

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 6. ECONOMIC SECURITY

CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY SOCIAL SERVICES

PREAMBLE

- 1. Sections Affected**

Article 49	<u>Rulemaking Action</u>
Appendix A	Amend
Appendix B	Amend

- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statute the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 41-1005(A)(26), 41-1954(A)(3), 46-134(A)(12), and 46-805

Implementing statutes: A.R.S. §§ 46-801 through 46-810

Statute authorizing the exemption: A.R.S. § 41-1005(A)(26)

- 3. The effective date of the rules:**

July 1, 2003. This date is consistent with statutory requirements regarding eligibility levels and reimbursement rates.

- 4. A list of all previous notices appearing in the Register addressing the exempt rule:**

None

- 5. The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name:	Beth A. Broeker
Address:	1798 W. Jefferson, Site Code 837A Phoenix, AZ 85007
	or
	P.O. Box 6123, Site Code 837A Phoenix, AZ 85005
Telephone:	(602) 542-6555
Fax:	(602) 542-6000
E-mail:	bbroeker@mail.de.state.az.us

- 6. An explanation of the rule, including the agency's reason for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**

A.R.S. § 41-1005(A)(26) gives the Department an exemption from the Administrative Procedure Act to develop rules under A.R.S. § 46-805. This statute gives the Department the authority to establish payment rates for child care assistance and a sliding fee scale and formula for determining child care assistance. The Department is adopting a new Child Care Assistance Gross Monthly Income Eligibility Chart and Fee Schedule to adjust the eligibility limits for child care assistance (to reflect updated Federal Poverty Guidelines) and new Maximum Reimbursement Rates For Child Care (to reflect changes made to the maximum provider rates the Department will pay for child care subsidies).

Notices of Exempt Rulemaking

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

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 the state:

Not applicable

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

Because these rules are exempt from the Administrative Procedure Act under A.R.S. § 41-1005(A)(26), 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 principle comments 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 this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 6. ECONOMIC SECURITY

CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY
SOCIAL SERVICES

ARTICLE 49. CHILD CARE ASSISTANCE

Section

- Appendix A. Child Care Assistance Gross Monthly Income Eligibility Chart and Fee Schedule
- Appendix B. Maximum Reimbursement Rates for Child Care

Notices of Exempt Rulemaking

ARTICLE 49. CHILD CARE ASSISTANCE

Appendix A. Child Care Assistance Gross Monthly Income Eligibility Chart and Fee Schedule

**ARIZONA DEPARTMENT OF ECONOMIC SECURITY
DIVISION OF EMPLOYMENT AND REHABILITATION SERVICES – CHILD CARE ADMINISTRATION
CHILD CARE ASSISTANCE GROSS MONTHLY INCOME ELIGIBILITY CHART AND FEE SCHEDULE**

EFFECTIVE JULY 1, 2002

Family Size ?	FEE LEVEL 1 (L1) INCOME MAXIMUM EQUAL TO OR LESS THAN 85% FPL*	FEE LEVEL 2 (L2) INCOME MAXIMUM EQUAL TO OR LESS THAN 100% FPL*	FEE LEVEL 3 (L3) INCOME MAXIMUM EQUAL TO OR LESS THAN 135% FPL*	FEE LEVEL 4 (L4) INCOME MAXIMUM EQUAL TO OR LESS THAN 145% FPL*	FEE LEVEL 5 (L5) INCOME MAXIMUM EQUAL TO OR LESS THAN 155% FPL*	FEE LEVEL 6 (L6) INCOME MAXIMUM EQUAL TO OR LESS THAN 165% FPL*
1	0 – 629	630 – 739	740 – 998	999 – 1,072	1,073 – 1,146	1,147 – 1,220
2	0 – 846	847 – 995	996 – 1,344	1,345 – 1,443	1,444 – 1,543	1,544 – 1,642
3	0 – 1,065	1,066 – 1,252	1,253 – 1,691	1,692 – 1,816	1,817 – 1,941	1,942 – 2,066
4	0 – 1,283	1,284 – 1,509	1,510 – 2,038	2,039 – 2,189	2,190 – 2,339	2,340 – 2,490
5	0 – 1,501	1,502 – 1,765	1,766 – 2,383	2,384 – 2,560	2,561 – 2,736	2,737 – 2,913
6	0 – 1,719	1,720 – 2,022	2,023 – 2,730	2,731 – 2,932	2,933 – 3,135	3,136 – 3,337
7	0 – 1,938	1,939 – 2,279	2,280 – 3,077	3,078 – 3,305	3,306 – 3,533	3,534 – 3,761
8	0 – 2,155	2,156 – 2,535	2,536 – 3,423	3,424 – 3,676	3,677 – 3,930	3,931 – 4,183
9	0 – 2,374	2,375 – 2,792	2,793 – 3,770	3,771 – 4,049	4,050 – 4,328	4,329 – 4,607
10	0 – 2,592	2,593 – 3,049	3,050 – 4,117	4,118 – 4,422	4,423 – 4,726	4,727 – 5,031
11	0 – 2,810	2,811 – 3,305	3,306 – 4,462	4,463 – 4,793	4,794 – 5,123	5,124 – 5,454
12	0 – 3,028	3,029 – 3,562	3,563 – 4,809	4,810 – 5,165	5,166 – 5,522	5,523 – 5,878

~~MINIMUM REQUIRED CO-PAYMENTS~~

1st child in care	full day = \$1.00 part day = \$.50	Full day = \$2.00 Part day = \$1.00	full day = \$3.00 part day = \$1.50	full day = \$5.00 part day = \$2.50	full day = \$7.00 part day = \$3.50	full day = \$10.00 part day = \$5.00
2nd child in care	full day = \$.50 part day = \$.25	Full day = \$1.00 Part day = \$.50	full day = \$1.50 part day = \$.75	full day = \$2.50 part day = \$1.25	full day = \$3.50 part day = \$1.75	full day = \$5.00 part day = \$2.50
3rd child in care	full day = \$.50 part day = \$.25	Full day = \$1.00 Part day = \$.50	full day = \$1.50 part day = \$.75	full day = \$2.50 part day = \$1.25	full day = \$3.50 part day = \$1.75	full day = \$5.00 part day = \$2.50

No minimum required co-pay for 4th (or more) child in care. Full day = six or more hours; part day = less than six hours.

Families receiving child care assistance based upon involvement with Child Protective Services/Foster Care, the JOBS Program, the Arizona Works Program or those who are receiving cash assistance and who are employed, may not have an assigned fee level and may not have a minimum required co-payment. However, all families may be responsible for charges above the Minimum Required Co-Payments if a provider's rates exceed allowable state reimbursement maximums and/or the provider has other additional charges.

* Federal Poverty Level (FPL)

Notices of Exempt Rulemaking

Appendix A. Child Care Assistance Gross Monthly Income Eligibility Chart and Fee Schedule

**ARIZONA DEPARTMENT OF ECONOMIC SECURITY
DIVISION OF EMPLOYMENT AND REHABILITATION SERVICES - CHILD CARE ADMINISTRATION
CHILD CARE ASSISTANCE GROSS MONTHLY INCOME ELIGIBILITY CHART AND FEE SCHEDULE**

EFFECTIVE JULY 1, 2003

Family Size	<u>FEE LEVEL 1 (L1)</u> INCOME MAXIMUM EQUAL TO OR LESS THAN 85% FPL*	<u>FEE LEVEL 2 (L2)</u> INCOME MAXIMUM EQUAL TO OR LESS THAN 100% FPL*	<u>FEE LEVEL 3 (L3)</u> INCOME MAXIMUM EQUAL TO OR LESS THAN 135% FPL*	<u>FEE LEVEL 4 (L4)</u> INCOME MAXIMUM EQUAL TO OR LESS THAN 145% FPL*	<u>FEE LEVEL 5 (L5)</u> INCOME MAXIMUM EQUAL TO OR LESS THAN 155% FPL*	<u>FEE LEVEL 6 (L6)</u> INCOME MAXIMUM EQUAL TO OR LESS THAN 165% FPL*
<u>1</u>	<u>0 – 637</u>	<u>638 – 749</u>	<u>750 – 1,012</u>	<u>1,013 – 1,087</u>	<u>1,088 – 1,161</u>	<u>1,162 – 1,236</u>
<u>2</u>	<u>0 – 859</u>	<u>860 – 1,010</u>	<u>1,011 – 1,364</u>	<u>1,365 – 1,465</u>	<u>1,466 – 1,566</u>	<u>1,567 – 1,667</u>
<u>3</u>	<u>0 – 1,082</u>	<u>1,083 – 1,272</u>	<u>1,273 – 1,718</u>	<u>1,719 – 1,845</u>	<u>1,846 – 1,972</u>	<u>1,973 – 2,099</u>
<u>4</u>	<u>0 – 1,304</u>	<u>1,305 – 1,534</u>	<u>1,535 – 2,071</u>	<u>2,072 – 2,225</u>	<u>2,226 – 2,378</u>	<u>2,379 – 2,532</u>
<u>5</u>	<u>0 – 1,526</u>	<u>1,527 – 1,795</u>	<u>1,796 – 2,424</u>	<u>2,425 – 2,603</u>	<u>2,604 – 2,783</u>	<u>2,784 – 2,962</u>
<u>6</u>	<u>0 – 1,749</u>	<u>1,750 – 2,057</u>	<u>2,058 – 2,777</u>	<u>2,778 – 2,983</u>	<u>2,984 – 3,189</u>	<u>3,190 – 3,395</u>
<u>7</u>	<u>0 – 1,972</u>	<u>1,973 – 2,319</u>	<u>2,320 – 3,131</u>	<u>3,132 – 3,363</u>	<u>3,364 – 3,595</u>	<u>3,596 – 3,827</u>
<u>8</u>	<u>0 – 2,193</u>	<u>2,194 – 2,580</u>	<u>2,581 – 3,483</u>	<u>3,484 – 3,741</u>	<u>3,742 – 3,999</u>	<u>4,000 – 4,257</u>
<u>9</u>	<u>0 – 2,416</u>	<u>2,417 – 2,842</u>	<u>2,843 – 3,837</u>	<u>3,838 – 4,121</u>	<u>4,122 – 4,406</u>	<u>4,407 – 4,690</u>
<u>10</u>	<u>0 – 2,639</u>	<u>2,640 – 3,104</u>	<u>3,105 – 4,191</u>	<u>4,192 – 4,501</u>	<u>4,502 – 4,812</u>	<u>4,813 – 5,122</u>
<u>11</u>	<u>0 – 2,861</u>	<u>2,862 – 3,365</u>	<u>3,366 – 4,543</u>	<u>4,544 – 4,880</u>	<u>4,881 – 5,216</u>	<u>5,217 – 5,553</u>
<u>12</u>	<u>0 – 3,083</u>	<u>3,084 – 3,627</u>	<u>3,628 – 4,897</u>	<u>4,898 – 5,260</u>	<u>5,261 – 5,622</u>	<u>5,623 – 5,958**</u>

MINIMUM REQUIRED CO-PAYMENTS

<u>1st child in care</u>	<u>full day = \$1.00 part day = \$.50</u>	<u>full day = \$2.00 part day = \$1.00</u>	<u>full day = \$3.00 part day = \$1.50</u>	<u>full day = \$5.00 part day = \$2.50</u>	<u>full day = \$7.00 part day = \$3.50</u>	<u>full day = \$10.00 part day = \$5.00</u>
<u>2nd child in care</u>	<u>full day = \$.50 part day = \$.25</u>	<u>full day = \$1.00 part day = \$.50</u>	<u>full day = \$1.50 part day = \$.75</u>	<u>full day = \$2.50 part day = \$1.25</u>	<u>full day = \$3.50 part day = \$1.75</u>	<u>full day = \$5.00 part day = \$2.50</u>
<u>3rd child in care</u>	<u>full day = \$.50 part day = \$.25</u>	<u>full day = \$1.00 part day = \$.50</u>	<u>full day = \$1.50 part day = \$.75</u>	<u>full day = \$2.50 part day = \$1.25</u>	<u>full day = \$3.50 part day = \$1.75</u>	<u>full day = \$5.00 part day = \$2.50</u>

Arizona Administrative Register / Secretary of State

Notices of Exempt Rulemaking

No minimum required co-pay for 4th (or more) child in care. Full day = six or more hours; part day = less than six hours.

