations;
 - b. The deputy director's finding of probable cause as to those allegations; and
 - c. The division director's disposition recommendation as to those allegations.
2. Request to appear. The applicant may request an opportunity to address the board in response to a finding of probable cause and the division director's disposition recommendation by making a written request on a form specified by the division within 5 days after the date of written notice to the licensee.
 - a. By making a request to address the board, the licensee also agrees to respond to board questions under oath or affirmation at the board meeting.
 - b. The licensee's failure to make a request to address the board does not preclude the board from exercising its discretion to request the licensee to appear to respond to questions under oath or affirmation.

B. Board Request for Licensee to Appear.

81. Request for Formal Interview Board questions. In considering the appropriate action to take on a complaint, the board may table action on the complaint and request the licensee to appear at the next regular board meeting to answer the board's questions under oath or affirmation administered by the board chair. Upon entry of a finding of probable cause by the probable cause evaluator and review of the recommendation of the division director pursuant to subsections (H)(5)(a) and (c), and a board determination formal discipline is warranted, but before the filing of the formal statement of charges, the board may request a formal interview with a certificate holder, pursuant to subsection (D)(5)(c)(2)(d). The request for a formal interview is to determine if the facts of the complaint may be capable of resolution outside of a formal disciplinary process by consent agreement or other negotiated settlement, pursuant to subsection (H)(24)(a)(6)(c) between the board and certificate holder. The board shall hold the formal interview at the next regularly scheduled board meeting, unless the board determines good cause to expedite the interview.

- a. ~~Once the board determines a formal interview is necessary, division staff shall provide the certificate holder a copy of the investigation summary, finding by the probable cause evaluator and the written recommendation by the division director for the appropriate disposition of the complaint. Division staff shall also~~ The division must provide written notice to the licensee of the day date and time of the scheduled interview requested appearance.
 - b. The licensee must be advised that they may appear with counsel, but the board's questions must be answered by the licensee and not by counsel.
 - c. If the ~~certificate holder~~ licensee declines the board's request for an interview to appear or fails to appear to answer questions, the ~~certificate holder~~ licensee does not forfeit the right to request a hearing pursuant to subsection (H)(12) after being served with a formal statement of charges.
2. Following its questioning of the licensee or the licensee's failure to appear or failure to answer questions, the board may take one or more actions after on the complaint, of the following including those listed in (C)(3).
 - b. ~~If the certificate holder declines the board's request for a formal interview, or if the division director's recommended sanctions for future found violations include a suspension of more than twelve months or revocation, the board shall order the preparation of documents necessary for a filing of a formal statement of charges pursuant to subsections (D)(5)(e)(1)(f)(iv) and (H)(9)(b). The board may consolidate or sever any discipline matter pursuant to subsection (D)(5)(e)(2)(e).~~
 - e. ~~Upon the completion of the formal interview, if the board enters a finding the evidence obtained during the investigation or provided by the certificate holder merits a suspension of more than twelve months or revocation of the certificate, the board shall order the preparation of documents for filing a formal statement of charges, pursuant to subsections D(5)(e)(1)(f)(iv) and H(9)(b).~~
 - d. ~~Upon the completion of the formal interview, if the board enters a finding the evidence obtained during the investigation or provided by the certificate holder demonstrates the public's health, safety, or welfare requires emergency action, the board shall issue an emergency summary suspension order pursuant to subsections (D)(5)(e)(1)(f)(v) and H(9)(d).~~
 - e. ~~Upon completion of the formal interview, if the board determines the evidence obtained during the investigation or provided by the certificate holder does not merit a suspension of more than twelve months, revocation, or an emergency summary suspension, the board may take one or more of the following actions:~~
 - (1) ~~Determine the certificate holder did not commit any acts of misconduct or violations of statutes, court rules, this section, or the applicable section of the ACJA and dismiss the complaint pursuant to subsections (D)(5)(e)(1)(g) and (H)(24)(a)(3);~~
 - (2) ~~Determine the allegations of acts of misconduct or violations of statutes, court rules, this section, or the applicable section of the ACJA, do not warrant discipline, but the certificate holder's actions need modification or elimination and send an advisory letter to the certificate holder, pursuant to subsections (D)(5)(e)(1)(g), (H)(24)(a)(4) and (H)(24)(b)(1);~~
 - (3) ~~Determine the certificate holder committed one or more acts of misconduct or violations of the statutes, court rules, this section or the applicable section of the ACJA, and the complaint is appropriate for resolution through informal discipline proceedings pursuant to subsections (D)(5)(e)(1)(g) and (H)(7);~~

- ~~(4) Determine the certificate holder committed one or more acts of misconduct or violations of the statutes, court rules, this section or the applicable section of the ACJA, and the complaint is appropriate for resolution through a consent agreement as part of formal disciplinary proceedings, pursuant to subsections (D)(5)(e)(1)(g) and (H)(24)(a)(6)(e); or~~
- ~~(5) Determine the certificate holder committed one or more acts of misconduct or violations of the statutes, court rules, this section or the applicable section of the ACJA and the complaint is appropriate for resolution only through formal discipline proceedings, pursuant to subsection (D)(5)(e)(1)(g) and (H)(9).~~
- ~~f. If the board, after the formal interview is concluded, determines the acts of misconduct or violations warrant an emergency summary suspension, the board shall make an order for an expedited hearing, pursuant to subsections (H)(9)(d)(1) and (H)(12)(d).~~

Section 7-201.29: Emergency License Suspension

A. Requirements.

1. Probable cause.

a. During an investigation, or when disciplinary proceedings are pending, if the division has information that emergency suspension is necessary to address an imminent risk to the public health, safety, or welfare:

- (1) Division staff must prepare an investigation summary, even if the full investigation is ongoing, detailing the information supporting the need for emergency suspension and transmit the investigation summary to the deputy director.
- (2) The deputy director must review the investigation summary and determine if there is probable cause that the licensee's conduct is an imminent risk to the public health, safety, or welfare warranting emergency suspension.
- (3) If the deputy director finds probable cause and the division director recommends emergency suspension as an appropriate disposition, the division director must notify the board chair of the need to place the matter on the board's agenda.

b. If the board's next regular board meeting is not sufficiently soon to consider the issue of licensee's conduct and whether there is an imminent risk to the public health, safety, or welfare, the board chair must call an emergency meeting for the board to consider the recommended emergency suspension.

c. If the board is unable to convene an emergency meeting sufficiently soon given the imminent risk to the public health, safety, or welfare, the board chair may direct the board's legal counsel to present the matter to the hearing officer to consider issuing a preliminary emergency suspension order.

2. Notice. Before the board issues an emergency suspension order under this section, ~~or the matter is presented to the hearing officer for a preliminary emergency suspension order~~ the division, if practicable, must give notice and an opportunity to be heard to the licensee that is the intended subject of the emergency order.

- a. Using the contact information the licensee last provided to the division, the notice may be oral and may be by telephone, facsimile, email, or a combination of these methods in addition to written notice under ACJA § 7-201.08. The written notice must include:
 - (1) The full or incomplete investigation summary describing the facts supporting emergency suspension;
 - (2) The deputy director's finding of probable cause as to those allegations; and
 - (3) The division director's disposition recommendation.
- b. The division must document how and when notice is attempted or given, but a failure to document or failure to reach the licensee is not a basis for a legal or procedural challenge to board action.
- c. The notice must include the date and time of the board's regular or emergency meeting at which the board is expected to consider the subject of the licensee's emergency suspension or the date and time when the hearing officer will consider a preliminary emergency suspension order.

B. Board or Hearing Officer Action.

- 1. Order. The board may order an emergency license suspension, or the hearing officer may issue a preliminary emergency suspension order, under this section only on a finding that emergency suspension is necessary to address an imminent risk to the public health, safety, or welfare.
 - a. An order issued under this section by the board or the hearing officer must briefly explain the reasons for using the emergency suspension procedure.
 - b. The order must state that it is:
 - (1) Issued and effective when signed by the board chair or the hearing officer; and
 - (2) The order must state that it remains in effect for no more than 180 days or until the effective date of an order issued after the hearing on the emergency suspension, whichever is earlier.
- 2. Service of order and notice to licensee.
 - a. When the board issues an order of emergency license suspension or the hearing officer issues a preliminary emergency suspension order, the division must immediately serve the order on the licensee in a manner authorized for serving process under Rule 4.1, Arizona Rules of Civil Procedure.
 - b. The division must also give the licensee written notice, as provided in ACJA § 7-201.08, that the order of emergency suspension has been issued by the board or the hearing officer.

C. Hearing Date.

1. Filing order. When the board or the hearing officer issues an order of emergency license suspension or preliminary emergency suspension order, the division staff for the board issuing or requesting the order must immediately file a copy of the order with the disciplinary clerk.
2. Hearing date. Upon the filing of the order of emergency license suspension or preliminary emergency suspension, the disciplinary clerk must issue an order setting the date and time for a hearing on the order of emergency suspension.
 - a. The hearing must be held as soon as practicable on a date and time providing the licensee with sufficient notice and the opportunity to be heard.
 - b. The disciplinary clerk must email the order setting the hearing date to the division staff for the board issuing the order.
 - c. The division staff must serve the order on the licensee by delivering a copy to the named person in a manner authorized under Rule 5(c)(2), Arizona Rules of Civil Procedure, and by giving written notice to the licensee under ACJA § 7-201.08.
 - d. The division and licensee may file a joint request with the disciplinary clerk to schedule or reschedule the hearing for a mutually agreeable date.

