

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 10. DEPARTMENT OF HEALTH SERVICES HEALTH CARE INSTITUTIONS: LICENSURE

PREAMBLE

- 1. Sections Affected**
R9-10-112
- Rulemaking Action**
New Section
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statutes: A.R.S. §§ 36-132(A) and 36-136(F)
Implementing statute: A.R.S. § 36-423, as added by Laws 2002, Ch. 269, effective August 22, 2002
- 3. The effective date of the rules:**
April 1, 2003

A.R.S. § 36-423(B), as added by Laws 2002, Ch. 269, provides for hemodialysis technician trainees beginning April 1, 2003, and mandates clinical practice restriction rules for these trainees. Laws 2002, Ch. 269, requires the Department of Health Services (Department) to make the clinical practice restriction rules by March 31, 2003. Additionally, Laws 2002, Ch. 269, gives the Department an exemption from the Administrative Procedure Act for this rulemaking, and the provisions of A.R.S. § 41-1032, as amended by Laws 2002, Ch. 334, do not apply.
- 4. A list of all previous notices appearing in the Register addressing the exempt rule:**
Notice of Public Information: 8 A.A.R. 4304, October 11, 2002
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Kathleen Phillips, Rules Administrator
Address: Department of Health Services
1740 W. Adams, Suite 102
Phoenix, AZ 85007

Telephone: (602) 542-1264
Fax: (602) 364-1150
E-mail: kphilli@hs.state.az.us

or

Name: Helena Hoover, Team Leader
Address: Department of Health Services
1647 E. Morten, Suite 160
Phoenix, AZ 85020

Telephone: (602) 674-9750
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E-mail: hhoover@hs.state.az.us
- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**
Laws 2002, Ch. 269, gives the Department of Health Services an exemption from the Administrative Procedure Act to develop rules under A.R.S. § 36-423(B), as added by Laws 2002, Ch. 269. Subsection (B) of the new statute

requires the Department to make rules for the clinical practice restrictions for a hemodialysis technician trainee employed by a health care institution.

In this rulemaking, the Department is making new R9-10-112, containing definitions and the clinical practice restrictions applicable to hemodialysis technician trainees. This Section will become effective April 1, 2003. Future regular rulemaking will give effect to other provisions of A.R.S. § 36-423 and will establish specific licensing requirements for dialysis facilities.

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

Not applicable

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

Not applicable

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

Because this rulemaking is exempt from the Administrative Procedure Act under Laws 2002, Ch. 269, § 2, the Department did not prepare an economic impact statement.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Not applicable

11. A summary of the comments made regarding the rule and the agency response to them:

Not applicable

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

Not applicable

14. Was the rule previously made as an emergency rule?

No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 10. DEPARTMENT OF HEALTH SERVICES

HEALTH CARE INSTITUTIONS: LICENSURE

ARTICLE 1. GENERAL

Section

R9-10-112. ~~Repealed~~ Clinical Practice Restrictions for Hemodialysis Technician Trainees

ARTICLE 1. GENERAL

R9-10-112. ~~Repealed~~ Clinical Practice Restrictions for Hemodialysis Technician Trainees

A. The following definitions apply in this Section:

1. "Assess" means collecting data about a patient by:

- a. Obtaining a history of the patient.**
- b. Listening to the patient's heart and lungs, and**
- c. Checking the patient for edema.**

2. "Blood-flow rate" means the quantity of blood pumped into a dialyzer per minute of hemodialysis.

3. "Blood lines" means the tubing used during hemodialysis to carry blood between a vascular access and a dialyzer.

4. "Central line catheter" means a vascular access created by surgically implanting a tube into a large vein.

5. "Clinical practice restriction" means a limitation on the hemodialysis tasks that may be performed by a hemodialysis technician trainee.

6. "Conductivity test" means a determination of the electrolytes in a dialysate.

7. "Dialysate" means a mixture of water and chemicals used in hemodialysis to remove wastes and excess fluid from a patient's body.