Families receiving child care assistance based upon involvement with Child Protective Services/Foster Care, the JOBS Program, or those who are receiving cash assistance and who are employed, may not have an assigned fee level and may not have a minimum required co-payment. However, all families may be responsible for charges above the Minimum Required Co-Payments if a provider's rates exceed allowable state reimbursement maximums and/or the provider has other additional charges.

* Federal Poverty Level (FPL)

** This amount is equal to the Federal Child Care and Development Fund statutory limit (for eligibility for child care assistance) of 85% of the state median income.

Appendix B: Maximum Reimbursement Rates for Child Care

**ARIZONA DEPARTMENT OF ECONOMIC SECURITY
DIVISION OF EMPLOYMENT AND REHABILITATION SERVICES
CHILD CARE ADMINISTRATION**

**MAXIMUM REIMBURSEMENT RATES FOR CHILD CARE
(effective for services provided on or after 10/1/2001)**

CENTERS

Age Group	District I	District II	District III	District IV	District V	District VI
Birth < 1 yr: Full day Part day	29.00 22.00	27.00 19.00	22.40 16.00	21.00 19.00	25.00 25.00	21.20 13.00
1 yr < 3 yrs: Full day Part day	25.58 19.00	24.00 18.00	20.00 15.00	18.25 16.00	25.00 15.00	20.80 13.80
3 yrs < 6 yrs: Full day Part day	23.20 16.00	22.00 15.40	18.00 13.02	17.00 15.50	20.00 12.40	17.60 12.20
6 yrs < 13 yrs: Full day Part day	22.00 15.00	21.20 13.60	16.80 12.00	17.00 14.00	20.00 13.33	18.90 12.00

GROUP HOMES

Age Group	District I	District II	District III	District IV	District V	District VI
Birth < 1 yr: Full day Part day	20.00 14.00	20.00 14.00	18.00 15.00	18.00 12.00	18.00 12.00	18.00 14.00
1 yr < 3 yrs: Full day Part day	20.00 14.00	20.00 15.00	18.00 13.00	17.50 12.00	18.00 11.00	18.00 14.00
3 yrs < 6 yrs: Full day Part day	20.00 13.00	20.00 15.00	18.00 12.00	16.00 12.00	18.00 10.00	16.00 14.00
6 yrs < 13 yrs: Full day Part day	17.00 12.00	20.00 13.00	16.00 12.00	16.00 11.00	18.00 10.00	16.00 14.00

CERTIFIED FAMILY HOMES AND CERTIFIED IN-HOME PROVIDERS

Age Group	District I	District II	District III	District IV	District V	District VI
Birth < 1 yr: Full day Part day	20.00 12.00	17.00 10.00	17.00 10.00	16.00 8.50	17.00 10.00	16.00 8.00
1 yr < 3 yrs: Full day Part day	18.00 12.00	17.00 10.00	16.00 10.00	15.00 8.00	16.00 10.00	16.00 8.00
3 yrs < 6 yrs: Full day Part day	17.00 12.00	16.00 10.00	16.00 10.00	15.00 8.00	16.00 9.00	15.00 8.00
6 yrs < 13 yrs: Full day Part day	16.00 10.00	16.00 10.00	16.00 9.00	15.00 8.00	15.00 9.00	15.00 8.00

Arizona Administrative Register / Secretary of State

Notices of Exempt Rulemaking

Full day = six or more hours per day

Part day = less than six hours per day

The maximum reimbursement rates may be increased by up to ten percent, for child care providers who are nationally accredited.

Actual reimbursement will be provider's actual charges, minus any client designated co-pay, not to exceed maximum reimbursement rates.

NON-CERTIFIED RELATIVE PROVIDERS

Payment rates for Non-Certified Relative Providers (NCRPs) who enter into Registration Agreements for the provision of care will have fixed rates (of \$10.50 for full day and \$6.00 for part day) minus any client designated co-pay. This rate will be paid to NCRPs statewide for care provided to children of all ages.

However, NCRPs who have an ongoing Registration Agreement which was in effect prior to 7/1/99, and were not included in the fixed rate pilot project will be paid their actual stated charges (not to exceed any of the applicable maximums specified below) minus any client designated co-pay. (These providers may however choose to be included in the fixed rate payment structure).

Age Group	District I	District II	District III	District IV	District V	District VI
Birth < 1 yr:						
Full day	12.60	10.80	10.80	10.80	10.80	10.80
Part day	7.20	7.20	5.40	5.40	5.40	5.40
1 yr < 3 yrs:						
Full day	12.60	10.80	10.80	9.25	10.80	10.80
Part day	7.20	7.20	5.40	5.40	5.40	5.40
3 yrs < 6 yrs:						
Full day	11.70	10.80	9.90	9.00	10.80	9.00
Part day	7.20	7.20	4.50	5.40	5.40	5.40
6 yrs < 13 yrs:						
Full day	11.70	10.80	9.00	10.80	10.80	9.90
Part day	7.20	6.30	4.50	5.40	5.40	5.40

Full day = six or more hours per day

Part day = less than six hours per day

Appendix B. Maximum Reimbursement Rates for Child Care

**ARIZONA DEPARTMENT OF ECONOMIC SECURITY
DIVISION OF EMPLOYMENT AND REHABILITATION SERVICES
CHILD CARE ADMINISTRATION**

MAXIMUM REIMBURSEMENT RATES FOR CHILD CARE

(effective for services provided on or after 7/1/2003)

CENTERS

Age Group	District I	District II	District III	District IV	District V	District VI
Birth < 1 yr:						
Full day	29.00	27.00	22.40	21.00	25.00	32.00
Part day	22.00	19.00	16.00	19.00	25.00	25.00
1 yr < 3 yrs:						
Full day	25.58	24.00	20.00	18.25	25.00	20.80
Part day	19.00	18.16	15.00	16.00	15.00	17.60
3 yrs < 6 yrs:						
Full day	23.20	22.00	18.00	17.00	20.00	17.60
Part day	16.00	16.00	13.02	15.50	12.40	12.20
6 yrs < 13 yrs:						
Full day	22.00	22.00	16.80	17.00	20.00	19.00
Part day	15.00	15.00	12.00	15.00	13.33	13.00

Notices of Exempt Rulemaking

GROUP HOMES

Age Group	District I	District II	District III	District IV	District V	District VI
Birth < 1 yr:						
Full day	<u>20.00</u>	<u>20.00</u>	<u>23.00</u>	<u>18.00</u>	<u>18.00</u>	<u>18.00</u>
Part day	<u>14.00</u>	<u>14.00</u>	<u>23.00</u>	<u>12.00</u>	<u>12.00</u>	<u>14.00</u>
1 yr < 3 yrs:						
Full day	<u>20.00</u>	<u>20.00</u>	<u>22.00</u>	<u>17.50</u>	<u>18.00</u>	<u>18.00</u>
Part day	<u>14.00</u>	<u>15.00</u>	<u>13.00</u>	<u>12.00</u>	<u>11.00</u>	<u>14.00</u>
3 yrs < 6 yrs:						
Full day	<u>20.00</u>	<u>20.00</u>	<u>22.00</u>	<u>16.00</u>	<u>18.00</u>	<u>16.00</u>
Part day	<u>13.00</u>	<u>15.00</u>	<u>13.95</u>	<u>12.00</u>	<u>10.00</u>	<u>14.00</u>
6 yrs < 13 yrs:						
Full day	<u>17.00</u>	<u>20.00</u>	<u>16.00</u>	<u>16.00</u>	<u>18.00</u>	<u>16.00</u>
Part day	<u>12.00</u>	<u>13.00</u>	<u>13.95</u>	<u>11.00</u>	<u>10.00</u>	<u>14.00</u>

CERTIFIED FAMILY HOMES AND CERTIFIED IN-HOME PROVIDERS

Age Group	District I	District II	District III	District IV	District V	District VI
Birth < 1 yr:						
Full day	<u>20.00</u>	<u>17.00</u>	<u>17.00</u>	<u>16.00</u>	<u>17.00</u>	<u>16.00</u>
Part day	<u>12.00</u>	<u>10.00</u>	<u>10.00</u>	<u>8.50</u>	<u>10.00</u>	<u>8.00</u>
1 yr < 3 yrs:						
Full day	<u>18.00</u>	<u>17.00</u>	<u>16.00</u>	<u>15.00</u>	<u>16.00</u>	<u>16.00</u>
Part day	<u>12.00</u>	<u>10.00</u>	<u>10.00</u>	<u>8.00</u>	<u>10.00</u>	<u>8.00</u>
3 yrs < 6 yrs:						
Full day	<u>17.00</u>	<u>16.00</u>	<u>16.00</u>	<u>15.00</u>	<u>16.00</u>	<u>15.00</u>
Part day	<u>12.00</u>	<u>10.00</u>	<u>10.00</u>	<u>8.00</u>	<u>9.00</u>	<u>8.00</u>
6 yrs < 13 yrs:						
Full day	<u>16.00</u>	<u>16.00</u>	<u>16.00</u>	<u>15.00</u>	<u>15.00</u>	<u>15.00</u>
Part day	<u>10.00</u>	<u>10.00</u>	<u>9.00</u>	<u>8.00</u>	<u>9.00</u>	<u>8.00</u>

The actual reimbursement amount is equal to the reimbursement rate minus any DES designated co-payment. However, in no event shall the amount reimbursed exceed the lesser of the provider's actual charges or the maximum reimbursement rate minus any DES designated co-payment.

Payment Rates for Non-Certified Relative Providers (NCRPs) will be \$10.50 for Full day and \$6.00 for Part day, minus any DES designated co-payment. This rate will be paid to NCRPs statewide for care provided to children of all ages.

The maximum reimbursement rates may be increased by up to ten percent for child care providers who are nationally accredited.

Full day = six or more hours per day. Part day = less than six hours per day.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 20. DEPARTMENT OF HEALTH SERVICES
BEHAVIORAL HEALTH SERVICE AGENCIES: LICENSURE**

PREAMBLE

1. Sections Affected

Rulemaking Action

R9-20-101	Amend
R9-20-102	Amend
R9-20-103	Amend
R9-20-104	Amend
R9-20-106	Amend
R9-20-201	Amend
R9-20-202	Amend
R9-20-203	Amend
R9-20-204	Amend
R9-20-205	Amend
R9-20-206	Amend
R9-20-207	Amend
R9-20-208	Amend
R9-20-209	Amend
R9-20-211	Amend
R9-20-212	Amend
R9-20-213	Amend
R9-20-214	Amend
R9-20-215	Amend
R9-20-216	New Section
R9-20-301	Amend
R9-20-401	Amend
R9-20-405	Amend
R9-20-406	Amend
R9-20-407	Amend
R9-20-408	Amend
R9-20-501	Amend
R9-20-502	Amend
R9-20-505	Amend
R9-20-506	Amend
R9-20-601	Amend
R9-20-602	Amend
R9-20-701	Amend
R9-20-802	Amend
R9-20-803	Amend
Article 9	Amend
R9-20-902	Amend
R9-20-904	Amend
R9-20-1001	Amend
R9-20-1003	Amend
R9-20-1004	Amend
R9-20-1008	Amend
R9-20-1010	Amend
R9-20-1013	Amend
R9-20-1014	Amend
R9-20-1101	Amend
R9-20-1202	Amend
R9-20-1301	Amend
R9-20-1401	Amend
R9-20-1501	Amend
R9-20-1502	Amend
R9-20-1503	Amend
R9-20-1504	Amend
R9-20-1505	Amend

Notices of Exempt Rulemaking

R9-20-1506
R9-20-1507

Amend
Amend

2. The authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 36-104(3), 36-132(A)(17), 36-136(F), and 36-405(A) and (B)(1)

Implementing statutes: A.R.S. §§ 36-204(1), (4), and (5), 36-502(A) and (B), 36-2003(A)(6), 36-2003(B)(1) and (3), 36-2052, 36-3005(4), 36-3707(B)(1), and 13-3601.01(A)

3. The effective date of the rule:

June 30, 2003

4. A list of all previous notices appearing in the Register addressing the exempt rules:

Notice of Public Information: 9 A.A.R. 1509, May 16, 2003

Notice of Proposed Exempt Rulemaking: 9 A.A.R. 1538, May 30, 2003

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Johnie Golden, Program Manager

Address: Office of Behavioral Health Licensure
Arizona Department of Health Services
1647 E. Morten, Suite 240
Phoenix, AZ 85020

Telephone: (602) 674-4300

Fax: (602) 861-0643

or

Name: Kathleen Phillips, Rules Administrator

Address: Arizona 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

6. An explanation of the rule, including the agency's reason for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:

The exempt rules incorporate changes that clarify meaning and reflect statutory changes and current standards of practice.