D. Board Decision After Full Investigation.

1. Full investigation. If an order of emergency license suspension continues in effect after a hearing, the division will complete full investigation of the complaint allegations, preparation of an investigation summary, a probable cause determination, and a board determination about the appropriate discipline, if any.
2. Board decision.
 - a. If, after a full investigation, the board orders discipline in the form of license suspension or revocation, the board's order must address the status of the emergency suspension and whether the license is revoked or suspended on a non-emergency basis.
 - b. If the board does not order discipline, the board must terminate the emergency license suspension that was imposed as an interim measure.

SHOWING How Proposed § 7-201.29 Revises Current § 7-201(H)(9)(d)

Section 7-201.29: Emergency License Suspension

dA. Emergency Summary Suspension Requirements.

1. Probable cause.

a. During an investigation, or when disciplinary proceedings are pending, if the division has information that emergency suspension is necessary to address an imminent risk to the public health, safety, or welfare:

(1) Division staff must prepare an investigation summary, even if the full investigation is ongoing, detailing the information supporting the need for emergency suspension and transmit the investigation summary to the deputy director.

(2) The deputy director must review the investigation summary and determine if there is probable cause that the licensee's conduct is an imminent risk to the public health, safety, or welfare warranting emergency suspension.

(43) ~~Upon entry of a finding of~~ If the deputy director finds probable cause ~~by the probable cause evaluator and review of the recommendation of the division director pursuant to subsection (H)(5)(c), if the board finds the public health, safety or welfare is at risk and requires recommends~~ emergency action suspension as an appropriate disposition, the division director must notify the board chair of the need to place the matter on the board's agenda ~~shall order an immediate emergency summary suspension of a certificate and set a date for an expedited hearing while formal disciplinary proceedings are pending.~~

b. If the board's next regular board meeting is not sufficiently soon to consider the issue of licensee's conduct and whether there is an imminent risk to the public health, safety, or welfare, the board chair must call an emergency meeting for the board to consider the recommended emergency suspension.

c. If the board is unable to convene an emergency meeting sufficiently soon given the imminent risk to the public health, safety, or welfare, the board chair may direct the board's legal counsel to present the matter to the hearing officer to consider issuing a preliminary emergency suspension order.

(2.) Notice. ~~Division staff~~ Before the board issues an ~~shall ensure the order of~~ emergency summary suspension order under this section or the matter is presented to the hearing officer for a preliminary emergency suspension order, the division, if practicable, must give notice and an opportunity to be heard to the licensee that is the intended subject of the emergency order ~~is immediately served on the certificate holder with the notice of the emergency summary suspension and the expedited hearing as ordered by the board, pursuant to this subsection and subsection (H)(12)(d).~~

a. Using the contact information the licensee last provided to the division, the notice may be oral and may be by telephone, facsimile, email, or a combination of these methods in addition to written notice under ACJA § 7-201.08. The written notice must include:

(1) The full or incomplete investigation summary describing the facts supporting emergency suspension;

(2) The deputy director's finding of probable cause as to those allegations; and

(3) The division director's disposition recommendation.

- b. The division must document how and when notice is attempted or given, but a failure to document or failure to reach the licensee is not a basis for a legal or procedural challenge to board action.
- c. The notice must include the date and time of the board's regular or emergency meeting at which the board is expected to consider the subject of the licensee's emergency suspension or the date and time when the hearing officer will consider a preliminary emergency suspension order.

B. Board or Hearing Officer Action.

- 1. Order. The board may order an emergency license suspension, or the hearing officer may issue a preliminary emergency suspension order, under this section only on a finding that emergency suspension is necessary to address an imminent risk to the public health, safety, or welfare.
 - a. An order issued under this section by the board or the hearing officer must briefly explain the reasons for using the emergency suspension procedure.
 - b. The order must state that it is:
 - (1) Issued and effective when signed by the board chair or the hearing officer; and
 - (2) The order must state that it remains in effect for no more than 180 days or until the effective date of an order issued after a hearing on the emergency suspension, whichever is earlier.
- 2. Service of order and notice to licensee.
 - a. When the board issues an order of emergency license suspension or the hearing officer issues a preliminary emergency suspension order, the division must immediately serve the order on the licensee in a manner authorized for serving process under Rule 4.1, Arizona Rules of Civil Procedure.
 - b. The division must also give the licensee written notice, as provided in ACJA § 7-201.08, that the order of emergency suspension has been issued by the board or the hearing officer.

C. Hearing Date.

- 1. Filing order. When the board or the hearing officer issues an order of emergency license suspension or preliminary emergency suspension order, the division staff for the board issuing or requesting the order must immediately file a copy of the order with the disciplinary clerk.
- 2. Hearing date. Upon the filing of the order of emergency license suspension or preliminary emergency suspension, the disciplinary clerk must issue an order setting the date and time for a hearing on the order of emergency suspension.
 - ~~(3)~~a. The hearing shall must be held within ten days of the board's order of summary suspension as soon as practicable on a date and time providing the licensee with sufficient notice and the opportunity to be heard.
 - b. The disciplinary clerk must email the order setting the hearing date to the division staff for

the board issuing the order.

- c. The division staff must serve the order on the licensee by delivering a copy to the named person in a manner authorized under Rule 5(c)(2), Arizona Rules of Civil Procedure, and by giving written notice to the licensee under ACJA § 7-201.08.
- d. The division and licensee may file a joint request with the disciplinary clerk to schedule or reschedule the hearing for a mutually agreeable date.
 - ~~(4) The hearing officer shall only grant an extension of the ten day time period for holding the expedited hearing under extraordinary circumstances at the request of either party. The certificate holder may consent to a longer time period for the extension and the reasons for the extension shall be part of the record.~~
 - ~~(5) Division staff shall notify all applicable courts including superior court presiding judges, clerks of the superior court and superior court administrators of the emergency summary suspension.~~

D. Board Decision After Full Investigation.

- 1. Full investigation. If an order of emergency license suspension continues in effect after a hearing, the division will complete full investigation of the complaint allegations, preparation of an investigation summary, a probable cause determination, and a board determination about the appropriate discipline, if any.
- 2. Board decision.
 - a. If, after a full investigation, the board orders discipline in the form of license suspension or revocation, the board's order must address the status of the emergency suspension and whether the license is revoked or suspended on a non-emergency basis.
 - b. If the board does not order discipline, the board must terminate the emergency license suspension that was imposed as an interim measure.

~~8. Request for Formal Interview. Upon entry of a finding of probable cause by the probable cause evaluator and review of the recommendation of the division director pursuant to subsections (H)(5)(a) and (c), and a board determination formal discipline is warranted, but before the filing of the formal statement of charges, the board may request a formal interview with a certificate holder, pursuant to subsection (D)(5)(c)(2)(d). The request for a formal interview is to determine if the facts of the complaint may be capable of resolution outside of a formal disciplinary process by consent agreement or other negotiated settlement, pursuant to subsection (H)(24)(a)(6)(c) between the board and certificate holder. The board shall hold the formal interview at the next regularly scheduled board meeting, unless the board determines good cause to expedite the interview.~~

~~a. Once the board determines a formal interview is necessary, division staff shall provide~~

~~the certificate holder a copy of the investigation summary, finding by the probable cause evaluator and the written recommendation by the division director for the appropriate disposition of the complaint. Division staff shall also provide written notice of the day and time of the scheduled interview. If the certificate holder declines the board's request for an interview, the certificate holder does not forfeit the right to request a hearing pursuant to subsection (H)(12).~~

- ~~b. If the certificate holder declines the board's request for a formal interview, or if the division director's recommended sanctions for future found violations include a suspension of more than twelve months or revocation, the board shall order the preparation of documents necessary for a filing of a formal statement of charges pursuant to subsections (D)(5)(c)(1)(f)(iv) and (H)(9)(b). The board may consolidate or sever any discipline matter pursuant to subsection (D)(5)(c)(2)(e).~~
- ~~c. Upon the completion of the formal interview, if the board enters a finding the evidence obtained during the investigation or provided by the certificate holder merits a suspension of more than twelve months or revocation of the certificate, the board shall order the preparation of documents for filing a formal statement of charges, pursuant to subsections D(5)(c)(1)(f)(iv) and H(9)(b).~~
- ~~d. Upon the completion of the formal interview, if the board enters a finding the evidence obtained during the investigation or provided by the certificate holder demonstrates the public's health, safety, or welfare requires emergency action, the board shall issue an emergency summary suspension order pursuant to subsections (D)(5)(c)(1)(f)(v) and H(9)(d).~~
- ~~e. Upon completion of the formal interview, if the board determines the evidence obtained during the investigation or provided by the certificate holder does not merit a suspension of more than twelve months, revocation, or an emergency summary suspension, the board may take one or more of the following actions:~~
 - ~~(1) Determine the certificate holder did not commit any acts of misconduct or violations of statutes, court rules, this section, or the applicable section of the ACJA and dismiss the complaint pursuant to subsections (D)(5)(c)(1)(g) and (H)(24)(a)(3);~~
 - ~~(2) Determine the allegations of acts of misconduct or violations of statutes, court rules, this section, or the applicable section of the ACJA, do not warrant discipline, but the certificate holder's actions need modification or elimination and send an advisory letter to the certificate holder, pursuant to subsections (D)(5)(c)(1)(g), (H)(24)(a)(4) and (H)(24)(b)(1);~~
 - ~~(3) Determine the certificate holder committed one or more acts of misconduct or violations of the statutes, court rules, this section or the applicable section of the ACJA, and the complaint is appropriate for resolution through informal discipline proceedings pursuant to subsections (D)(5)(c)(1)(g) and (H)(7);~~
 - ~~(4) Determine the certificate holder committed one or more acts of misconduct or violations of the statutes, court rules, this section or the applicable section of the~~

ACJA, and the complaint is appropriate for resolution through a consent agreement as part of formal disciplinary proceedings, pursuant to subsections (D)(5)(e)(1)(g) and (H)(24)(a)(6)(e); or

~~(5) Determine the certificate holder committed one or more acts of misconduct or violations of the statutes, court rules, this section or the applicable section of the ACJA and the complaint is appropriate for resolution only through formal discipline proceedings, pursuant to subsection (D)(5)(e)(1)(g) and (H)(9).~~

~~f. If the board, after the formal interview is concluded, determines the acts of misconduct or violations warrant an emergency summary suspension, the board shall make an order for an expedited hearing, pursuant to subsections (H)(9)(d)(1) and (H)(12)(d).~~

Section 7-201.30: Discipline

9A. Formal Disciplinary Proceedings-Initiation.