8. "Dialysate-flow rate" means the quantity of dialysate pumped per minute of hemodialysis.

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9. "Dialyzer" means a blood filter used in hemodialysis to remove wastes and excess fluid from a patient's blood.
 10. "Directly observing" or "direct observation" means a medical person stands next to an inexperienced hemodialysis technician trainee and watches the inexperienced hemodialysis technician trainee perform a hemodialysis task.
 11. "Direct supervision" means a nurse or a physician is physically present within sight or hearing of the patient and readily available to provide care to a patient.
 12. "Electrolytes" means compounds, such as sodium, potassium, and calcium that break apart into electrically charged particles when dissolved in water.
 13. "Experienced hemodialysis technician trainee" means an individual who has passed all didactic, skills, and competency examinations provided by a health care institution that measure the individual's knowledge and ability to perform hemodialysis.
 14. "Fistula" means a vascular access created by a surgical connection between an artery and vein.
 15. "Fluid-removal rate" means the quantity of wastes and excess fluid eliminated from a patient's blood per minute of hemodialysis to achieve the patient's prescribed weight, determined by:
 - a. Dialyzer size.
 - b. Blood-flow rate.
 - c. Dialysate-flow rate, and
 - d. Hemodialysis duration.
 16. "Germicide-negative test" means a determination that a chemical used to kill microorganisms is not present.
 17. "Germicide-positive test" means a determination that a chemical used to kill microorganisms is present.
 18. "Graft" means a vascular access created by a surgical connection between an artery and vein using a synthetic tube.
 19. "Hemodialysis" means a process for removing wastes and excess fluids from a patient's blood by passing the blood through a dialyzer.
 20. "Hemodialysis machine" means a mechanical pump that controls:
 - a. The blood-flow rate.
 - b. The mixing and temperature of dialysate.
 - c. The dialysate-flow rate.
 - d. The addition of anticoagulant, and
 - e. The fluid-removal rate.
 21. "Hemodialysis technician" has the same meaning as in A.R.S. § 36-423.
 22. "Hemodialysis technician trainee" means an individual who is working in a health care institution after March 31, 2003 to assist in providing hemodialysis and who is not certified as a hemodialysis technician according to A.R.S. § 36-423(A).
 23. "Inexperienced hemodialysis technician trainee" means an individual who has not passed all didactic, skills, and competency examinations provided by a health care institution that measure the individual's knowledge and ability to perform hemodialysis.
 24. "Medical person" means:
 - a. A doctor of medicine licensed under A.R.S. Title 32, Chapter 13, and experienced in dialysis;
 - b. A doctor of osteopathy licensed under A.R.S. Title 32, Chapter 17, and experienced in dialysis;
 - c. A registered nurse practitioner licensed under A.R.S. Title 32, Chapter 15, and experienced in dialysis;
 - d. A nurse licensed under A.R.S. Title 32, Chapter 15, and experienced in dialysis;
 - e. A hemodialysis technician who meets the requirements in A.R.S. § 36-423(A) approved by the governing authority; and
 - f. An experienced hemodialysis technician trainee approved by the governing authority.
 25. "Medical records" has the same meaning as in A.R.S. § 12-2291.
 26. "Nephrologist" means a physician who specializes in the structure, function, and diseases of the kidney.
 27. "Not established" means not approved for use by the patient's nephrologist.
 28. "Patient" means an individual who receives hemodialysis.
 29. "pH test" means a determination of the acidity of a dialysate.
 30. "Preceptor course" means a health care institution's instruction and evaluation provided to a nurse or a hemodialysis technician trainee that enables the nurse or the hemodialysis technician trainee to provide direct observation and education to other hemodialysis technician trainees.
 31. "Respond" means to mute, shut off, reset, or troubleshoot an alarm.
 32. "Safety check" means successful completion of all tests recommended by the manufacturer of a hemodialysis machine, a dialyzer, or a water system used for hemodialysis before initiating a patient's hemodialysis.
 33. "Vascular access" means the point created on a patient's body where blood lines are connected for hemodialysis.
 34. "Water-contaminant test" means a determination of the presence of chlorine or chloramine in a water system used for hemodialysis.
- B. An experienced hemodialysis technician trainee may:**
1. Perform hemodialysis under direct supervision after passing all didactic, skills and competency examinations; and