The changes will be promulgated in rule under exempt rulemaking procedures according to Laws 2001, Ch. 367 (SB 1353).

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

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:

Laws 2001, Ch. 367 (SB 1353) provides exemption from the provisions of Title 41, Chapter 6.

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

The agency made changes between the proposed exempt rules and final exempt rules. Contact agency officials listed in item #5 for details.

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:

The following is incorporated by reference in R9-20-102(B)(1)(c):

42 CFR 8.11 (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

The following is incorporated by reference in R9-20-211(A):

42 CFR 2.11 through 42 CFR 2.67 (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

The following is incorporated by reference in R9-20-502(A)(2)(a):

42 CFR 456.160 (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

The following is incorporated by reference in R9-20-502(A)(2)(b):

42 CFR 441.102 (2002) or 42-CFR 456.180 through 456.181 (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

The following is incorporated by reference in R9-20-502(A)(2)(c):

42 CFR 456.200 through 456.213 (2002) and 42 CFR 482.30 (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

The following is incorporated by reference in R9-20-502(A)(2)(d):

42 CFR 456.170 through 456-171 (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

The following is incorporated by reference in R9-20-502(A)(2)(e):

42 CFR 456.231 through 456.238 (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

The following is incorporated by reference in R9-20-502(A)(2)(f):

42 CFR 456.241 through 456.245 (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

The following is incorporated by reference in R9-20-502(A)(2)(g):

42 CFR 456, Part J (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

The following is incorporated by reference in R9-20-502(A)(2)(h):

42 CFR 482.13(f) (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

The following is incorporated by reference in R9-20-502(A)(2)(i):

42 CFR 482.61 through 482.62 (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

Notices of Exempt Rulemaking

The following is incorporated by reference in R9-20-505(A)(4):

42 CFR 483, Subpart G (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

The following is incorporated by reference in R9-20-1003(C)(3)(f):

42 CFR 2.1 and 2.2 (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

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

No

15. The full text of the rule follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 20. DEPARTMENT OF HEALTH SERVICES
BEHAVIORAL HEALTH SERVICE AGENCIES: LICENSURE**

ARTICLE 1. GENERAL

Section

- R9-20-101. Definitions
- R9-20-102. Agency Subclasses and Required and Authorized Services
- R9-20-103. Initial License Application
- R9-20-104. License Renewal
- R9-20-106. Changes Affecting a License

ARTICLE 2. UNIVERSAL RULES

Section

- R9-20-201. Administration
- R9-20-202. Required Reports
- R9-20-203. Client Rights
- R9-20-204. Staff Member and Employee Qualifications and Records
- R9-20-205. Clinical Supervision
- R9-20-206. Orientation and Training
- R9-20-207. Staffing Requirements
- R9-20-208. Admission Requirements
- R9-20-209. Assessment and Treatment Plan
- R9-20-211. Client Records
- R9-20-212. Transportation
- R9-20-213. Outings
- R9-20-214. Environmental Standards
- R9-20-215. Time Out ~~and Emergency Safety Response~~
- R9-20-216. Emergency Safety Response

ARTICLE 3. OUTPATIENT CLINIC REQUIREMENTS

Section

- R9-20-301. Universal Outpatient Clinic Requirements

ARTICLE 4. RESIDENTIAL AGENCY REQUIREMENTS

Section

- R9-20-401. Supplemental Admission Requirements
- R9-20-405. Environmental Standards
- R9-20-406. Fire Safety Standards
- R9-20-407. Food Service Requirements
- R9-20-408. Assistance in the Self-Administration of Medication

ARTICLE 5. INPATIENT TREATMENT PROGRAM REQUIREMENTS

Section

- R9-20-501. Universal Inpatient Treatment Program Requirements

Notices of Exempt Rulemaking

- R9-20-502. Supplemental Requirements for a Level 1 Psychiatric Acute Hospital
- R9-20-505. Supplemental Requirements for a Level 1 RTC
- R9-20-506. Supplemental Requirements for Level 1 Sub-Acute Agency

ARTICLE 6. USE OF RESTRAINT OR SECLUSION

Section

- R9-20-601. Definitions
- R9-20-602. Requirements for Use of Restraint or Seclusion

ARTICLE 7. LEVEL 1 SPECIALIZED TRANSITIONAL AGENCY

Section

- R9-20-701. Supplemental Requirements for a Level 1 Specialized Transitional Agency

ARTICLE 8. COURT-ORDERED SERVICES

Section

- R9-20-802. Supplemental Requirements for Court-Ordered Evaluation
- R9-20-803. Supplemental Requirements for Court-Ordered Treatment

ARTICLE 9. DUI SERVICES

Section

- R9-20-902. Supplemental Requirements for DUI Screening
- R9-20-904. Supplemental Requirements for DUI Treatment

ARTICLE 10. OPIOID TREATMENT

Section

- R9-20-1001. Definitions
- R9-20-1003. Admission
- R9-20-1004. Assessment and Treatment Plan
- R9-20-1008. ~~Detoxification~~ Withdrawal Treatment
- R9-20-1010. Diverse Populations
- R9-20-1013. Community Relations
- R9-20-1014. Diversion Control

ARTICLE 11. MISDEMEANOR DOMESTIC VIOLENCE OFFENDER TREATMENT

Section

- R9-20-1101. Misdemeanor Domestic Violence Offender Treatment Standards

ARTICLE 12. LEVEL 4 TRANSITIONAL AGENCY

Section

- R9-20-1202. Standards for a Level 4 Transitional Agency

ARTICLE 13. SHELTER FOR VICTIMS OF DOMESTIC VIOLENCE

Section

- R9-20-1301. Standards for a Shelter for Victims of Domestic Violence

ARTICLE 14. RURAL SUBSTANCE ABUSE TRANSITIONAL AGENCY

Section

- R9-20-1401. Standards for a Rural Substance Abuse Transitional Agency

ARTICLE 15. ADULT THERAPEUTIC FOSTER HOME

Section

- R9-20-1501. Management
- R9-20-1502. Licensee Qualifications and Requirements
- R9-20-1503. Supervision
- R9-20-1504. Admission
- R9-20-1505. Assessment and Treatment Plan
- R9-20-1506. Client Records
- R9-20-1507. Environmental Standards

ARTICLE 1. GENERAL

R9-20-101. Definitions

A. The following definitions apply in this Chapter unless otherwise specified:

1. "Abuse" means:
 - a. For an adult:
 - i. The intentional infliction of physical harm or allowing another individual to inflict physical harm;
 - ii. Causing injury by negligent acts or omissions;
 - iii. Unreasonable or unlawful confinement;
 - iv. Sexual abuse, sexual assault, sexual misconduct, molestation, incest or prostitution;
 - v. A pattern of ridiculing or demeaning, making derogatory remarks to, verbally harassing, or threatening to inflict physical harm on a client; or
 - vi. Pharmacological abuse; or
 - b. For a child:
 - i. The infliction of, or allowing another individual to inflict, physical harm;
 - ii. Causing injury or impairment of bodily functions by negligent acts or omissions;
 - iii. A pattern of ridiculing or demeaning, making derogatory remarks to, verbally harassing, or threatening to inflict physical harm on a client;
 - iv. Inflicting or allowing another to inflict sexual misconduct, sexual assault, molestation of a child, commercial sexual exploitation of a minor, incest, or child prostitution; or
 - v. Pharmacological abuse.
2. "Administrative office" means a designated area in a building used for operating an agency that is at a separate location from the agency's premises.
3. "Administrator" means an individual designated according to R9-20-201(A)(5).
4. "Admission" means the written acceptance by an agency to provide behavioral health services to an individual.
5. "Adult" means an individual 18 years of age or older.
6. "Adult therapeutic foster home" or "sponsor" means an agency that provides behavioral health services and ancillary services to at least one and no more than three adults and where the clients live in the home with, and are integrated into the family of, the individuals providing behavioral health services to the clients.
7. "Agency" means a behavioral health service agency, a classification of a health care institution, including a mental health treatment agency defined in A.R.S. § 36-501, that is licensed to provide behavioral health services according to A.R.S. Title 36, Chapter 4.
8. "Agent" means an adult who has been designated to act for a client who is an adult in a mental health care power of attorney completed by the client according to A.R.S. Title 36, Chapter 32, Article 6.
9. "Ancillary services" means items or activities that are not behavioral health services but are necessary to ensure a client's health, safety, and welfare, such as food, housing, laundry, or transportation.
10. "Assessment" means the collection and analysis of an individual's information required in R9-20-209 to determine the individual's treatment needs.
11. "Assistance in the self-administration of medication" means aid provided to a client in:
 - a. Storing the client's medication to facilitate compliance with subsections (A)(11)(b) through (e);
 - b. Reminding the client to take a medication;
 - c. Verifying that the medication is taken as directed by the client's medical practitioner by:
 - i. Confirming that a medication is being taken by the client for whom it is prescribed,
 - ii. Checking the dosage against the label on the container, and
 - iii. Confirming that the client is taking the medication as directed;
 - d. Opening a medication container; or
 - e. Observing the client while the client removes the medication from the container or takes the medication.
12. "Behavioral health issue" means an individual's condition related to a mental disorder, personality disorder, substance abuse, or a significant psychological or behavioral response to an identifiable stressor or stressors.
13. "Behavioral health medical practitioner" means an individual licensed and authorized by law to use and prescribe medication and devices, as defined in A.R.S. § 32-1901, and who is one of the following with at least one year of full-time behavioral health work experience:
 - a. A physician;
 - b. A physician assistant; or
 - c. A nurse practitioner.
14. "Behavioral health paraprofessional" means an individual who meets the applicable requirements in R9-20-204 and has:
 - a. An associate's degree,
 - b. A high school diploma, or
 - c. A high school equivalency diploma.