~~a1. Commencement-Board action on complaint. Upon entry of a finding of~~ When the board considers a complaint for which there is a probable cause finding under ACJA § 7-201.27(C) by the probable cause evaluator and review of the recommendation of the division director pursuant to subsection (H)(5)(e), the board may:

a. Determine that the licensee committed acts of unprofessional conduct or violations appropriate for ~~commence disciplinary proceedings-discipline;~~

b. In matters in which the board determines that discipline is appropriate based on licensee's conviction, proof of conviction is conclusive evidence of licensee's guilt of the crime, and the sole issue for the board is the nature and extent of sanctions;

c. Issue an order imposing sanctions; and

d. Order the preparation of a formal statement of charges.

~~b2. Discipline. Decision of the Board. On review of the recommendation of the division director, the board may resolve the complaint through formal disciplinary proceedings and impose informal and formal sanctions pursuant to subsection (H)(24)(a) and (b) or may take other actions pursuant to this section. The board, pursuant to subsection (D)(5)(e)(1)(f)(iv) shall order the preparation of the documents necessary to commence formal disciplinary proceedings. The board may make procedural determinations to consolidate or sever any formal disciplinary matter pursuant to (D)(5)(e)(2)(e). The provisions of subsections (H)(24) and (H)(25) apply to the decision and order of the board. Formal disciplinary proceedings:~~

~~(1) Provide the certificate holder the right to a hearing, pursuant to subsection (H)(12)(e);~~

~~(2) May result in informal and formal sanctions, including an emergency summary~~

- ~~suspension pursuant to subsections (H)(24)(5) and (6);~~
- ~~(3) May result in costs and civil penalties pursuant to subsections (H)(24)(6)(j) and (k);~~
- ~~(4) Are subject to special action proceedings pursuant to subsection (H)(27); and~~
- ~~(5) Are not confidential.~~

a. Discipline is not confidential.

b. The licensee has the right to appeal by requesting a hearing.

c. The board's order of discipline may impose one or more sanctions, including:

- (1) Censure;
- (2) License restrictions;
- (3) Probation for a set period of time under specified conditions;
- (4) Additional training;
- (5) License suspension, including possible emergency suspension under ACJA § 7-201.29, for a set period of time with specific conditions for reinstatement;
- (6) License revocation with specific conditions for reinstatement;
- (7) Assessment of the costs of investigation and disciplinary proceedings; and
- (8) Any civil penalties associated with the investigation and disciplinary proceedings if specified in the article governing the profession or occupation.

d. The board may:

- (1) Order the division staff to prepare a formal statement of charges; or
- (2) Defer the formal statement of charges and offer the licensee a proposed consent agreement for acceptance.
 - (a) Division staff must prepare a consent agreement on terms specified by the board within 15 days or within the time specified by the board.
 - (b) The division must give written notice, as provided in ACJA § 7-201.08, to the licensee of the offer of consent agreement and its terms as approved by the board.
 - (c) Advise the licensee that if they do not accept the consent agreement within 15 days after receiving written notice of the consent agreement, the board will file the formal statement of charges with the disciplinary clerk.

3. Formal statement of charges.

a. Division staff must prepare the formal statement of charges within 30 days of the board's order or the expiration of the consent agreement acceptance deadline unless extended for good cause.

b. Disciplinary proceedings are initiated when the formal statement of charges is issued.

- (1) The formal statement of charges is issued when signed and dated by the board chair.
- (2) The formal statement of charges must include:
 - (a) A short and plain statement of the allegations;

- (b) Reference to the applicable statutes, rules, and provisions of this chapter;
- (c) Notice of licensee's right to file an answer to the statement of charges to prevent default and the requirements for filing an answer; and
- (d) Notice of licensee's right to appeal by filing a written request for hearing within 15 days after receiving service of the statement of charges.

B. Filing and Service.

1. Filing. When the formal statement of charges is issued, the division must immediately file a copy of the order with the disciplinary clerk.
 2. Service on licensee.
 - a. The division must serve the licensee with a formal statement of charges in a manner authorized for serving process under Rule 4.1, Arizona Rules of Civil Procedure.
 - b. The division must also give the licensee written notice, as provided in ACJA § 7-201.08, of the formal statement of charges, but the division's failure to provide this written notice is not a basis for a legal or procedural challenge to discipline.
 3. Proof of service. After serving the formal statement of charges, the division must file proof of service with the disciplinary clerk stating the method of service and the date when service was complete.
- ~~e. Notice to Certificate Holder. Upon commencement of formal disciplinary proceedings by a board order, division staff shall notify the certificate holder of the board's order and provide the certificate holder with a copy of the investigation summary, the division director's recommendations and the deputy director's finding of probable cause.~~
- ~~d. Emergency Summary Suspension.~~
- ~~(1) Upon entry of a finding of probable cause by the probable cause evaluator and review of the recommendation of the division director pursuant to subsection (H)(5)(c), if the board finds the public health, safety or welfare is at risk and requires emergency action, the board shall order an immediate emergency summary suspension of a certificate and set a date for an expedited hearing while formal disciplinary proceedings are pending.~~
 - ~~(2) Division staff shall ensure the order of emergency summary suspension is immediately served on the certificate holder with the written notice of the emergency summary suspension and the expedited hearing as ordered by the board, pursuant to this subsection and subsection (H)(12)(d).~~
 - ~~(3) The hearing shall be held within ten days of the board's order of summary suspension.~~
 - ~~(4) The hearing officer shall only grant an extension of the ten day time period for holding the expedited hearing under extraordinary circumstances at the request of~~

~~either party. The certificate holder may consent to a longer time period for the extension and the reasons for the extension shall be part of the record.~~

~~(5) Division staff shall notify all applicable courts including superior court presiding judges, clerks of the superior court and superior court administrators of the emergency summary suspension.~~

~~10. Notice of Formal Statement of Charges and Proceedings; and Right to Hearing. Upon motion and order of the board, division staff shall:~~

~~a. Prepare the formal statement of charges pursuant to subsection (H)(1)(i)(4) and include in the statement all of the following:~~

~~(1) A short and plain statement of the allegations;~~

~~(2) A reference to statutes, court rules, this section and the applicable ACJA section;~~

~~(3) A statement indicating the certificate holder has the right to a hearing, pursuant to subsection (H)(12)(e);~~

~~(4) A statement indicating the request for hearing shall be in writing and made within fifteen days of receipt of the notice, pursuant to subsection (H)(13); and~~

~~(5) A statement of the requirements for filing an answer pursuant to subsections (H)(11) and (17).~~

~~b. Present the formal statement of charges to the board chair or designee for review and signature;~~

~~c. File the signed formal statement of charges with the disciplinary clerk;~~

~~d. Arrange for service of the notice of formal statement of charges to the certificate holder pursuant to Rule 4, Rules of Civil Procedure; and~~

eC. Amended Formal Statement of Charges. ~~Amendments to the formal statement of charges are permissible upon motion and order of the~~ The board may vote to amend a formal statement of charges.

1. Filing and service. The amended statement of charges must be filed with the disciplinary clerk and served on the licensee in a manner authorized under Rule 5(c)(2), Arizona Rules of Civil Procedure.

2. Proof of service. After serving an amended formal statement of charges, the division must file a proof of service with the disciplinary clerk stating the method of service and the date when service was complete.

3. Answer. The licensee has the right to file an answer to new charges in the amended statement of charges no later than 20 days after service of the amended statement of charges under Rule 5(c)(2), Arizona Rules of Civil Procedure, is complete.

4. Request for hearing.

- a. If the licensee already filed a request for hearing under ACJA § 7-201.32(B) after service of the original statement of charges, the new charges are automatically made part of the earlier request and the licensee is not required to file a separate request for hearing on the new charges.
- b. If the licensee did not request a hearing on the original statement of charges, the licensee may file a request for hearing under ACJA § 7-201.32(B) but only as to the new charges in the amended statement of charges.

11D. Answer to Formal Statement of Charges or Default.