2. Provide direct observation to another hemodialysis technician trainee only after completing the health care institution's preceptor course approved by the governing authority.
- C.** An experienced hemodialysis technician trainee shall not access a patient's:
 1. Fistula that is not established; or
 2. Graft that is not established;
- D.** An inexperienced hemodialysis technician trainee may perform the following hemodialysis tasks only under direct observation:
 1. Access a patient's central line catheter;
 2. Respond to a hemodialysis-machine alarm;
 3. Draw blood for laboratory tests;
 4. Perform a water-contaminant test on a water system used for hemodialysis;
 5. Inspect a dialyzer and perform a germicide-positive test before priming a dialyzer;
 6. Set up a hemodialysis machine and blood lines before priming a dialyzer;
 7. Prime a dialyzer;
 8. Test a hemodialysis machine for germicide presence;
 9. Perform a hemodialysis machine safety check;
 10. Prepare a dialysate;
 11. Perform a conductivity test and a pH test on a dialysate;
 12. Assess a patient;
 13. Check and record a patient's vital signs, weight, and temperature;
 14. Determine the amount and rate of fluid removal from a patient;
 15. Administer local anesthetic at an established fistula or graft, administer anticoagulant, or administer replacement saline solution;
 16. Perform a germicide-negative test on a dialyzer before initiating hemodialysis;
 17. Initiate or discontinue a patient's hemodialysis;
 18. Adjust blood-flow rate, dialysate-flow rate, or fluid-removal rate during hemodialysis; or
 19. Prepare a blood, water, or dialysate culture to determine microorganism presence;
- E.** An inexperienced hemodialysis technician trainee may perform, under direct supervision, any of the hemodialysis tasks listed in subsection (D) after the inexperienced hemodialysis technician trainee has passed the didactic, skills and competency examination applicable to the hemodialysis task.
- F.** An inexperienced hemodialysis technician trainee shall not:
 1. Access a patient's:
 - a. Fistula that is not established, or
 - b. Graft that is not established; or
 2. Provide direct observation.
- G.** When a hemodialysis technician trainee performs hemodialysis tasks for a patient, the patient's medical record shall include:
 1. The name of the hemodialysis technician trainee,
 2. The date, time, and hemodialysis task performed,
 3. The name of the medical person directly observing or the nurse or physician directly supervising the hemodialysis technician trainee, and
 4. The initials or signature of the medical person directly observing or the nurse or physician directly supervising the hemodialysis technician trainee.
- H.** If the Department determines that a health care institution is not in substantial compliance with this Section, the Department may take enforcement action according to R9-10-110.
- I.** The effective date of this Section is April 1, 2003.

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 21. DEPARTMENT OF HEALTH SERVICES
MENTAL HEALTH SERVICES FOR PERSONS WITH SERIOUS MENTAL ILLNESS**

PREAMBLE

- 1. Sections Affected** **Rulemaking Action**
R9-21-508 Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statutes (general) and the statutes the rules are implementing (specific):**
Authorizing statutes: A.R.S. §§ 36-104(3) and 36-136(F)
Implementing statute: A.R.S. § 36-540.02, and Laws 2001, Ch. 367
- 3. The effective date of the rules:**
January 29, 2003. The effective date of this rule is immediately upon filing with the Secretary of State's Office. This rulemaking is exempt from A.R.S. Title 41, Chapter 6, which includes A.R.S. § 36-1032, pursuant to Laws 2001, Ch. 367.
- 4. A list of all previous notices appearing in the Register addressing the exempt rule:**
Notice of Public Information: 8 A.A.R. 3937, September 13, 2002
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Ann Froio, Division Chief of Compliance
Address: Department of Health Services, Division of Behavioral Health Services
2122 E. Highland, Suite 100
Phoenix, AZ 85016
Telephone: (602) 381-8999
Fax: (602) 553-9141
or
Name: Kathleen Phillips
Rules Administrator
Address: Arizona Department of Health Services
1740 W. Adams, Room 102
Phoenix, AZ 85007
Telephone: (602) 542-1264
Fax: (602) 364-1150
E-mail: kphilli@hs.state.az.us
- 6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**
This rulemaking is exempt pursuant to Laws 2001, Ch. 367. R9-21-508 is being amended to clarify that a seriously mentally ill individual may not be transferred to another mental health agency until the individual has been accepted for transfer by the medical director of the receiving mental health agency.
- 7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
Not applicable
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 9. The summary of the economic, small business, and consumer impact:**
Not applicable