Notices of Exempt Rulemaking

15. "Behavioral health professional" means an individual who meets the applicable requirements in R9-20-204 and is a:
 - a. Psychiatrist,
 - b. Behavioral health medical practitioner,
 - c. Psychologist,
 - d. Social worker,
 - e. Counselor,
 - f. Marriage and family therapist,
 - g. Substance abuse counselor, or
 - h. Registered nurse with at least one year of full-time behavioral health work experience.
16. "Behavioral health service" means the assessment, diagnosis, or treatment of an individual's behavioral health issue.
17. "Behavioral health technician" means an individual who meets the applicable requirements in R9-20-204 and:
 - a. Has a master's degree or bachelor's degree in a field related to behavioral health;
 - b. Is a registered nurse;
 - c. Is a physician assistant who is not working as a medical practitioner;
 - d. Has a bachelor's degree and at least one year of full-time behavioral health work experience;
 - e. Has an associate's degree and at least two years of full-time behavioral health work experience;
 - f. Has a high school diploma or high school equivalency diploma and a combination of education in a field related to behavioral health and full-time behavioral health work experience totaling at least two years;
 - i. 18 credit hours of post-high school education in a field related to behavioral health completed no more than four years before the date the individual begins providing behavioral health services and two years of full-time behavioral health work experience; or
 - ii. Four years of full-time behavioral health work experience; or
 - g. Is licensed as a practical nurse, according to A.R.S. Title 32, Chapter 15, with at least ~~three~~ two years of full-time behavioral health work experience; ~~or~~
 - h. ~~Has a high school diploma or high school equivalency diploma and at least four years of full-time behavioral health work experience.~~
18. "Behavioral health work experience" means providing behavioral health services:
 - a. In an agency;~~;~~
 - b. To an individual;~~;~~ or
 - c. In a field related to behavioral health.
19. "Branch office" means an agency's secondary facility that is open and functioning 20 or fewer hours each week and that provides counseling.
20. "Child" means an individual younger than 18 years of age.
21. "Client" means an individual who is accepted by ~~the~~ an agency for the provision of behavioral health services.
22. "Client record" means the collected documentation of the behavioral health services provided to and the information gathered regarding a client, maintained as required in R9-20-211 or as otherwise provided in this Chapter.
23. "Clinical director" means an individual designated by the licensee according to R9-20-201(A)(6).
24. "Clinical supervision" means review of skills and knowledge and guidance in improving or developing skills and knowledge.
25. "Communicable disease" has the same meaning as in A.A.C. R9-6-101.
26. "Conspicuously posted" means displayed in a facility at a location that is accessible and visible to a client and the public.
27. "Contiguous grounds" means real property that can be enclosed by a single unbroken boundary line that does not enclose property owned or leased by another.
28. "Co-occurring disorder" means a combination of a mental disorder or a personality disorder and one or more of the following:
 - a. Substance abuse;~~;~~ or
 - b. A developmental disability.
29. "Correctional facility" has the same meaning as in A.R.S. § 31-341.
- ~~29-30.~~ "Counseling" means the therapeutic interaction between a client, clients, or a client's family and a behavioral health professional or behavioral health technician intended to improve, eliminate, or manage one or more of a client's behavioral health issues and includes:
 - a. Individual counseling provided to a client;~~;~~
 - b. Group counseling provided to more than one client or more than one family;~~;~~ or
 - c. Family counseling provided to a client or the client's family.
- ~~30-31.~~ "Counselor" means:
 - a. ~~Before July 1, 2004, An~~ an individual who is certified as an associate counselor or a professional counselor according to A.R.S. Title 32, Chapter 33, Article 6;
 - b. On or after July 1, 2004, an individual who is licensed as an associate counselor or professional counselor

Notices of Exempt Rulemaking

according to A.R.S. Title 32, Chapter 33:

~~b-c.~~ Until October 3, 2003, an individual who is certified by the National Board of Certified Counselors; or
~~e-d.~~ Until July 1, 2004, an individual who is licensed or certified to provide counseling by a government entity in another state if the individual:

- i. Has documentation of submission of an application for certification as a professional counselor or associate counselor according to A.R.S. Title 32, Chapter 33, Article 6; and
- ii. Is certified as a professional counselor or associate counselor according to A.R.S. Title 32, Chapter 33, Article 6 within two years after submitting the application and before July 1, 2004.

~~31-32.~~ “Court-ordered alcohol treatment” means detoxification services or treatment provided according to A.R.S. Title 36, Chapter 18, Article 2.

~~32-33.~~ “Court-ordered alcohol treatment evaluation” has the same meaning as “evaluation” in A.R.S. § 36-2021.

~~33-34.~~ “Court-ordered evaluation” or “evaluation” has the same meaning as “evaluation” in A.R.S. § 36-501.

~~34-35.~~ “Court-ordered treatment” means treatment provided according to A.R.S. Title 36, Chapter 5.

~~35-36.~~ “CPR” means cardiopulmonary resuscitation.

~~36-37.~~ “Crisis services” means immediate and unscheduled behavioral health services provided:

- a. In response to an individual’s behavioral health issue to prevent imminent harm or to stabilize or resolve an acute behavioral health issue; and
- b. At a Level 1 psychiatric acute hospital or a Level 1 sub-acute agency.

~~37-38.~~ “Current” means up-to-date, extending to the present time.

~~38-39.~~ “Custodian” means a person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom legal custody of the child has been given by order of the juvenile court.

~~39-40.~~ “Danger to others” means that the judgement of a person who has a mental disorder is so impaired that he is unable to understand his need for treatment and as a result of his mental disorder his continued behavior can reasonably be expected, on the basis of a competent medical opinion, to result in serious physical harm.

~~40-41.~~ “Danger to self” means:

- a. *Behavior which, as a result of a mental disorder, constitutes a danger of inflicting serious physical harm upon oneself, including attempted suicide or the serious threat thereof, if the threat is such that, when considered in the light of its context and in light of the individual’s previous acts, it is substantially supportive of an expectation that the threat will be carried out.*
- b. *Behavior which, as a result of a mental disorder, will, without hospitalization, result in serious physical harm or serious illness to the person, except that this definition shall not include behavior which establishes only the condition of gravely disabled.*

~~41-42.~~ “Day” means calendar day.

~~42-43.~~ “Department” means the department of health services.

~~43-44.~~ “Designated representative” means an individual identified in writing by a client or the client’s parent, guardian, or custodian to assist the client in protecting the client’s rights.

~~44-45.~~ “Detoxification services” means behavioral health services and medical services provided:

- a. To reduce or eliminate a client’s dependence on, or to provide treatment for a client’s signs and symptoms of withdrawal from, alcohol or other drugs; and
- b. At a Level 1 psychiatric acute hospital or a Level 1 sub-acute agency.

~~45-46.~~ “Diagnosis” means a determination and labeling of a client’s behavioral health issue according to the:

- a. American Psychiatric Association, DSM-IV: Diagnostic and Statistical Manual of Mental Disorders (4th ed. 1994), incorporated by reference and on file with the Department and the Office of the Secretary of State and including no future editions or amendments, available from American Psychiatric Press, Inc., Order Department, 1400 K Street, N.W., Suite 1101, Washington, DC 20005; or
- b. National Center for Health Statistics, U.S. Department of Health and Human Services, ICD-9-CM: International Classification of Diseases, 9th Revision, Clinical Modification (5th ed. 2000), incorporated by reference and on file with the Department and the Office of the Secretary of State and including no future editions or amendments, available from Practice Management Information Corporation, 4727 Wilshire Boulevard, Suite 300, Los Angeles, CA 90010 and from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

~~46-47.~~ “Discharge” means the written termination of a client’s affiliation with an agency, according to R9-20-210.

~~47-48.~~ “Discharge summary” means an analysis of the treatment provided to a client and the client’s progress in treatment.

~~48-49.~~ “Documentation” means written or electronic supportive evidence.

~~49-50.~~ “Drug used as a restraint” means a medication pharmacological restraint as used in A.R.S. § 36-513 that is not standard treatment for a client’s medical condition or behavioral health issue and is administered:

- a. ~~Is administered to~~ To manage a client’s behavior in a way that reduces the safety risk to the client or others, and
- b. ~~Has the temporary effect of restricting~~ To temporarily restrict the client’s freedom of movement, and,
- e. ~~Is not a standard treatment for the client’s medical condition or behavioral health issue.~~

Notices of Exempt Rulemaking

- ~~50-51.~~ “DSM-IV” means DSM-IV: Diagnostic and Statistical Manual of Mental Disorders (4th ed. 1994), incorporated by reference in subsection (46)(a).
- ~~51-52.~~ “DUI client” means an individual who is ordered by the court to receive DUI screening, DUI education, or DUI treatment as a result of an arrest or conviction for a violation of A.R.S. §§ 28-1381, 28-1382, or 28-1383.
- ~~52-53.~~ “DUI education” means a program in which a DUI client participates in at least 16 hours of classroom instruction relating to alcohol or other drugs, as defined ~~has the same meaning as “education” in A.R.S. § 28-1301(3).~~
- ~~53-54.~~ “DUI screening” means a preliminary interview and assessment of a DUI client to determine if the DUI client requires alcohol or other drug education or treatment, as defined ~~has the same meaning as “screening” in A.R.S. § 28-1301(6).~~
- ~~54-55.~~ “DUI treatment” means a program that provides at least 20 hours of group counseling in addition to the 16 hours of DUI education, as defined ~~has the same meaning as “treatment” in A.R.S. § 28-1301(7).~~
- ~~55-56.~~ “Emergency safety response” means physically holding a client, by a trained staff member in an emergency, to safely manage a sudden, intense, or out-of-control behavior to prevent harm to the client or another individual.
- ~~56-57.~~ “Employee” means an individual who receives compensation from an agency for work performed, but who does not provide behavioral health services.
- ~~57-58.~~ “Exploitation” means the illegal use of a client’s resources for another individual’s profit or advantage according to A.R.S. Title 46, Chapter 4 or Title 13, Chapter 18, 19, 20, or 21.
- ~~58-59.~~ “Facilities” means buildings used by a health care institution for providing any of the types of services as defined in this Chapter.
- ~~59-60.~~ “Family member” means:
- A client’s parent, step-parent, foster parent, spouse, sibling, child, grandparent, grandchild, aunt, uncle, niece, nephew, or significant other; or
 - For pre-petition screening, court-ordered evaluation, or court-ordered treatment, the same as defined in A.R.S. § 36-501.
- ~~60-61.~~ “Field related to behavioral health” means an academic discipline or area of study that explores human development, responses, or interactions, such as psychology or sociology.
- ~~61-62.~~ “Full time” means 40 hours a week or more.
- ~~63.~~ “General consent” means a written agreement for an individual to receive a behavioral health service signed by the individual or if applicable, the individual’s parent, guardian, custodian, or agent.
- ~~62-64.~~ “General client supervision” means guidance of a client by a staff member and includes:
- Being aware of a client’s general whereabouts;
 - Monitoring a client’s activities on the premises or on an agency-sponsored activity off the premises to ensure the health, safety, and welfare of the client; or
 - Interacting with a client to assist the client in achieving a treatment goal.
- ~~63-65.~~ “Governing authority” means the individual, agency, group or corporation, appointed, elected or otherwise designated, in which the ultimate responsibility and authority for the conduct of the health care institution are vested.
- ~~64-66.~~ “Gravely disabled” means a condition evidenced by behavior in which a person, as a result of a mental disorder, is likely to come to serious physical harm or serious illness because he is unable to provide for his basic physical needs.
- ~~65-67.~~ “Grievance” means a client’s documented expression of dissatisfaction to a licensee about an act, omission, or condition of the licensee’s agency.
- ~~66-68.~~ “Guardian” means an individual or entity appointed to be responsible for the treatment or care of an individual according to A.R.S. Title 14, Chapter 5 or a similar provision in another state or jurisdiction.
- ~~67-69.~~ “Hazard” means a condition or situation from which a client may suffer physical injury or illness.
- ~~68-70.~~ “High school equivalency diploma” means:
- The document issued by the Arizona Department of Education under A.R.S. § 15-702 to an individual who passes a general educational development test or meets the requirements of A.R.S. § 15-702(B);
 - The document issued by another state to an individual who passes a general educational development test or meets the requirements of a state statute equivalent to A.R.S. § 15-702(B); or
 - The document issued by another country to an individual who has completed that country’s equivalent to a 12th grade education, as determined by the Department.
- ~~69-71.~~ “Immediate” means without delay.
- ~~70-72.~~ “Incident” means an occurrence or event that has the potential to cause harm or has caused harm to a client.
- ~~73.~~ “Informed consent” has the same meaning as in A.R.S. § 36-501.
- ~~74.~~ “Initial assessment” means the assessment of a client made by a behavioral health professional or a behavioral health technician under the supervision of a behavioral health professional between the client’s first visit with the behavioral health professional or behavioral health technician and the completion of the initial treatment plan.
- ~~75.~~ “Initial treatment plan” means a document that identifies the behavioral health services and ancillary services an agency shall provide a client until the agency develops a treatment plan according to R9-20-209(J).