1. Deadline. The ~~certificate holder shall~~ licensee may file an answer to the formal statement of charges with the disciplinary clerk ~~within fifteen~~ no later than 20 days after ~~the date the statement is served~~ service of the statement of charges, under Rule 4.1, Arizona Rules of Civil Procedure, is complete unless ~~otherwise ordered by the board~~ the division director grants a one-time extension of the deadline for good cause under ACJA § 7-201.07(B).
2. Requirements.
 - a. Content. Answers ~~shall~~ must comply with Rule 8, Arizona Rules of Civil Procedure. Any defenses not raised in the answer are waived.
 - b. Default. If a ~~certificate holder~~ licensee fails to file an answer ~~within the time provided~~, with the disciplinary clerk to the charges by the deadline or an extended deadline:
 - (1) The ~~the certificate holder~~ licensee is in default and the unanswered charges and the underlying factual allegations in the formal statement of charges are deemed admitted.
 - (2) The board may enter a final order and ~~finding or findings~~ against the ~~certificate holder~~ licensee of one or more of the assertions contained in the notice based on these admissions.

Section 7-201.31: Hearing

12A. Right to Hearing.

1. There is a right to a hearing from the following:
 - a. ~~Except as provided in subsection (E)(1)(f)(2)(d)(iii), an applicant denied~~ Denial of an initial or renewal certification pursuant to subsections (E)(2)(c) or (G)(4) may request a hearing licensing application under ACJA § 7-201.13(D)(2)(b);
 - b. ~~Pursuant to subsection (E)(9)(b), an applicant denied~~ Denial of an application for reinstatement under ACJA § 7-201.18(C)(2)(b) of certification may request a

~~hearing, except if the applicant fails to provide required information within the requested time frame;~~

c. Denial of a license renewal application under ACJA § 7-201.19(F)(4)(b);

d. An order of emergency license suspension under ACJA § 7-201.29(C); and

~~ee. A certificate holder served The filing of with a formal statement of charges in a formal disciplinary matter under ACJA § 7-201.31(A)(2) pursuant to subsection (H)(9) may request a hearing.~~

~~d. A certificate holder issued an emergency summary suspension pursuant to subsection (H)(9)(d)(1) shall have an expedited hearing.~~

2. There is no right to a hearing from the following:

a. Administrative termination of a licensing application under ACJA § 7-201.10(D)(3);

b. Denial of a request to take a fifth examination under ACJA § 7-201.11(D)(2)(d)(2);

c. Denial of a request to transfer to inactive status under ACJA § 7-201.29(B)(4); and

d. Decision that a request to file an untimely renewal application is incomplete and resulting denial under ACJA § 7-201.19(C)(3)(a)(4).

13B. Request for Hearing.

1. Filing. ~~The~~ To preserve the right to a hearing, the applicant or certificate holder shall licensee must file a written request ~~the~~ for a hearing with the disciplinary clerk ~~within fifteen days no later than 15 days after service of the formal statement of charges is complete and must simultaneously provide a copy to the division of the notice of denial of initial or renewal certification; or the notice of a formal statement of charges.~~

2. Content; request for hearing.

a. The request for hearing ~~shall~~ must include:

- (1) The applicant's or licensee's mailing address, email address, and phone number;
- (2) The name and email address of the individual designated to receive contacts from the disciplinary clerk and the hearing officer;
- (3) Citation to the ACJA subsection ACJA section creating ~~entitling a person or business the right~~ to a hearing;
- (4) A statement of the nature of the hearing;
- (5) ~~the factual basis supporting the request for hearing~~ Brief identification of the

- factual or legal issues contested; and
- (6) ~~the~~ The relief demanded;
- (7) A copy of the written decision and order appealed from; and
- (8) If the applicant or licensee requested and received an extension of time for filing the request for hearing from the division director, a copy of the communication from the division with the new deadline.

- b. When filing the request for hearing, the appealing party must submit a notice of hearing to the disciplinary clerk, in a form specified by the hearing office, that contains a blank space for the date, time, and location of the hearing to be completed by the disciplinary clerk.

C. Notice of Hearing

1. Issuance. After receiving a timely request for hearing and submission of the notice of hearing form, the disciplinary clerk must:
 - a. Insert a date, time, and location of the hearing that complies with (F)(1).
 - b. Issue the notice of hearing and scheduling order.
2. Delivery. The disciplinary clerk must deliver the notice of hearing to the applicant or licensee and the division in the following manner:
 - a. On the applicant or licensee by email to the individual identified in the request for hearing as designated to receive contacts from the disciplinary clerk.
 - b. On the board by email to the email address managed by the division for the profession or occupation.
3. Service is complete when the email containing the notice is sent.

14D. ~~Selection of Hearing Officer for Certification or Discipline Hearing.~~

1. Assignment. Upon receiving a timely written request by an applicant or certificate holder entitled to for a hearing pursuant to subsection (H)(12), the disciplinary clerk shall select must assign a hearing officer as follows:
 - a. Assign the presiding disciplinary judge appointed under Rule 51; or
 - ab. ~~The disciplinary clerk shall select~~ At the request of the presiding disciplinary judge, if the presiding disciplinary judge determines that their Rule 51 duties will interfere with the timely performance of the duties of a hearing officer under this chapter, assign a hearing officer from the list of hearing officers other judges appointed to

serve at the pleasure of by the supreme court under Rule 51(a).

2. Qualifications. The hearing officer Hearing officers appointed by the supreme court shall have the following qualifications must:

(1)a. Admitted-Be admitted to the practice of law in Arizona; and;

(a1) An active member in good standing for at least seven years with of the State Bar of Arizona for at least 7 years immediately preceding appointment; or

(b2) An active or retired judicial officer.

(2)b. Have knowledge-Have knowledge of administrative law and experience in the procedure for conducting administrative hearings regarding involving professional or occupational licensing or discipline, including under the denial of initial or renewal of certification or alleged acts of misconduct or violations by a certificate holder pursuant to this section or the applicable ACJA section chapter.

bE. Location. Hearings are conducted at the Arizona State Courts Building. The disciplinary clerk may request the presiding judge of the superior court in the county where the alleged acts of misconduct or violations occurred to supply a hearing room and any other necessary resources.

15F. Time Line for Hearing Date and Continuances. The disciplinary clerk or hearing officer shall:

a1. Ensure-Upon the applicant or licensee filing a request for hearing, the disciplinary clerk must issue a notice of the hearing:

a. At least 15 days before the hearing date; and

b. For a hearing date no later than is held within 60 days of receipt of after the request for hearing was filed.

2. The hearing officer may continue the hearing date upon for up to 30 days on the written motion of the division or the applicant or licensee for good cause request or stipulation of the parties, or upon on the hearing officer's own motion, for good cause shown.

a. The hearing officer shall grant continuances-More than one continuance may be granted, but no single continuance should exceed no more than 30 days at a time and may not extend the hearing.

b. A continuance must not result in a hearing on the merits beginning beyond more than 120 days from after the filing of the formal statement of charges.

b. If the request to continue the hearing is filed by division staff, the hearing officer shall ensure the hearing is held as soon as practical at the discretion of the hearing

~~officer but no less than fifteen days after notice, as required by subsection (H)(16).~~

~~16. Notice of Hearing. The disciplinary clerk shall prepare and give notice of the hearing to the applicant or certificate holder and division staff, at least fifteen days prior to the date set for hearing.~~

~~a. The notice shall include the following information:~~

- ~~(1) A statement of the legal authority and jurisdiction for conduct of the hearing;~~
- ~~(2) A statement of the date, time, place and nature of the hearing; and~~
- ~~(3) A reference to the particular sections of the statutes, rules and ACJA sections involved.~~

~~b. The disciplinary clerk shall accomplish service of the notice of hearing by United States mail to the last address of record on file with division staff. Service is accomplished in accordance with Rule 5, Rules of Civil Procedure by deposit in the United States mail.~~

~~c. If an attorney represents an applicant, certificate holder or division staff, the disciplinary clerk shall make service to the attorney of record.~~

Section 7-201.32: Pre-Hearing Procedures

17A. Filings of Pleadings, Motions and Other Documents.

~~a1. The applicant or certificate holder and division staff shall file all~~ The moving party must file pleadings, motions or and other documents with the disciplinary clerk at least fifteen no later than 15 days prior to before the scheduled hearing date, unless otherwise ordered by the hearing officer.

~~b2. The applicant or certificate holder and division staff shall file responses~~ The party responding to all pleadings, motions, or other documents a motion or other document must file their response with the disciplinary clerk within ten no later than 10 days of after the filing of the pleading, motion, or other document to which it responds.

~~e3. The moving party filing the pleading, motion, or other document may file a reply within five with the disciplinary clerk no later than 5 days of after the filing of the response to the motion.~~

~~d4. Copies of all filings shall be delivered to the disciplinary clerk.~~ The party filing a document with the disciplinary clerk must submit a copy to the hearing officer and all parties to the proceeding must serve a copy on the opposing party in the manner required for the disciplinary clerk to serve a notice of hearing under ACJA § 7-201.32(D)(2).

18B. Discovery.