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Not applicable

11. A summary of the comments made regarding the rule and the agency response to them:

Not applicable

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporation by reference and their location in the rules:

None

14. Was this rule previously made as an emergency rule?

This rule was not previously made as an emergency rule.

15. The full text of the rule follows:

TITLE 9. HEALTH SERVICES

CHAPTER 21. DEPARTMENT OF HEALTH SERVICES

MENTAL HEALTH SERVICES FOR PERSONS WITH SERIOUS MENTAL ILLNESS

ARTICLE 5. COURT-ORDERED EVALUATION AND TREATMENT

Section

R9-21-508. ~~Transfer~~ Transfers of Gravely Disabled Court-ordered Persons

ARTICLE 5. COURT-ORDERED EVALUATION AND TREATMENT

R9-21-508. ~~Transfer~~ Transfers of Gravely Disabled Court-ordered Persons

A. For the purpose of this Section, “non-client” means an individual who is seriously mentally ill but is not currently being evaluated or treated for a mental disorder by or through a regional authority.

~~A-B.~~ An individual found ordered by the court to be gravely disabled undergo treatment and without a guardian may be transferred from a mental health ~~treatment~~ agency to another mental health agency, provided that the medical director of the mental health ~~treatment~~ agency initiating the transfer has established that:

1. There is no reason to believe the individual will suffer more serious physical harm or serious illness as a result of the transfer; and
2. The individual is being transferred to a level and kind of treatment more appropriate to the individual’s treatment needs and has been accepted for transfer by the medical director of the receiving mental health agency pursuant to subsection (D).

~~B-C.~~ The medical director of the mental health agency initiating the transfer ~~must~~ shall:

1. Be the medical director of the mental health agency to which the court committed the individual; or
2. Obtain the court’s consent to the transfer as necessary.

~~C-D.~~ All clients shall be transferred pursuant to the procedures set forth in Article 3 of this Chapter. With regard to non-clients, the medical director of the mental health agency initiating the transfer may not transfer a non-client to, or use the services of, any other mental health agency, unless the medical director of the other mental health agency has agreed to provide such services to a non-client to be transferred, and the Department has licensed and approved ~~that~~ the mental health agency to provide those services.

~~D-E.~~ The medical director of the mental health ~~treatment~~ agency initiating the transfer shall notify the receiving mental health agency in sufficient time for the intended transfer to be accomplished in an orderly fashion, but not less than three days. This notification shall include:

1. A summary of the individual’s needs.
2. A statement that, in the medical director’s judgment, the receiving mental health agency can adequately meet the individual’s needs.
3. If the individual is a client, a modification of a client’s ISP pursuant to R9-21-314, when applicable.
4. Documentation of the court’s consent, when applicable.

~~E-F.~~ The medical director of the transferring mental health agency ~~must~~ shall present a written compilation of the individual’s clinical needs and suggestions for future care to the medical director of the receiving mental health agency, who ~~must~~ shall accept and approve it before an individual can be transferred pursuant to subsection ~~(A)~~ (B).

~~F-G.~~ The transportation of individuals transferred from one mental health agency to another shall be the responsibility of the mental health agency initiating the transfer, irrespective of the allocation of the cost of transportation defined elsewhere.