Notices of Exempt Rulemaking

- ~~71-76.~~ “Inpatient treatment program” means a behavioral health service agency that:
- Provides medical services and continuous onsite or on-call availability of a behavioral health medical practitioner,
 - Provides accommodations for a client to stay overnight at the agency, and
 - May provide restraint or seclusion.
- ~~72-77.~~ “Intern” means an individual who is enrolled in an academic program of a college or university and who provides behavioral health services at an agency as part of the academic program’s requirements.
- ~~73-78.~~ “Level 1 psychiatric acute hospital” means an inpatient treatment program that:
- Is located in a general hospital, rural general hospital, or special hospital licensed according to 9 A.A.C. 10, unless:
 - The agency was licensed as a Level ~~one~~1 psychiatric acute care behavioral health facility before the effective date of this Chapter; and
 - The agency does not receive Medicaid funds under Title XIX of the Social Security Act;
 - Has continuous onsite or on-call availability of a psychiatrist; and
 - Provides continuous treatment to an individual who is experiencing a behavioral health issue that causes the individual:
 - To be a danger to self, a danger to others, or gravely disabled; or
 - To suffer severe and abnormal mental, emotional, or physical harm that significantly impairs judgment, reason, behavior, or the capacity to recognize reality.
- ~~74-79.~~ “Level 1 residential treatment center” means an inpatient treatment program that provides treatment to an individual under the age of 21 who needs inpatient psychiatric services.
- ~~75-80.~~ “Level 1 RTC” means a Level 1 residential treatment center.
- ~~76-81.~~ “Level 1 specialized transitional agency” means an agency that provides treatment to an individual determined to be a sexually violent person according to A.R.S. Title 36, Chapter 37.
- ~~77-82.~~ “Level 1 sub-acute agency” means an inpatient treatment program that provides continuous treatment to an individual experiencing a behavioral health issue that causes the individual:
- To have a limited or reduced ability to meet the individual’s basic physical and age-appropriate needs;
 - To be a danger to self, a danger to others, or gravely disabled; or
 - To suffer severe and abnormal mental, emotional, or physical harm that impairs judgment, reason, behavior, or the capacity to recognize reality.
- ~~78-83.~~ “Level 2 behavioral health residential agency” means a residential agency that provides:
- Counseling;
 - Continuous onsite or on-call availability of a behavioral health professional; and
 - Continuous treatment to an individual who is experiencing a behavioral health issue that limits the individual’s independence but who is able to participate in all aspects of treatment and to meet the individual’s basic physical and age-appropriate needs.
- ~~79-84.~~ “Level 3 behavioral health residential agency” means a residential agency that provides continuous protective oversight and treatment to an individual who is able to participate in all aspects of treatment and to meet the individual’s basic physical and age-appropriate needs but who needs treatment to maintain or enhance independence.
- ~~80-85.~~ “Level 4 transitional agency” means an agency that provides accommodations where a client receives:
- Support to assist the client in managing a crisis situation, or
 - An opportunity to enhance the client’s independent living skills.
- ~~81-86.~~ “Level 4 transitional staff member” means an individual who meets the requirements in R9-20-1202(C) and who provides supportive intervention and general client supervision at a Level four transitional agency.
- ~~82-87.~~ “Licensed capacity” means the total number of persons for whom the health care institution is authorized by the Department to provide services as required pursuant to this Chapter if the person is expected to stay in the health care institution for more than twenty-four hours. For a hospital, licensed capacity means only those beds specified on the hospital license.
- ~~83-88.~~ “Licensee” means a person authorized by the Department to operate an agency.
- ~~89.~~ “Manager” means the individual who has the responsibility to operate according to the requirements in this Chapter:
- A Level 4 transitional agency.
 - A shelter for victims of domestic violence.
 - A rural substance abuse transitional agency, or
 - An adult therapeutic foster home.
- ~~84-90.~~ “Marriage and family therapist” means:
- Before July 1, 2004, An an individual who is certified as a marriage and family therapist or associate marriage and family therapist according to A.R.S. Title 32, Chapter 33, Article 7;
 - On or after July 1, 2004, an individual who is licensed as a marriage and family therapist or associate marriage and family therapist according to A.R.S. Title 32, Chapter 33;

Notices of Exempt Rulemaking

- ~~b-c.~~ Until October 3, 2003, an individual who is a clinical member of the American Association of Marriage and Family Therapy; or
- ~~e-d.~~ Until July 1, 2004, ~~An an~~ individual who is licensed or certified to provide marriage and family therapy by a government entity in another state if the individual:
- i. Has documentation of submission of an application for certification as a marriage and family therapist or associate marriage and family therapist according to A.R.S. Title 32, Chapter 33, Article 7; and
 - ii. Is certified as a marriage and family therapist or associate marriage and family therapist according to A.R.S. Title 32, Chapter 33, Article 7 within two years after submitting the application and before July 1, 2004.
- ~~85-91.~~ “Mechanical restraint” means any device, article, or garment attached or adjacent to a client’s body that the client cannot easily remove and that restricts the client’s freedom of movement or normal access to the client’s body but does not include ~~devices a device, article, or garment used for surgical or orthopedic purposes.:~~
- a. Used for surgical or orthopedic purposes, or
 - b. Necessary to allow a client to heal from a medical condition or to participate in a treatment program for a medical condition.
- ~~86-92.~~ “Medical emergency” means a situation that requires immediate medical intervention to prevent death, hospitalization, or serious physical harm.
- ~~87-93.~~ “Medical practitioner” means a:
- a. Physician~~;~~
 - b. Physician assistant~~;~~ or
 - c. Nurse practitioner~~;~~ ~~or~~
 - d. ~~Other individual licensed and authorized by law to use and prescribe medication and devices, as defined in A.R.S. § 32-1901.~~
- ~~88-94.~~ “Medical services” means the services pertaining to medical care that are performed at the direction of a physician on behalf of patients by physicians, dentists, nurses and other professional and technical personnel.
- ~~89-95.~~ “Medication” means a prescription medication as defined in A.R.S. § 32-1901 or nonprescription drug, as defined in A.R.S. § 32-1901.
- ~~90-96.~~ “Medication administration” means the provision or application of a medication to the body of a client by a medical practitioner or nurse or as otherwise provided by law.
- ~~94-97.~~ “Medication adjustment” means a change made by a medical practitioner in the medication used to treat a client’s behavioral health issue.
- ~~92-98.~~ “Medication monitoring” means the determination, made by a medical practitioner or registered nurse, of whether a client’s medication is achieving the desired effect.
- ~~93-99.~~ “Medication organizer” means a container divided according to date or time increments and designated to hold medication.
- ~~94-100.~~ “Medication services” means one or more of the following:
- a. Medication administration,
 - b. Medication monitoring, or
 - c. Medication adjustment.
- ~~95-101.~~ “Mental disorder” has the same meaning as in:
- a. A.R.S. § 36-501; or
 - b. For an individual receiving treatment as a sexually violent person according to A.R.S. Title 36, Chapter 37, A.R.S. § 36-3701.
- ~~96-102.~~ “Mental health care power of attorney” means a written designation of an agent to make mental health care decisions that meets the requirements of section 36-3281.
- ~~97-103.~~ “Misdemeanor domestic violence offender treatment program” means a behavioral health service provided to an individual convicted of a misdemeanor domestic violence offense and ordered by a court to complete domestic violence offender treatment according to A.R.S. § 13-3601.01.
- ~~98-104.~~ “Neglect” means a pattern of conduct resulting in deprivation of food, water, medication, treatment, medical services, shelter, cooling, heating, or ancillary services necessary to maintain minimum physical or behavioral health.
- ~~99-105.~~ “NFPA” means National Fire Protection Association.
- ~~100-106.~~ “Nurse” means an individual licensed as a registered nurse or a practical nurse according to A.R.S. Title 32, Chapter 15.
- ~~101-107.~~ “Nurse practitioner” means an individual certified as a registered nurse practitioner according to A.R.S. Title 32, Chapter 15.
- ~~102-108.~~ “Nursing assessment” means the collection of data on an individual’s medical history and current physical health status and the analysis of that data performed by a registered nurse.
- ~~103-109.~~ “OBHL” means the Department’s Office of Behavioral Health Licensure.
- ~~104-110.~~ “On-call” means the immediate availability of an individual in person, by telephone, or other electronic means.

Notices of Exempt Rulemaking

- ~~405-111.~~ "Opioid treatment" means dispensing a medication, medication administration, or other treatment that includes an opioid agonist treatment medication or other narcotic treatment medication approved by the Federal Government for the treatment of opiate addiction, to alleviate or eliminate an individual's dependence upon an opioid drug.
- ~~112.~~ "Order" means an instruction to provide a behavioral health service or a medical service to a client.
- ~~406-113.~~ "Orientation" means familiarizing an individual with a new setting or situation.
- ~~407-114.~~ "Outing" means a planned activity sponsored by an agency that:
- Occurs off the premises,
 - Is not part of the agency's regular program or daily routine, and
 - Lasts for more than four hours or occurs in a location where emergency medical services cannot be anticipated to respond within 12 minutes.
- ~~408-115.~~ "Outpatient clinic" means an agency that provides treatment ~~for a specific portion of a day to a client for less than 24 consecutive hours who does not live on the premises and is not licensed as an agency subclass in R9-20-102(A)(2) through (11).~~
- ~~409-116.~~ "Owner" means a person who appoints, elects, or otherwise designates a health care institution's governing authority.
- ~~410-117.~~ "Partial care" means a day program that provides counseling or medication services at an outpatient clinic.
- ~~411-118.~~ "Person" has the same meaning as in A.R.S. § 1-215 and includes governmental agencies.
- ~~412-119.~~ "Personal funds account" means client monies that are held and managed by a licensee according to the requirements in R9-20-403(C) and (D).
- ~~413-120.~~ "Personal restraint" means the application of physical force without the use of any device, for the purpose of restricting the free movement of a client's body, but ~~for a level one RTC or a Level one sub-acute agency does not include:~~
- For a Level 1 RTC or a Level 1 sub acute agency, does not include:
 - ~~Briefly holding,~~ Holding a client for no longer than five minutes, without undue force, ~~a client~~ in order to calm or comfort the client, or
 - Holding a client's hand to safely escort the client from one area to another; ~~and~~
 - For a correctional facility, does not include physically holding a client by a security officer for purposes not related to a client's behavioral health issue.
- ~~414-121.~~ "Personality disorder" means an enduring, pervasive, and lifelong pattern of behavior that deviates from the expectations of an individual's culture; leads to an individual's functional impairment and distress; and has been diagnosed by a behavioral health professional.
- ~~415-122.~~ "Pharmacist" means an individual licensed according to A.R.S. Title 32, Chapter 18.
- ~~416-123.~~ "Pharmacological abuse" means administration of medication:
- For purposes of discipline, convenience, retaliation, or coercion; and
 - That is not required to treat a client's medical or behavioral health issue or for restraint.
- ~~417-124.~~ "Physical examination" means the collection of data on an individual's medical history and current physical health and the analysis of the data by a medical practitioner.
- ~~418-125.~~ "Physician" means an individual licensed according to A.R.S. Title 32, Chapter 13 or 17.
- ~~419-126.~~ "Physician assistant" means an individual licensed according to A.R.S. Title 32, Chapter 25.
- ~~420-127.~~ "Premises" means a licensed facility and the facility's contiguous grounds or a branch office where behavioral health services are provided.
- ~~421-128.~~ "Prepetition screening" has the same meaning as in A.R.S. Title 36, Chapter 5.
- ~~422-129.~~ "Presenting issue" means one or more behavioral health issues that are the reason for an individual's seeking or needing behavioral health services.
- ~~423-130.~~ "PRN" means pro re nata or given as needed.
- ~~424-131.~~ "Professionally recognized treatment" means a behavioral health service that is:
- Supported by research results published in a nationally recognized journal, such as the Journal of the American Psychiatric Association, the Journal of the American Medical Association, or the Journal of Psychiatric Rehabilitation; or
 - A generally accepted practice as determined by a Department approved psychiatrist or psychologist.
- ~~425-132.~~ "Progress note" means documentation of:
- A behavioral health service or medical service provided to a client and the client's response that is observed,
 - A client's significant change in condition, or
 - Staff member observations of client behavior.
- ~~426-133.~~ "Psychiatrist" has the same meaning as in A.R.S. § 36-501.
- ~~427-134.~~ "Psychologist" means an individual licensed according to A.R.S. Title 32, Chapter 19.1.
- ~~428-135.~~ "Referral" means assistance or direction provided to an individual to enable the individual to obtain information, behavioral health services, medical services, or ancillary services.