¶1. Discovery. ~~There is no~~ Formal discovery procedures under the Arizona Rules of Civil Procedure do not apply to hearings under this chapter, except as provided in this section; unless mutually agreed to by the parties or ordered by the hearing officer.

a. Formal discovery would unduly complicate or interfere with the hearing process under this chapter, given:

- (1) The volume of the caseload and the need for expedition and informality in the administrative hearing process; and
- (2) That the procedures of this section for sharing relevant information are sufficient to ensure the fundamental fairness of the proceedings.

b. In extraordinary circumstances, the hearing officer may order limited discovery, to be conducted under the Arizona Rules of Civil Procedure, on petition of a party and for good cause.

c. The following applies to a petition, under (b), to take a deposition:

- (1) A party may petition to depose witnesses who cannot be subpoenaed or are otherwise unable to attend the hearing for use as evidence at the hearing, or a witness, for good cause.
- (2) The petition must be filed within 10 days after the individual is first identified by a party as a hearing witness.
- (3) The petition must contain:
 - (a) The name and address of the witness;
 - (b) The subject matter of the deposition;
 - (c) The documents sought from the witness;
 - (d) The time and place proposed for the deposition;
 - (e) The requested length of the deposition; and
 - (d) The party's justification for the deposition.
- (4) Responses opposing the petition to take a deposition, including motions to quash, must be filed within 5 days after the request for deposition is filed.
- (5) The hearing officer must enter a final, written order on the petition within 5 days after responses are filed or the response deadline expires, whichever is earlier.
- (6) If the hearing officer grants a petition to take a deposition, the hearing officer must issue a subpoena to the witness identifying:
 - (a) The person to be deposed;
 - (b) The scope of testimony to be taken;
 - (c) The documents to be produced at or before the deposition; and
 - (d) The time, place, and length of the deposition.
- (7) The party requesting the deposition shall arrange for service of the subpoena and order with service on the witness and opposing party complete at least 5 days before deposition date unless, for good cause shown, the time is shortened by the hearing officer.

2. Mandatory information exchange. The parties must exchange the following

information no later than 20 days after the date of the notice of hearing:

- a. A list of the names, addresses, email addresses, and phone numbers of individuals known to the disclosing party as having knowledge of the facts relevant to the hearing.
 - b. A list describing the relevant evidence in the party's possession, custody, or control.
- b3. By request. ~~The hearing officer, upon written request, shall order a~~ A party, by written request to another party at least 30 days before an evidentiary hearing, may: ~~to allow the requesting party to have a reasonable opportunity to inspect and copy, at the requesting party's expense, admissible documentary evidence or documents reasonably calculated to lead to admissible evidence prior to a hearing, provided the evidence is not privileged.~~
- a. Obtain the names, addresses, email addresses, and phone numbers of witnesses the other party will present at the hearing and a brief summary of their anticipated testimony.
 - b. Inspect and copy the following material in the possession, custody, or control of the other party:
 - (1) Written or recorded statements of parties and witnesses proposed to be called by the other party;
 - (2) All records and other evidence the other party proposes to offer at the hearing;
 - (3) Investigative reports made by or on behalf of the other party about the subject matter of the hearing;
 - (4) Statements of expert witnesses proposed to be called by the other party;
 - (5) Any exculpatory material in the possession of the division; and
 - (6) Other materials for good cause.
4. Duty to supplement responses. The parties have a duty to supplement responses provided under (2) and (3) to include information acquired later.
- e. ~~Upon the hearing officer's own motion or request by a party, the hearing officer shall order the disclosure of documentary evidence intended for use at the hearing provided the evidence is not privileged. The hearing officer shall order the disclosure at least ten days prior to the hearing.~~
- d5. Protective order. ~~A hearing officer shall review and rule upon any claims of~~ On petition, the hearing officer may issue a protective order for information or material under (2) and (3) that is exempt, privileged, or otherwise made confidential or protected from disclosure by law other than this section or that would result in annoyance, embarrassment, oppression, or undue burden or expense ~~privilege challenged by a party with respect to subsections (H)(18)(b) and (c).~~

6. Order to compel. On petition, the hearing officer must issue an order compelling a party to comply with (2) and (3) unless good cause exists for the party's refusal. Failure to comply with the order may be enforced according to the Arizona Rules of Civil Procedure.

~~e. Within fifteen days of receipt of the notice of hearing, the parties shall exchange a list of witnesses containing the names, addresses and telephone numbers of all persons known to have knowledge of the relevant facts. The list of witnesses shall designate those persons the parties intend to call at the hearing and summarize the anticipated testimony of each witness.~~

~~f. Parties may submit a motion to the hearing officer to take depositions of witnesses who cannot be subpoenaed or are otherwise unable to attend the hearing, for use as evidence at the hearing. The hearing officer may order the deposition of any other witness upon motion and for good cause shown. In either circumstance, the requesting party shall file a written motion for deposition with the hearing officer within ten days of the filing of the list of witnesses. The requesting party shall provide copies to all parties, setting forth the name and address of the witness, subject matter of the deposition, documents, if any, the parties are seeking for production, time and place proposed for the deposition and justification for the deposition.~~

~~g. Parties shall file responses to requests for depositions, including motions to quash, within five days after the filing of the request for deposition. The hearing officer shall enter a final order regarding any motions for depositions.~~

~~h. If a deposition is permitted and ordered by the hearing officer, the hearing officer shall issue a subpoena and written order. The subpoena and order shall identify the person to be deposed, scope of testimony to be taken, documents, if any, to be produced and the time and place of the deposition. The party requesting the deposition shall arrange for service of the subpoena and order with service on all parties five days before the time fixed for taking the deposition unless, for good cause shown, the time is shortened by the hearing officer.~~

19C. Subpoena-Subpoenas.

~~a1. For the purpose purposes of the hearing and on application to the disciplinary clerk, a hearing officer may subpoena witnesses or the disciplinary clerk must issue subpoenas compelling the attendance of witnesses or the production of documentary evidence, administer oaths and examine under oath any individual relative to the subject of any at the hearing.~~

~~b2. Subpoenas shall must be issued by a hearing officer and served in the same manner as provided in, and by those authorized under, Rule 45, Arizona Rules of Civil Procedure. An employee of the court or any other person as provided by Rule 45, Rules of Civil Procedure may serve the subpoena.~~

~~e3. If a person fails~~ The failure to obey a subpoena issued and served in accordance with the provisions of under this section, is punishable as contempt of court ~~the board or hearing officer may forward a report of the disobedience, together with a copy of the subpoena and proof of service, to the superior court and request the superior court judge issue an order requiring the appearance by a person or the production of documents, or both. The superior court may treat the failure to obey the subpoena as contempt of court and may impose penalties as though the person had disobeyed a subpoena issued by the court.~~

D. Oaths. A hearing officer may administer oaths and examine under oath an individual on a subject relevant to the hearing.

Section 7-201.33: Pre-Hearing Conference

20A. Prehearing Conference Timing. The hearing officer may order and conduct a pre-hearing conference at the request of ~~any~~ a party or on the hearing officer's own initiative.

B. Purpose. The purpose of the conference is to consider imposing limitations to promote simplicity in procedures, fairness in administration, elimination of unnecessary expense, and protection of the public while preserving the rights of the ~~certificate holder applicant or licensee~~. ~~The~~ To further this purpose, the hearing officer may take ~~any~~ of the following actions:

- ~~a1.~~ Establish a hearing schedule to ensure early and continuing control so the matter ~~shall~~ is not ~~be~~ protracted because of for lack of management;
- ~~b2.~~ Dispose of outstanding procedural matters;
- ~~c3.~~ Narrow the issues for adjudication;
- ~~d4.~~ Dispose of preliminary legal issues, including ruling on pre-hearing motions;
- ~~e5.~~ Obtain stipulations from the parties to the admission of evidence, and undisputed facts and legal conclusions ~~not contested~~;
- ~~f6.~~ Identify witnesses and coordinate testimony; and
- ~~g7.~~ Consider ~~any~~ other matters to aid in the ~~expeditious~~ efficient conduct of the hearing.

Section 7-201.34: Hearing Procedures

21. Procedure at Hearings.

a.A. Hearing Officer.

1. The hearing officer shall preside ~~presides~~ over the hearing and:
 - a. ~~decide~~ Decides all requests for ~~a~~ continuance, motions, or other requests made during the hearing;
 - b. ~~determine~~ Determines the order of proof and manner of presentation of ~~other~~ evidence;
 - c. Administers an ~~issue subpoenas, place witnesses under oath~~ or affirmation to witnesses;
 - d. ~~recess or adjourn~~ Recesses or adjourns the hearing;
 - e. ~~and prescribe~~ Prescribes and ~~enforce~~ enforces general rules of conduct and decorum applicable to superior court proceedings;
 - f. May allow the parties the opportunity to file proposed findings of fact and conclusions of law;
 - g. Makes findings of fact and conclusions of law; and
 - h. Issues a written recommendation report to the board.
2. ~~Informal disposition may be made~~ May dispose of any case a matter by stipulation, agreed settlement, consent ~~order~~ agreement, or default.

bB. Rights of Parties and Other Persons at a Hearing ~~Appearances. At a hearing:~~

- ~~(1.)~~ A party is entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the proceeding.
- ~~(2.)~~ An applicant or ~~certificate holder~~ licensee may represent themselves or appear through counsel. ~~An attorney who intends to appear~~ Before appearing on behalf of a party, ~~an attorney shall promptly~~ must file a notice of appearance with the disciplinary clerk providing the name, address, and telephone number of the party represented and the name, address, and telephone number of the attorney. A corporate officer or principal may represent a business entity in ~~any a~~ proceeding under this section, ~~as permissible pursuant to Arizona Supreme Court under~~ Rule 31.
- ~~(3) All persons appearing before a hearing officer in any proceeding shall conform to the conduct expected in the superior court.~~

eC. Conduct of Hearing.