Notices of Exempt Rulemaking

- ~~129-136.~~ "Regional behavioral health authority" means an organization under contract with the Department to coordinate the delivery of mental health services in a geographically specific service area of the state for eligible persons.
- ~~130-137.~~ "Registered nurse" means an individual licensed as a graduate nurse, professional nurse, or registered nurse according to A.R.S. Title 32, Chapter 15.
- ~~131-138.~~ "Representative payee" means an individual or agency authorized by the Social Security Administration to receive and manage the money a client receives from the Social Security Administration.
- ~~132-139.~~ "Research" means the systematic study of a field of knowledge.
- ~~133-140.~~ "Residential agency" means a:
- Level 2 behavioral health residential agency, or
 - Level 3 behavioral health residential agency.
- ~~134-141.~~ "Respite" means short term behavioral health services or general client supervision that provides rest or relief to a family member or other individual caring for the client and that is provided in:
- A Level 1 sub-acute agency;
 - A Level 1 RTC;
 - A Level 2 behavioral health residential agency;
 - A Level 3 behavioral health residential agency;
 - An adult therapeutic foster home;
 - A domestic violence shelter; or
 - If provided by an outpatient clinic, a client's residence.
- ~~135-142.~~ "Restraint" means personal restraint, mechanical restraint, or drug used as a restraint.
- ~~136-143.~~ "Rural substance abuse transitional center" means an agency, located in a county with a population of fewer than 500,000 individuals according to the most recent U.S. decennial census, that provides behavioral health services to an individual who is intoxicated or has a substance abuse problem.
- ~~137-144.~~ "Seclusion" means the involuntary confinement of a client in a room or an area from which the client cannot leave, but does not include the confinement of a client in a correctional facility.
- ~~138-145.~~ "Secure facility" means the premises or portion of the premises that is locked or from which a client cannot leave without a key, special knowledge, or special effort.
- ~~146.~~ "Security officer" has the same meaning as "security guard" in A.R.S. § 32-2601(23).
- ~~139-147.~~ "Seriously mentally ill" *means persons, who as a result of a mental disorder as defined in section 36-501 exhibit emotional or behavioral functioning which is so impaired as to interfere substantially with their capacity to remain in the community without supportive treatment or services of a long-term or indefinite duration. In these persons mental disability is severe and persistent, resulting in a long-term limitation of their functional capacities for primary activities of daily living such as interpersonal relationships, homemaking, self-care, employment and recreation.*
- ~~140-148.~~ "Shelter for victims of domestic violence" or "shelter" means a facility providing temporary residential housing service or facilities to family or household members who are victims of domestic violence.
- ~~141-149.~~ "Significant change in condition" means a deterioration or improvement in a client's physical or behavioral health that may require a modification in the client's treatment.
- ~~142-150.~~ "Significant other" means an individual whose participation the client considers to be essential to the effective provision of behavioral health services to the client.
- ~~143-151.~~ "Social worker" means:
- Before July 1, 2004, An an individual who is certified as a baccalaureate social worker, master social worker, or independent social worker, according to A.R.S. Title 32, Chapter 33, Article 5;
 - On or after July 1, 2004, an individual who is licensed as a baccalaureate social worker, master social worker, or independent social worker, according to A.R.S. Title 32, Chapter 33;
 - ~~b.c.~~ Until October 3, 2003, an individual who is certified by the National Association of Social Workers; or
 - ~~e.d.~~ Until July 1, 2004, An an individual who is licensed or certified to practice social work by a government entity in another state if the individual:
 - Has documentation of submission of an application for certification as a baccalaureate social worker, master social worker, or independent social worker according to A.R.S. Title 32, Chapter 33, Article 5; and
 - Is certified as a baccalaureate social worker, master social worker, or independent social worker according to A.R.S. Title 32, Chapter 33, Article 5 within two years after submitting the application and before July 1, 2004.
- ~~144-152.~~ "Staff member" means an individual who is employed by or under contract with a licensee to provide behavioral health services to an agency client and who is a:
- Behavioral health professional,
 - Behavioral health technician, or
 - Behavioral health paraprofessional.
- ~~145-153.~~ "Subclass" means a type of behavioral health service agency listed in R9-20-102(A).

Notices of Exempt Rulemaking

- ~~146-154.~~ "Substance abuse" means the misuse of alcohol or another chemical or drug that:
- Alters an individual's behavior or mental functioning;
 - May cause psychological or physiological dependence; and
 - Impairs, reduces, or destroys the individual's social or economic functioning.
- ~~147-155.~~ "Substance abuse counselor" means:
- ~~Before July 1, 2004, an~~ an individual who is certified as a substance abuse counselor according to A.R.S. Title 32, Chapter 33, Article 8; ~~or~~
 - On or after July 1, 2004, an individual who is licensed as a substance abuse counselor according to A.R.S. Title 32, Chapter 33, Article 8; or
 - ~~b.c.~~ An individual who is certified by the Arizona Board of Certified Addiction Counselors.
- ~~148-156.~~ "Therapeutic diet" means one of the following ordered for an individual by a medical practitioner:
- Food, or
 - The manner in which food is to be prepared.
- ~~149-157.~~ "Time out" means providing a client an opportunity to regain self-control in a designated area from which the client is not physically prevented from leaving.
- ~~150-158.~~ "Transfer" means moving a client from one agency to another agency that assumes responsibility for the treatment of the client.
- ~~151-159.~~ "Treatment" means:
- A professionally recognized treatment that is provided to a client or the client's family to improve, eliminate, or manage the client's behavioral health issue; or
 - For court-ordered alcohol treatment, the same as in A.R.S. § 36-2021.
- ~~152-160.~~ "Treatment goal" means the desired result or outcome of treatment.
- ~~153-161.~~ "Treatment method" means the specific approach used to achieve a treatment goal.
- ~~154-162.~~ "Treatment plan" means a description of the specific behavioral health services that an agency will provide to a client that is documented in the client record.
- ~~155-163.~~ "Volunteer" means an individual who provides a behavioral health service or ancillary service at an agency without compensation.
- ~~156-164.~~ "Working day" means Monday, Tuesday, Wednesday, Thursday, or Friday, excluding state and federal holidays.

R9-20-102. Agency Subclasses and Required and Authorized Services

A. A person may apply for an agency to be licensed in one or more of the following agency subclasses:

- Outpatient clinic,
- Level 2 behavioral health residential agency,
- Level 3 behavioral health residential agency,
- Level 1 psychiatric acute hospital,
- Level 1 RTC,
- Level 1 sub-acute agency,
- Level 1 specialized transitional agency,
- Level 4 transitional agency,
- Shelter for victims of domestic violence,
- Rural substance abuse transitional agency, or
- Adult therapeutic foster home.

B. If an agency is licensed as:

- An outpatient clinic, the licensee of the agency:
 - Shall comply with:
 - Article 1,
 - Article 2, and
 - ~~ii-iii~~ R9-20-301; and
 - ~~May~~ Shall request authorization to provide one or more of the following:
 - Counseling according to R9-20-302,
 - Medication services according to R9-20-303,
 - Assistance in the self-administration of medication according to R9-20-408,
 - Pre-petition screening according to R9-20-801,
 - Court-ordered evaluation according to R9-20-802,
 - Court-ordered treatment according to R9-20-803,
 - DUI screening according to R9-20-901 and R9-20-902,
 - DUI education according to R9-20-901 and R9-20-903,
 - DUI treatment according to R9-20-904,
 - Opioid treatment according to Article 10, or
 - Misdemeanor domestic violence offender treatment according to Article 11;

Notices of Exempt Rulemaking

- c. If requesting authorization to provided opioid treatment according to Article 10, shall be certified by the Substance Abuse Mental Health Services Administration according to 42 CFR 8.11, incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954;
2. A Level 2 behavioral health residential agency, the licensee of the agency:
 - a. Shall comply with:
 - i. Article 1,
 - ii. Article 2,
 - ~~ii-iii~~ R9-20-401 through R9-20-407, and
 - ~~iii-iv~~ R9-20-409;
 - b. Shall provide:
 - i. Counseling according to R9-20-302, and
 - ii. Assistance in the self-administration of medication according to R9-20-408; and
 - c. May request authorization to provide:
 - i. Medication services according to R9-20-303,
 - ii. Pre-petition screening according to R9-20-801,
 - iii. Court-ordered evaluation according to R9-20-802, or
 - iv. Court-ordered treatment according to R9-20-803;
3. A Level 3 behavioral health residential agency, the licensee of the agency:
 - a. Shall comply with:
 - i. Article 1,
 - ii. Article 2,
 - ~~ii-iii~~ R9-20-401 through R9-20-407, and
 - ~~iii-iv~~ R9-20-410;
 - b. Shall provide assistance in the self-administration of medication according to R9-20-408; and
 - c. May request authorization to provide:
 - i. Counseling according to R9-20-302,
 - ii. Medication services according to R9-20-303,
 - iii. Pre-petition screening according to R9-20-801,
 - iv. Court-ordered evaluation according to R9-20-802, or
 - v. Court-ordered treatment according to R9-20-803;
4. A Level 1 psychiatric acute hospital, the licensee of the agency:
 - a. Shall comply with:
 - i. Article 1,
 - ii. Article 2,
 - ~~ii-iii~~ R9-20-501, and
 - ~~iii-iv~~ R9-20-502;
 - b. Shall provide:
 - i. Counseling according to R9-20-302,
 - ii. Medication services according to R9-20-303, and
 - ~~iii. If the agency is certified under Title XIX of the Social Security Act, restraint or seclusion according to Article 6; and~~
 - c. May request authorization to provide:
 - i. Crisis services according to R9-20-503,
 - ii. Detoxification services according to R9-20-504,
 - iii. Pre-petition screening according to R9-20-801,
 - iv. Court-ordered evaluation according to R9-20-802,
 - v. Court-ordered treatment according to R9-20-803; or
 - vi. ~~If the agency is not certified under Title XIX of the Social Security Act, restraint~~ Restraint or seclusion according to Article 6;
5. A Level 1 RTC, the licensee of the agency:
 - a. Shall comply with:
 - i. Article 1,
 - ii. Article 2,
 - ~~ii-iii~~ R9-20-501, and
 - ~~iii-iv~~ R9-20-505;
 - b. Shall provide:
 - i. Counseling according to R9-20-302,

Notices of Exempt Rulemaking

- ii. Medication services according to R9-20-303, and
 - ~~iii. Restraint or seclusion according to Article 6; and~~
 - c. May request authorization to provide:
 - i. Assistance in the self-administration of medication according to R9-20-408,
 - ii. Detoxification services according to R9-20-504,
 - iii. Pre-petition screening according to R9-20-801,
 - iv. Court-ordered evaluation according to R9-20-802, ~~or~~
 - v. Court-ordered treatment according to R9-20-803; or
 - vi. Restraint or seclusion according to Article 6;
- 6. A Level 1 sub-acute agency, the licensee of the agency:
 - a. Shall comply with:
 - i. Article 1,
 - ii. Article 2,
 - ~~iii. R9-20-501, and~~
 - ~~iv. R9-20-506;~~
 - b. Shall provide:
 - i. Counseling according to R9-20-302,
 - ii. Medication services according to R9-20-303, and
 - ~~iii. If the agency is certified under Title XIX of the Social Security Act, restraint or seclusion according to Article 6; and~~
 - c. May request authorization to provide:
 - i. Assistance in the self-administration of medication according to R9-20-408,
 - ii. Crisis services according to R9-20-503,
 - iii. Detoxification services according to R9-20-504,
 - ~~iv. If the agency is not certified under Title XIX of the Social Security Act, restraint~~ Restraint or seclusion according to Article 6,
 - v. Pre-petition screening according to R9-20-801,
 - vi. Court-ordered evaluation according to R9-20-802, or
 - vii. Court-ordered treatment according to R9-20-803;
- 7. Level 1 specialized transitional agency, the licensee of the agency:
 - a. Shall comply with:
 - i. Article 1,
 - ii. Article 2 R9-20-201,
 - iii. R9-20-202,
 - iv. R9-20-204 through R9-20-215,
 - ~~v. R9-20-501, and~~
 - ~~vi. Article 7;~~
 - b. Shall provide:
 - i. Counseling according to R9-20-302,
 - ii. Medication services according to R9-20-303, and
 - iii. Restraint or seclusion according to Article 6; and
 - c. May request authorization to provide assistance in the self-administration of medication according to R9-20-408;
- 8. A Level 4 transitional agency, the licensee of the agency:
 - a. Shall comply with:
 - i. Article 1, and
 - ii. Article 12; and
 - b. May request authorization to provide:
 - i. ~~assistance~~ Assistance in the self-administration of medication according to R9-20-408; or
 - ii. Counseling according to R9-20-302;
- 9. A shelter for victims of domestic violence, the licensee of the agency:
 - a. Shall comply with:
 - i. Article 1, and
 - ii. Article 13; and
 - b. May request authorization to provide:
 - i. Assistance Assistance in the self-administration of medication according to R9-20-408; or
 - ii. Counseling according to R9-20-302;
- 10. A rural substance abuse transitional agency, the licensee of the agency:
 - a. Shall comply with:
 - i. Article 1, and

Notices of Exempt Rulemaking

- ii. Article 14; and
 - b. May request authorization to provide:
 - i. Medication services according to R9-20-303, or
 - ii. Assistance in the self-administration of medication according to R9-20-408; and
 - 11. An adult therapeutic foster home, the licensee of the agency:
 - a. Shall comply with:
 - i. Article 1, and
 - ii. Article 15, and
 - b. May request authorization to provide assistance in the self-administration of medication according to R9-20-408.
 - C. A licensee shall only operate a subclass or provide a behavioral health service listed on the agency's license.

R9-20-103. Initial License Application

- A. According to A.R.S. § 36-422, a person applying for an initial license to operate an agency shall submit:
 - 1. An application packet that includes:
 - a. A Department-provided application form signed according to A.R.S. § 36-422(B) and notarized that contains:
 - i. The name of the agency;
 - ii. The agency's street address, mailing address, telephone number and fax number;
 - iii. Whether the agency is operated as a proprietary or non-proprietary institution;
 - iv. The name of the owner;
 - v. The name and qualifications of the agency's chief administrative officer;
 - vi. The agency subclass or subclasses for which licensure is requested and if more than one subclass is requested, the location of each subclass on the premises;
 - vii. Whether the person applying for a license or a person with a 10 percent or greater interest in the agency has previously held a health care institution license in any state or jurisdiction;
 - viii. Whether the person applying for a license or a person with a 10 percent or greater interest in the agency has had a health care institution license suspended, denied, or revoked in any state or jurisdiction;
 - ix. Whether the person applying for a license or a person with a 10 percent or greater interest in the agency has had civil penalties assessed against a health care institution operated in any state by the person applying for a license or the owner;
 - x. Whether the person applying for a license or a person with a 10 percent or greater interest in the agency has had a professional or occupational license, other than a driver license, denied, revoked, or suspended in any state or jurisdiction; and
 - xi. Whether the person applying for a license or a person with a 10 percent or greater interest in the agency has been convicted, in any state or jurisdiction, of any felony or misdemeanor involving moral turpitude, including conviction for any crime involving abuse, neglect, or exploitation of another;
 - b. If the person applying for a license or a person with a 10 percent or greater interest in the agency answered yes to subsection (A)(1)(a)(vii), the health care institution's name, the license number, and the licensure dates on an attached sheet;
 - c. If the person applying for a license or a person with a 10 percent or greater interest in the agency answered yes to any of the questions in subsection (A)(1)(a)(viii) through (A)(1)(a)(xi), the details of each assessment of a civil penalty; each denial, suspension, or revocation; or each conviction on an attached sheet, including:
 - i. The type of action,
 - ii. The date of the action, and
 - iii. The name of the court or entity having jurisdiction over the action;
 - d. The name of the governing authority;
 - e. Owner information including:
 - i. The type of organization, if applicable;
 - ii. The owner's address;
 - iii. The name, title, and address of the owner's statutory agent, members of the board of directors, or of the individual designated by the owner to accept service of process and subpoenas; and
 - iv. A copy of the bylaws and articles of incorporation, partnership or joint venture documents, or limited liability company documents, if applicable;
 - f. The behavioral health services listed in R9-20-102 for which the agency is requesting authorization;
 - g. The population for whom the licensee intends to provide behavioral health services at the agency;
 - h. The requested licensed capacity for the agency, including:
 - i. The number of ~~inpatient~~ beds requested for individuals younger than 18 years of age, and
 - ii. The number of ~~inpatient~~ beds requested for individuals 18 years of age or older;
 - iii. The number of toilets, sinks, showers, and tubs at the agency;
 - i. A program description completed according to R9-20-201(A)(2);

Notices of Exempt Rulemaking

- j. A list of the agency's branch offices, including:
 - i. Each branch office's address,
 - ii. Each branch office's hours of operation, and
 - iii. Each behavioral health service provided at each branch office;
 - k. A document issued by the local jurisdiction with authority certifying that the facility complies with all applicable local building codes;
 - l. A copy of a current fire inspection conducted by the local fire department or the Office of the State Fire Marshal, and any plan of correction in effect;
 - m. If the agency is required to have a food establishment license according to 9 A.A.C. 8, Article 1, a copy of the most recent food establishment inspection report for the agency and any plan of correction in effect;
 - n. Whether the licensee is requesting, for the agency, certification under Title XIX of the Social Security Act;
 - o. Whether the agency is accredited by a nationally recognized accreditation organization, and if so:
 - i. The name of nationally recognized accreditation organization that accredited the agency;
 - ii. If accredited by the Joint Commission on Accreditation of Health Care Organizations, whether the agency was accredited under the inpatient standards or community behavioral health standards;
 - iii. If the applicant is submitting an accreditation report in lieu of all licensing inspections conducted by the Department, a copy of the accreditation report; ~~and~~
 - iv. The dates of the accreditation period; and
 - v. If an agency is seeking licensure as a Level 1 RTC or a Level 1 sub-acute agency and the agency is also seeking Title XIX certification, whether the agency is accredited by the Joint Commission on Accreditation of Health Care Organizations, the Council on Accreditation for Children and Family Service, or the Commission on Accreditation of Rehabilitation Facilities;
 - p. Whether the agency has a contract with a:
 - i. Regional behavioral health authority and, if so, the name of the contracted regional behavioral health authority; and
 - ii. Government entity, such as the Administrative Office of the Courts, Department of Juvenile Justice, the Department of Economic Security, or a tribal government;
 - q. The name of each staff member, intern, or volunteer employed or under contract with the agency; whether each staff member is a behavioral health professional, behavioral health technician, or behavioral health paraprofessional; the professional or occupational license or certification number of each behavioral health professional; and the number on each staff member's fingerprint clearance card, if applicable;
 - r. The licensee's organizational chart showing all staff member positions and the lines of supervision, authority, and accountability for the agency; and
 - s. Whether the facility, or portion of the facility, used by clients is a secure facility and, if so:
 - i. The number of beds in the secure facility; and
 - ii. The number of beds in the secure facility that are designated for children and adults; and
2. The fees required in 9 A.A.C. 10, Article 1.
- B.** The Department shall approve or deny an application in this Section according to R9-20-105 and R9-20-108.

R9-20-104. License Renewal

- A.** To renew a license, a licensee shall submit the following information to the Department at least 60 days but not more than 120 days before the expiration date of the current license:
- 1. An application packet that ~~complies with R9-20-103(A)(1)~~ includes the items in:
 - a. R9-20-103(A)(1)(a) through (A)(1)(e)(iii);
 - b. R9-20-103(A)(1)(f) through (A)(1)(j);
 - c. R9-20-103(A)(1)(l) through (A)(1)(s)
 - d. R9-20-103(A)(2); and
 - e. If a change has been made to an item in R9-20-103(A)(1)(e)(iv), each item in R9-20-103(A)(1)(e)(iv) to which a change has been made;
 - f. If a structural modification has been made to the building, R9-20-103(A)(1)(k).
 - 2. The fees required in 9 A.A.C. 10, Article 1.
- B.** Unless the licensee submits a copy of the agency's accreditation report from a nationally recognized accreditation organization, the Department shall conduct an onsite inspection of the agency to determine if the licensee and the agency are in substantial compliance with the applicable statutes and this Chapter.
- C.** The Department shall approve or deny a license renewal according to R9-20-105 and R9-20-108.
- D.** A renewal license remains in effect for:
- 1. One year, if the licensee is in substantial compliance with the applicable statutes and this Chapter, and the licensee agrees to implement a plan acceptable to the Department to eliminate any deficiencies;
 - 2. Two years, if the licensee has no deficiencies at the time of the Department's licensure inspection; or

Notices of Exempt Rulemaking

3. The duration of the accreditation period, if:
 - a. The licensee's agency is a hospital accredited by a nationally recognized accreditation organization, and
 - b. The licensee submits a copy of the hospital's accreditation report.