~~(1.)~~ Open proceedings. ~~All hearings~~

- a. Hearings are open to the public and shall conform to the provisions of ACJA § 1-202: Public Meetings in a manner consistent with Rule 91.
- b. The hearing officer may close the hearing to the public as provided by law for closing a superior court proceeding, pursuant to ACJA § 1-202(C)(5).
- c. The hearing officer may conduct all or part of a hearing by telephone, video conference, or other electronic means.
 - (1) A hearing may be conducted by telephone or other electronic method by which the witnesses may not be seen only if all parties consent or the hearing officer finds that it will not impair the hearing officer's determination of credibility.
 - (2) A hearing conducted by telephone, video conference, or other electronic means is open to the public if members of the public have an opportunity to attend the hearing at the place where the hearing officer is located or to hear or see the proceeding as it occurs.

~~(2.)~~ Informality. ~~The hearing officer may conduct a hearing in an informal manner and without adherence to the rules of pleading or evidence. The hearing officer may question witnesses and shall require any evidence supporting a decision is substantial, reliable and probative and shall exclude irrelevant, immaterial or unduly repetitious evidence. There is no right to a jury.~~

~~(3.)~~ Witnesses.

- a. The hearing officer shall require all testimony taken is ~~Witnesses must testify under oath or affirmation, except matters of which judicial notice is taken or entered by stipulation.~~ The hearing officer may administer oaths and affirmations.
- b. The hearing officer may question witnesses.

4. Evidence. Except as provided in this section, all relevant evidence is admissible, including reliable and relevant hearsay evidence if the circumstances tend to establish that the evidence offered is trustworthy.

- a. In matters in which the board ordered discipline and sanctions based on licensee's conviction, proof of conviction is conclusive evidence of licensee's guilt of the crime, and the sole issue to be determined is the nature and extent of discipline and sanctions to be recommended by the hearing officer.
- b. The hearing officer may exclude evidence in the absence of an objection, and must exclude if objection is made at the time the evidence is offered, because:

- (1) The evidence is irrelevant, immaterial, or unduly repetitious;
 - (2) The evidence should be excluded on constitutional or statutory grounds;
 - (3) On the basis of an evidentiary privilege recognized in the courts of this state;
or
 - (4) The evidence should be excluded because its probative value is outweighed by the danger of unfair prejudice, by confusion of the issues, or by considerations of undue delay.
- c. Evidence may be received in a document if doing so will expedite the hearing without substantial prejudice to a party.
- (1) Documentary evidence may be received in the form of a copy if the original is not readily available or by incorporation by reference.
 - (2) On request, parties must be given an opportunity to compare the copy with the original.
- d. The hearing officer may take official notice of all facts of which judicial notice may be taken and of scientific, technical, or other facts within the specialized knowledge of the division. The non-moving party may contest an officially noticed fact before the official notice is final.

(4D.) Burden.

- 1. Disciplinary decisions. In all matters in which disciplinary matters brought as the result of an order discipline was ordered by the board;
 - a. The division's evidence in support of the formal statement of disciplinary charges is presented first; and
 - b. The division carries the burden of proof by a preponderance of the evidence.
- 2. Licensing decisions. In matters brought at the request of any other person or entity, in which an applicant or licensee including requests for a hearing on the denial of initial licensing, reapplication, or licensing renewal of certification, or licensing reinstatement:
 - a. ~~the person or entity seeking~~ The applicant or licensee that requested the hearing ~~shall present~~ presents evidence first; and
 - b. The applicant or licensee carries the burden of proof, by a preponderance of the evidence.

4E. Record of Hearing Record.

- 1. Contents. The hearing record contains:

- a. A recording of the proceedings;
 - b. The notice of hearing;
 - c. Orders issued;
 - d. Motions and other documents filed with the disciplinary clerk and related rulings;
 - e. Evidence admitted;
 - f. Matters officially noticed;
 - g. A transcript of the proceedings, if any;
 - h. The hearing officer's recommendation report to the board.
- (1)2. Recording. The hearing officer ~~shall~~ must ensure ~~the~~ that all oral proceedings, ~~or any part of the oral proceedings,~~ are recorded.
3. Transcript.
- a. ~~Upon the request of any~~ The recording of the oral proceedings will be transcribed at the request of a party to the proceedings and payment of any the costs of transcription, the record of the proceedings shall be transcribed.
 - (2)b. A certified reporter ~~shall~~ must ~~make a full transcript of~~ attend and transcribe the proceedings if requested by a party ~~within five~~ at least 5 days prior to a ~~before the~~ hearing and upon order of the hearing officer.
 - (1) The requesting party ~~shall~~ must pay the cost of the transcript, ~~including a~~ The hearing officer may require ~~required~~ prepayment or a monetary deposit ~~to cover the cost of the transcript.~~
 - (2) This transcript ~~If transcribed, the record~~ is part of the court's record of the hearing.
 - (3) ~~and any other party with a direct interest shall~~ Other parties may request and receive a copy of the record, at the request and transcript at their own expense of the requesting party.

Section 7-201.35: Hearing Officer Recommendation

22. Recommendation Report of Hearing Officer.

- a. **A. Timing.** ~~The hearing officer shall, within~~ Within 30 days of the closing of the hearing record of a hearing, the hearing officer must prepare a written recommendation report and file the report with the disciplinary clerk based only on the hearing record.

B. Content.

1. The hearing officer's recommendation report shall must:

- a. ~~include~~ Include findings of fact, based on a preponderance of the evidence exclusively on the evidence and officially noticed facts in the hearing record;
- b. ~~and conclusions~~ Conclusions of law, separately stated from the findings of fact;
- c. The hearing officer's finding as to whether the party with the burden of proof carried its burden based on a preponderance of the evidence; and
- d. The hearing officer's recommendation to the board on the ultimate disposition and sanctions.

~~b2. The hearing officer shall take testimony and receive evidence regarding alleged acts of misconduct or violations and possible sanctions. If the hearing officer recommends the board enter a finding find the certificate holder licensee committed one or more acts of misconduct unprofessional conduct or violations, the hearing officer officer's recommendation report shall must include; in the recommendation report, in a separately stated section,~~

- a. ~~an~~ An analysis of the following mitigating and aggravating factors and recommended imposition of permissible sanctions pursuant to subsection (H)(24). The hearing officer shall base the recommendations exclusively on the matters officially noticed and the evidence presented;

(1) Mitigating factors, including may include but are not limited to the following:

- (a) The absence of a prior disciplinary record;
- (b) The absence of a dishonest motive;
- (c) The absence of a selfish motive;
- (d) Personal or emotional problems;
- (e) A timely good faith effort to make restitution or to rectify consequences of misconduct unprofessional conduct or violations;
- (f) Full and free candid disclosure to the division staff, the board, ~~or~~ and the hearing officer;
- (g) A cooperative attitude toward ~~any~~ the proceedings;
- (h) Inexperience in the practice of the profession or occupation;
- (i) Character ~~or~~ and reputation;
- (j) Physical or mental disability;
- (k) Physical or mental impairment;
- (l) Delays in the complaint, investigation, or disciplinary proceedings;
- (m) Interim rehabilitation;
- (n) Imposition of other penalties or sanctions;
- (o) Remorse; ~~or~~ and

- (p) The remoteness of prior offenses.
- (2) Aggravating factors, including may include but are not limited to the following:
 - (a) A prior disciplinary record;
 - (b) A dishonest motive;
 - (c) A selfish motive;
 - (d) Multiple offenses;
 - (e) Bad faith obstruction of the disciplinary proceedings by intentionally failing to comply with this ~~section, the applicable section of ACJA chapter,~~ court rules, statutes, or orders of the hearing officer;
 - (f) Submission of false evidence, false statements, or other deceptive practices during the ~~discipline-disciplinary~~ process;
 - (g) Refusal to acknowledge the wrongful nature of the conduct;
 - (h) Vulnerability of the victim;
 - (i) Substantial experience in the profession or occupation; or
 - (j) Indifference to harm caused or to making restitution.

b. The hearing officer's recommendation on the appropriate sanctions under ACJA § 7-201.31(A)(2)(c).

~~e.~~ **C. Service.** Upon filing, The the disciplinary clerk shall distribute must serve the hearing officer's recommendation report to on all parties and the board by United States mail to the last address on file with the division staff. Distribution is accomplished in accordance with in a manner authorized under Rule 5(c)(2), Arizona Rules of Civil Procedure by deposit in the United States mail.

~~d. The board may adopt or modify the hearing officer's recommendation report in whole or in part.~~

~~e. The board may remand the matter to the hearing officer in whole or in part, designating the issues remanded. The board shall provide the hearing officer with an order identifying the issues remanded.~~

Section 7-201.36: Rehearing

~~23~~ **A. Rehearing Grounds.** A party to the hearing may request a rehearing of the matters involved in the hearing for one or more of the grounds listed in Rule 59, Arizona Rules of Civil Procedure. A party is not required to file a request for rehearing before seeking judicial review.

B. Filing Request. The requesting party shall must file the a written request for rehearing with the hearing officer and the disciplinary clerk within no later than fifteen 15 days after the disciplinary clerk has distributed date of the hearing officer's recommendation report to the parties pursuant to subsection (H)(22)(e). The requesting party shall base must serve a copy of the request for rehearing on one or more of the grounds listed in Rule 59, Rules of Civil Procedure the hearing officer and other parties in a manner authorized under Rule 5(c)(2),

Arizona Rules of Civil Procedure.

C. Response. ~~The hearing officer shall allow any~~ A party served with a request for rehearing ~~to may~~ file a response ~~within ten~~ with the disciplinary clerk no later than 10 days ~~of service~~ after the date the request was filed.

D. Decision. The hearing officer ~~may grant a rehearing of the matters involved in the hearing and shall make the decision to~~ must grant or deny ~~the a~~ request for rehearing within ~~ten~~ 10 days of the date ~~after the~~ deadline for filing a response for rehearing is filed ~~has expired~~.

Section 7-201.37: Board Action on Hearing Officer Recommendation

A. Board Meeting. After the period for filing or deciding a request for rehearing has expired, the board must meet to consider the hearing officer's recommendation report.

B. Board Authority. When considering the hearing officer's recommendation report, the board is not bound by the recommended findings of fact and conclusions of law provided by the hearing officer, including findings related to the credibility of witness, but:

1. In reviewing the hearing officer's findings of fact, the board should consider the hearing officer's opportunity to observe the demeanor and attitude of witnesses and give the hearing officer's findings about the credibility of witnesses greater weight;
2. The board may not consider matters outside the hearing record when reviewing the hearing officer's recommendation report; and
3. Deviations from the hearing officer's findings of fact and conclusions of law can only be made if the board has reviewed all pertinent portions of the hearing record.

C. Decision. The board may:

1. Adopt the hearing officer's recommendation in its entirety and issue a final order.
2. Modify or reject the hearing officer's recommendation report in whole or in part and issue a final order.
3. Remand the matter to the hearing officer for further proceedings with instructions and issue an order to the hearing officer identifying the issues remanded.

SHOWING How Proposed § 7-201.37(C) Revises Current § 7-201(H)(22)(d), (e)

C. Decision. The board may:

- ~~d1. The board may adopt~~ Adopt the hearing officer's recommendation in its entirety and issue a final

order.

2. ~~or modify~~ Modify or reject the hearing officer's recommendation report in whole or in part and issue a final order.
- e3. ~~The board may remand~~ Remand the matter to the hearing officer for further proceedings with instructions, in whole or in part, designating the issues remanded. ~~The board shall provide the hearing officer with~~ and issue an order to the hearing officer identifying the issues remanded.

~~23. Rehearing. A party to the hearing may request a rehearing of the matters involved in the hearing. The requesting party shall file the written request with the hearing officer and the disciplinary clerk within fifteen days after the disciplinary clerk has distributed the hearing officer's recommendation report to the parties pursuant to subsection (H)(22)(c). The requesting party shall base the request for rehearing on one or more of the grounds listed in Rule 59, Rules of Civil Procedure. The hearing officer shall allow any party served with a request for rehearing to file a response within ten days of service. The hearing officer may grant a rehearing of the matters involved in the hearing and shall make the decision to grant or deny the request within ten days of the date the response for rehearing is filed.~~

~~24. Possible Actions for Resolution of a Complaint:~~

- a. ~~Upon completion of an investigation concerning alleged acts of misconduct or violations by a certificate holder, which may or may not include a formal interview, informal or formal disciplinary proceedings, or a hearing, the board shall do one or more of the following:~~
 - ~~(1) Request division staff to conduct further investigation;~~
 - ~~(2) Refer the complaint to another entity with jurisdiction;~~
 - ~~(3) Determine no violation exists and dismiss the complaint with or without prejudice;~~
 - ~~(4) Determine no acts of misconduct or violation occurred and no discipline is warranted; however, the certificate holder's actions need modification or elimination and issue an advisory letter pursuant to subsection (D)(5)(c)(1)(g);~~
 - ~~(5) Enter a finding the certificate holder has violated any of the provisions of the statutes, court rules, this section, or the applicable ACJA specific sections or subsection (H)(6) and order an emergency summary suspension, pursuant to subsection (H)(9)(d);~~
 - ~~(6) Enter a finding the certificate holder has violated any of the provisions of the statutes, court rules, this section, the applicable ACJA sections or subsection (H)(6) and issue an order imposing any or a combination of the following informal or formal disciplinary sanctions:~~
 - ~~(a) Issue a letter of concern;~~
 - ~~(b) Issue a censure;~~
 - ~~(c) Resolve any found acts of misconduct or violations by consent order or other negotiated settlement;~~
 - ~~(d) Place specific restrictions on a certificate;~~

- ~~(e) Place the certificate holder on probation for a set period of time under specified conditions;~~
- ~~(f) Mandate additional training for the certificate holder;~~
- ~~(g) Issue a cease and desist order pursuant to subsection (E)(6);~~
- ~~(h) Order suspension of a certificate for a set period of time with specific conditions for reinstatement;~~
- ~~(i) Order revocation of a certificate with specific conditions for reinstatement;~~
- ~~(j) Assess costs associated with the investigation and disciplinary proceedings; or~~
- ~~(k) Impose civil penalties associated with the investigation and disciplinary proceedings.~~

~~b. The following provisions apply to the actions specified in subsection (H)(24)(a):~~

- ~~(1) An advisory letter is not a discipline sanction and is confidential. While the conduct does not warrant any disciplinary action, the board believes the certificate holder should modify or eliminate certain practices and continuation of the activities leading to the documentation regarding the conduct being submitted to the board may result in future board action against the certificate holder. A certificate holder may file a response with the board no later than fifteen days after the date of the advisory letter. The certificate holder's response is confidential and division staff shall file the response in the complaint file.~~
- ~~(2) An informal disciplinary proceeding may result in a letter of concern but may not include a censure, restrictions on a certificate, probation, mandated additional training, suspension or revocation of the certificate, or imposition of civil penalties or costs. A letter of concern is a written informal discipline sanction and is not confidential or appealable. A certificate holder may file a response to the letter of concern no later than fifteen days after the date of the letter of concern. The certificate holder's response is public and division staff shall file the response in the complaint file.~~
- ~~(3) The board may impose informal discipline in combination with formal discipline.~~

Section 7-201.38: Final Decisions and Orders

A. Meeting and Vote.

- 1. The board must consider the hearing officer's recommendation report at its next regular meeting that is at least 30 days after the date of the hearing officer's recommendation.
- 2. The board must vote on the findings of fact, conclusions of law, and the ultimate decision, including sanctions. The board may vote on them separately or together.

25B. Decisions and Orders~~**Decision and Order.**~~ The board ~~shall must~~ make its final decisions or orders decision in writing based only on the hearing record ~~and shall include.~~

1. The board's decision and order:

- a. Must include separate statements of findings of fact and conclusions of law; separately stated adopted by the board, including the board's finding as to whether the party with the burden of proof carried its burden based on a preponderance of the evidence. The board shall make findings of fact by a preponderance of the evidence, based exclusively on the evidence and on matters officially noticed and consider mitigating or aggravating factors pursuant to subsections (H)(22)(b)(1) and (2).
- b. If the board's adopted findings of fact and conclusions of law modifies or rejects the hearing officer's findings of fact and conclusions of law, the board's decision must:
 - (1) State the reason for each modification or rejection; and
 - (2) Include the evidence in the record supporting each modification or rejection.
- c. If the board chooses to reject the overall recommendation of the hearing officer, without rejecting specific findings of fact and conclusions of law, the board must state its reasons for doing so and include any supporting references to the hearing record.
- d. Must attach a copy of the hearing officer's recommendation report.

2. The board's decision and order is issued when signed by the board chair.

26C. Notice of Board's Final Decision. ~~Upon final order of the board regarding a certification or complaint matter, division staff shall~~ The division must provide written notice of the board's final decision and order.

- ~~a1. Regarding~~ For an initial licensing, or licensing renewal, or licensing reinstatement certification matter, within 2 days after the written decision and order issues, division staff must give to the applicant or certificate holder licensee written notice under ACJA § 7-201.08 within ten days, by deposit in the United States mail addressed to the last known address on file with division staff. Notice by mail is complete upon deposit in the United States mail.
- ~~b2. Regarding suspension or revocation of certification~~ For a disciplinary matter, to the certificate holder by division staff must:
 - a. Give the licensee written notice under ACJA § 7-201.08.
 - b. Give notice to the complainant under ACJA § 7-201.23(D)(2).
 - c. If the board's final decision is to suspend or revoke a license, immediately serve the written decision and order on the licensee in a manner authorized for serving process under Rule 4.1, Arizona Rules of Civil Procedure. certified mail, return receipt requested, within two days, addressed to the last known address on file with division

~~staff pursuant to subsection (H)(1)(i)(8). Division staff shall ensure the order of emergency summary suspension is immediately served on the certificate holder pursuant to subsection (H)(9)(d)(2).~~

- ~~d. Division staff shall send any other~~ If the board's decision and order in a disciplinary order by the board, matter does not involving suspension or revocation suspend or revoke a of certification license, to the certificate holder within ten days by deposit in the United States mail addressed to give the licensee written notice under ACJA § 7-201.08, last known address on file with division staff, pursuant to subsection (H)(1)(i)(7). Notice by mail is complete upon deposit in the United States mail.
- ~~e. Regarding a complaint matter, to the complainant within ten days, pursuant to subsection H(1)(i)(7), by deposit in the United States mail addressed to the last known address on file with division staff. Notice by mail is complete upon deposit in the United States mail.~~

Section 7-201.39: Judicial Review

~~27. A. Filing of Special Action. Decisions of the board pursuant to this section and the applicable ACJA sections are final. Parties may seek~~ A party entitled to judicial review of a final decision of the board may through file a petition for a an original special action in superior court within no later than 35 days after entry of the board's final order issues. The petition for special action shall be pursuant to is governed by the Part II, Arizona Rules of Procedure for Special Actions.

B. No Rehearing Requirement. An applicant or licensee entitled to judicial review is not required to first file a request for rehearing.

~~**I. Policies and Procedures for Board Members.** The purpose of a board is to assist the supreme court in the protection of the public through the certification and oversight of certificate holders, to ensure conformance by certificate holders to the highest ethical standards and performance of responsibilities in a professional and competent manner.~~

- ~~1. Establishment of Boards and Appointment and Terms of Members. The establishment of the boards and the appointment and terms of members are specified in subsections (D)(5)(a) and (b).~~
- ~~2. Role and Responsibilities of Board Members. In addition to the provisions of subsection (D)(5)(c), the following provisions apply:~~
 - ~~a. Role. The primary role of the board members is protection of the public through the fair and impartial application of the applicable section of the ACJA and court rules. Members should consider the views and interests of regulated professionals and the~~

~~profession; however, members shall balance this against the member's primary role of protection of the public.~~

~~b. Attendance. Members shall attend and actively participate in board meetings and assist with the administration of board affairs. Regular attendance by each member of the board helps ensure full contribution of all members. Therefore, members are required to regularly attend and participate in board meetings. The board chair shall address a board attendance issue regarding a member as follows:~~

~~(1) A board attendance problem occurs if a member:~~

- ~~(a) Has two consecutive un-notified absences where the member did not provide advance notification to division staff the member would be absent;~~
- ~~(b) Has three consecutive absences where the member did provide advance notification to division staff the member would be absent; or~~
- ~~(c) Misses one third of the total number of regular board meetings in a twelve month period.~~

~~(2) Upon determination of a board attendance problem, the chair shall discuss the issue with the member. The chair shall share the member's response at the next board meeting and the board shall consider the appropriate action to take regarding the member's membership on the board. If the board decides to recommend to the chief justice for the termination of the membership of the member, the chair shall inform the member of the board's decision. The chair shall request a letter of resignation from the member and the return of any board materials. The board shall promptly initiate the process for the recruitment and recommendation of a new member.~~

~~c. Expenses. Members shall not receive compensation for their services, but may receive reimbursement for their travel and other expenses incidental to the performance of their duties, pursuant to the adopted state guidelines.~~

~~d. Gifts and Awards. A member shall not solicit or accept any gift or award from any professional certified individual, business or association, including a testamentary gift, unless the member or other recipient of the gift is related to the provider of the gift or award. For the purposes of this paragraph, "gift" includes money, services, travel, food, or entertainment and "related persons" includes a spouse, child, grandchild, parent, grandparent or other relative or individual with whom the member maintains a close, familial relationship. It is acceptable for the board or a member to accept an award, in recognition of service, from an association not directly related to their respective professional association, for example, the American Judicature Society.~~

~~e. Contractual Arrangements. A member shall carefully consider entering into any contractual arrangement with any professional certificate holder for the provision of any services related to the associated profession. The member shall consider whether such an association could result in a conflict of interest, or the appearance of a conflict of interest.~~

~~f. Referrals. A member shall carefully consider whether to recommend the services of~~

~~any professional certificate holder to a member of the public or to accept a referral from a regulated professional or regulated business. The member shall consider whether a referral could result in a conflict of interest, or the appearance of a conflict of interest.~~

- ~~g. Professional Associations. A member shall not serve simultaneously as an officer or board member of a professional association for the regulated profession and as a member of the board.~~

~~3. Organization.~~

- ~~a. Chair. The chief justice shall designate the chair of the board, unless otherwise designated by the applicable ACJA section. If the chair resigns or ceases to be a member of the board, the chief justice shall appoint another person, either an existing member of the board or a new appointee, to serve as chair. The chair shall perform the duties normally associated with the office and shall preside over all general meetings of the board.~~
- ~~b. Vice Chair. The board shall elect a vice chair from among the appointed members of the board. The vice chair shall serve in the capacity as vice chair for a specified term. If the vice chair resigns or ceases to be a member of the board, the board shall vote to elect a new vice chair from among the existing members. The vice chair shall act as chair in the absence of the chair.~~
- ~~c. Subcommittees. The chair or the board may establish such subcommittees as deemed necessary to adequately serve the needs of the applicable program. Each subcommittee shall consist of a chair to be named by the board chair or the board and members who volunteer and are approved for service. The chair or the board may appoint additional individuals who are not appointed members of the board to a subcommittee. A subcommittee shall exist only so long as it serves a current, useful purpose. A subcommittee may be dissolved by the board chair or the board if it is deemed it has fulfilled its purpose.~~

~~4. Meetings.~~

- ~~a. Regular Meetings. The board shall meet no less than six times per year for regular meetings, unless other applicable ACJA sections state otherwise. The board chair may call additional regular meetings at the discretion of the board chair.~~
- ~~b. Emergency Meetings. The board chair may call emergency meetings of the board upon a showing of good cause, including consideration of the emergency suspension of a certificate pursuant to subsection (H)(5)(c)(6).~~
- ~~c. Public Notice. All meetings shall be publicly noticed and open to the public, in compliance with ACJA § 1-202.~~
- ~~d. Quorum. The board shall have a quorum for all official actions. A quorum consists of~~

~~a majority of the board.~~

~~5. Actions.~~

~~a. Voting. A majority of the votes shall decide motions arising at any meeting of the board. All members may vote on any motion. All votes shall be taken by voice vote, signified by “aye” or “nay.” Any board member may require a recorded vote, to include the number of “ayes” or “nays” and the specific vote of the member requesting the recorded vote. In the case of an equality of votes the motion is defeated. A declaration by the chair a motion has carried and an entry to that effect in the minutes is admissible in evidence as prima facie proof of the fact without proof of the number or proportion of the votes recorded in favor of or against such resolution being necessary.~~

~~b. Recusal. A member shall recuse from discussing and voting on an issue pertaining to an applicant or certificate holder who is related to the member or in any other situations where there is a conflict of interest, or may be the appearance of a conflict of interest.~~

~~(1) For the purposes of this subsection:~~

~~(a) “related” includes the relationships of parent, child, sibling, spouse or cohabitant;~~

~~(b) “conflict of interest” includes situations where the member has a direct or indirect substantial interest in any contract, sale, purchase or service to the board or the AOC or who has, or whose relative has, a substantial interest in any decision of the board, or the existence of any situation where there is, or may be an appearance that the relationship is one that would affect the member’s ability to be impartial. The fact a member or the entire board has been named in a lawsuit by an applicant or certificate holder does not automatically constitute a conflict of interest requiring the recusal of the member in an issue relating to the applicant or certificate holder.~~

~~(2) The purpose of this recusal provision is to remove or limit the possibility of personal influence which might bear upon a member’s official decision, or provide the appearance of any impropriety in the member’s decision.~~

~~(3) A member may seek legal advice regarding specific conflicts of interest or other ethical issues pertaining to membership and action from the AOC legal counsel.~~

~~(4) The member shall recuse at the beginning of the discussion of the issue by the board, or at the first instance the member realizes the conflict. The member shall not participate in the discussion by the board and shall leave the meeting room during board discussion of the issue in executive session. The recusal shall be noted in the official minutes of the meeting.~~

~~e. A member shall not designate a proxy for attendance or voting.~~

~~6. Staff. Under the direction of the chief justice, the director shall provide staff to assist and support the board and may conduct or coordinate research as recommended by the board.~~

~~7. Communications.~~

- ~~a. Board members shall not engage in improper ex parte communications with a hearing officer, other board members or division staff as to the merits of a case regarding an individual or business entity application for certification or a complaint alleging acts or misconduct or violations of statutes, court rules, or the ACJA that have been filed against a certificate holder. Except as may be provided in the applicable sections of the ACJA, all communications among a board member, division staff or a hearing officer in these situations shall occur during board meetings.~~
- ~~b. AOC legal counsel shall provide legal advice for the board. The Office of the Arizona Attorney General provides legal representation to the board as an entity or individual member, consistent with the Arizona constitution and statutes. AOC legal counsel shall coordinate with the Attorney General for representation.~~
- ~~c. Board members shall not engage in ex parte communications with applicants for certification or certificate holders regarding the board's action or potential action. Members shall not engage in ex parte communications with any other person, including the attorney of record of an applicant or certificate holder.~~
- ~~d. Board members should refer all contacts from the media to the AOC public information officer.~~
- ~~e. Board members shall maintain the confidentiality of all information provided to the board during confidential executive sessions of the board and other documents that are confidential pursuant to court rules or law.~~
- ~~f. Board members should always be cognizant they are seen as representatives of the board and the program at professional gatherings and in public settings, including for example, at the legislature. Board members should not speak for the board unless specifically authorized to do so. A board member shall make the following statement, either verbally or in writing, or both, "the views and opinions expressed are my own and do not represent the views or opinion of the board, the AOC or the Arizona Supreme Court."~~
- ~~g. Board members shall refer inquiries from the public, certificate holders, applicants for certification and other governmental and private entities regarding matters within the board's jurisdiction to division staff. Division staff, in coordination with the board chair, shall refer appropriate issues to the full board at a regularly scheduled board meeting.~~
- ~~h. These provisions apply to all forms of communication, including verbal, written and electronic.~~