R9-20-106. Changes Affecting a License

- A. A licensee shall ensure that the Department is notified in writing at least 30 days before the effective date of a change in the name of:
 1. The agency;~~or;~~
 2. The licensee;~~or~~
 3. If the agency is an accredited agency and the agency has submitted the agency's current accreditation report, a:
 - a. Change or involuntary loss in the status of an agency's accreditation; or
 - b. Change in the date scheduled for an inspection of the agency by an accrediting entity.
- B. A person shall submit an application for an initial license as required in R9-20-103 for a change in an agency's:
 1. Owner,
 2. Address or location, or
 3. Subclass.
- C. A licensee shall submit a request for approval of a change affecting a license to the Department at least 30 days before the date of an intended:
 1. ~~An intended change~~ Change in an agency's authorized services,
 2. ~~An intended change~~ Change in an agency's licensed capacity, or
 3. ~~An intended expansion~~ Expansion of an agency's premises,
- D. A request for approval of a change affecting a license shall include:
 1. The name of the licensee;
 2. The name of the agency;
 3. The agency's street address, mailing address, and telephone number;
 4. The agency's license number;
 5. The type of change intended;
 6. A narrative description of the intended change;
 7. A program description completed according to R9-20-201(A)(2) and including the intended change;
 8. For a change in authorized services, a list of the services that the licensee intends to add and delete;
 9. For a change in licensed capacity, a floor plan showing the following for each story of a facility:
 - a. Room layout;
 - b. Room usage;
 - c. The dimensions of each bedroom;
 - d. The number of beds to be placed in each bedroom;
 - e. The location of each window;
 - f. The location of each exit;
 - g. The location of each sink, toilet, and shower or bathtub to be used by clients; and
 - h. The location of each fire extinguisher and fire protection device; and
 10. For an expansion of an agency's premises, a floor plan completed according to subsection (D)(9) and a site plan showing the locations of the following on the expanded premises:
 - a. Buildings or other structures;₂
 - b. Property lines;₂
 - c. Streets;₂
 - d. Walkways;₂
 - e. Parking areas;₂
 - f. Fencing;₂
 - g. Gates;₂ and
 - h. If applicable, swimming pools.
- E. The Department shall review a request for approval of a change affecting a license ~~in accordance~~ according to with R9-20-105. The Department may conduct an onsite inspection as part of the substantive review for a request for a change affecting a license.
 1. If the agency ~~will be~~ is in substantial compliance with the applicable statutes and this Chapter with the intended change, and the licensee agrees to carry out a plan of correction acceptable to the Department for any deficiencies, the Department shall send the licensee an amended license that incorporates the change but retains the expiration date of the current license.
 2. If the agency ~~will not be~~ is not in substantial compliance with the applicable statutes and this Chapter with the intended change, the Department shall deny the request for approval.
- F. A licensee shall not implement any change described in this Section until the Department issues a changed license or a new license.

Notices of Exempt Rulemaking

ARTICLE 2. UNIVERSAL RULES

R9-20-201. Administration

- A. A licensee is responsible for the organization and management of an agency. A licensee shall:
1. Ensure compliance with:
 - a. This Chapter and applicable federal, state, and local law;
 - b. If the agency provides a behavioral health service to an individual who is enrolled by the Department or a regional behavioral health authority as an individual who is seriously mentally ill, 9 A.A.C. 21; and
 - c. If the agency provides a behavioral health service to a child, A.R.S. § 36-425.03;
 2. For each subclass for which the licensee is licensed, adopt, maintain, and have available at the agency for public review, a current written program description that includes:
 - a. A description of the subclass;
 - b. Program goals;
 - c. A description of each behavioral health service listed in R9-20-102(B) that the agency provides;
 - d. If the agency is authorized to provide counseling:
 - i. Whether individual, family, or group counseling is provided;
 - ii. Whether counseling that addresses a specific type of behavioral health issue, such as substance abuse or a crisis situation, is provided; and
 - iii. The type and amount of counseling offered by the agency each week;
 - e. Each population served by the agency, such as children, adults age 65 or older, individuals who are seriously mentally ill, individuals who have substance abuse problems, or individuals who have co-occurring disorders;
 - f. The hours and days of agency operation; ~~;~~
 - i. The agency's administrative offices are open, and
 - ii. Behavioral health services are available at the agency.
 - g. Whether the agency provides behavioral health services off the premises and, if so, the behavioral health services that are provided off the premises;
 - h. Criteria for:
 - i. Admitting and re-admitting an individual into the agency,
 - ii. Placing an individual on a waiting list,
 - iii. Referring an individual to another agency or entity,
 - iv. Discharging a client, including an involuntary discharge,
 - v. Transferring a client, and
 - vi. Declining to provide behavioral health services or treatment to an individual;
 - i. The minimum qualifications, experience, training, and skills and knowledge specific to the behavioral health services the agency is authorized to provide and the populations served by the agency that staff members are required to possess;
 - j. Policies and procedures for receiving a fee from and refunding a fee to a client or a client's parent, guardian, or custodian;
 - k. The availability of behavioral health services for an individual who does not speak English;
 - l. The accommodations made to the premises for individuals with a mobility impairment, sensory impairment, or other physical disability;
 - m. If an outpatient clinic provides partial care, the days and times that counseling or medication services are available; ~~and~~
 - n. For an inpatient treatment program or a residential agency:
 - i. Whether the agency provides treatment in a secure facility,
 - ii. The client-to-staff ratios for day, evening, and night shifts, and
 - iii. Whether the agency chooses to manage client funds through a personal funds account; and
 - o. Whether the agency may use an emergency safety response;
 3. Approve, sign, and date initial and updated policies and procedures required by this Chapter;
 4. Establish minimum qualifications for an administrator;
 5. Designate an administrator who:
 - a. Meets the qualifications established by the licensee;
 - b. Has the authority and responsibility to operate the agency according to the requirements in this Chapter;
 - c. Has access to all areas of the premises; and
 - d. Appoints ~~a designee~~, in writing, a designee who meets the requirements in subsection (A)(5)(a) to act as the administrator when the administrator is not on the premises;
 6. Designate a clinical director who:
 - a. Oversees behavioral health services;
 - b. Is one of the following:
 - i. A behavioral health professional, or

Notices of Exempt Rulemaking

- ii. A behavioral health technician with a combination of full-time behavioral health work experience and post high school education in a field related to behavioral health totaling at least six years; and
 - c. May be the same individual as the administrator, if the individual meets the qualifications in subsections (A)(5)(a) and (A)(6)(b);
7. Notify the OBHL if the administrator or clinical director changes and provide to the OBHL, in writing, the new individual's name and qualifications within 30 days after the effective date of the change;
8. Ensure that the Department is allowed immediate access to:
- a. The premises, an administrative office, or a branch office; or
 - b. A client; and
9. Ensure that a record, report, or document required to be maintained by this Chapter or federal, state, or local law is provided to the Department as soon as possible upon request and no later than:
- a. Two hours after the time of a request, for a current client;
 - b. Three working days after the time of a request, for a former client; or
 - c. Two hours after the time of a request for a record, report, or document that does not directly concern a client, such as a staffing schedule or a fire inspection report.
- B.** A licensee shall ensure that:
1. The administrator or clinical director develops, implements, and complies with policies and procedures that:
- a. Ensure the health, safety, and welfare of a client on:
 - ~~i. the~~The premises;
 - ~~ii. on an~~An agency-sponsored activity off the premises; ~~and~~
 - ~~iii. on an~~An outing;
 - b. Ensure that client records and information are maintained and protected according to R9-20-211;
 - c. Establish specific steps and deadlines for:
 - ~~i. Responding to and resolving client grievances; and~~ A client to file a grievance.
 - ~~ii. Obtaining documentation of fingerprint clearance, if applicable~~ The agency to respond to and resolve a client grievance; and
 - ~~iii. The agency to obtain documentation of fingerprint clearance, if applicable;~~
 - d. Ensure that incidents listed in R9-20-202(A)(1) are reported and investigated;
 - e. Address whether pets and animals are allowed on the premises;
 - f. Require an agency that is involved in research to establish or use a Human Subject Review Committee;
 - g. Explain the process for receiving a fee from and refunding a fee to a client or a client's parent, guardian, or custodian; ~~and~~
 - h. For a residential agency or an inpatient treatment program:
 - i. Establish the process for obtaining client preferences for social, recreational, or rehabilitative activities and meals and snacks;
 - ii. Ensure the security of a client's possessions that are allowed on the premises;
 - iii. Address smoking and use of tobacco products on the premises;
 - iv. Address requirements regarding pets or animals on the premises; and
 - v. Ensure the safety of clients; ~~and~~
 - ~~i. Address how the agency will respond to a client's sudden, intense, or out of control behavior to prevent harm to the client or another individual;~~
2. The clinical director develops, implements, and complies with policies and procedures that:
- a. Establish minimum qualifications, duties, and responsibilities of staff members, interns, and volunteers;
 - b. Establish a process for determining whether a staff member has the qualifications, training, experience, and skills and knowledge necessary to provide the behavioral health services that the agency is authorized to provide and to meet the treatment needs of the populations served by the agency;
 - c. Establish a code of ethical conduct for staff members, interns, and volunteers and consequences for violating the code of ethical conduct;
 - d. Establish a process for orientation of staff members;
 - e. Ensure that staffing is provided according to the requirements in this Chapter;
 - f. Ensure that a staff member receives sufficient direction to perform the staff member's job duties;
 - g. Describe the processes for providing the behavioral health services listed in the program description required in R9-20-201(A)(2);
 - h. Establish the process for admitting a client;
 - i. Establish the process for providing a referral to a client;
 - j. ~~Ensure a client's behavioral health services and ancillary services are communication and coordination, consistent with the release of information requirements to the extent permitted in R9-20-211(A)(3) and (B), coordinated with and communicated to:~~
 - i. A client;

Notices of Exempt Rulemaking

- ii. ~~If applicable, A~~ the client's family member, guardian, custodian, designated representative, or agent;
 - iii. ~~The individual who coordinates the client's behavioral health services or ancillary services;~~
 - iii. Other individuals, agencies, and entities involved in the provision of ~~persons who provide~~ behavioral health services, ~~or medical services, or ancillary services~~ to the client, such as a medical practitioner responsible for providing ~~or coordinating~~ medical services ~~for to~~ a client; ~~or and~~
 - iv. ~~Governmental~~ Other entities or agencies, including ~~governmental entities or agencies such as the Department of Economic Security or a probation or parole entity,~~ that provide services to the client, ~~such as the Department of Economic Security or a probation or parole entity;~~
 - k. Establish the process for developing and implementing a client's assessment and treatment plan;
 - l. Establish the processes for providing medication services to a client, if applicable;
 - m. Establish the process for transferring ~~and or~~ discharging a client;
 - n. Establish the process for warning an identified or identifiable individual, as described in A.R.S. § 36-517.02(B) through (C), if a client communicates to a staff member a threat of imminent serious physical harm or death to the individual and the client has the apparent intent and ability to carry out the threat; and
 - o. For a residential agency or an inpatient treatment program:
 - i. Establish requirements regarding clients, staff members, and other individuals entering and exiting the premises;
 - ii. Establish guidelines for meeting the needs of an individual residing at an agency with a client, such as a child accompanying a parent in treatment, if applicable; ~~and~~
 - iii. Establish the process for responding to a client's need for immediate and unscheduled behavioral health services or medical emergency; ~~and~~
 - iv. Establish criteria for determining when a client's absence is unauthorized including whether the client was admitted under A.R.S. Title 36, Chapter 5, Articles 1, 2, or 3, is absent against medical advice, or is under the age of 18;
3. The administrator or clinical director reviews, approves and, if necessary, updates policies and procedures at least once every 24 months;
4. When a policy or procedure is approved or updated, each staff member whose duties are impacted by the policy and procedure reviews the policy and procedure within 30 days after the policy and procedure is approved or updated; and
5. ~~Each~~ A review and approval of a policy and procedure according to subsection (B)(3) is documented with the signature of the administrator or clinical director, and the documentation is maintained on the premises or at the administrative office.
- C. A licensee shall ensure that:
- 1. The following documents are maintained on the premises or at the administrative office:
 - a. The licensee's bylaws, if any;
 - b. A contractual agreement with another person to provide behavioral health services or ancillary services for a client as required in this Chapter, if any;
 - c. Documentation of ownership or control of the premises;
 - d. The licensee's organizational chart showing all staff member positions and the lines of supervision, authority, and accountability for the agency;
 - e. A list of the names of clients;
 - f. A list of the names of clients discharged within the past 12 months;
 - g. Reports of incidents required to be reported under R9-20-202;
 - h. Fire inspection reports required by this Chapter;
 - i. Documentation of fire drills required by R9-20-214(H); and
 - j. Food establishment inspection reports, if applicable;
 - 2. A current copy of each of the following documents is maintained on the premises and is available and accessible to a staff member or client or a client's family member, guardian, custodian, designated representative, or agent:
 - a. A policy and procedure required by this Chapter;
 - b. An inspection report prepared by the Department or, if the licensee has submitted a report of inspection by a nationally recognized accreditation agency in lieu of having an inspection conducted by the Department, the most recent report of inspection conducted by the nationally recognized accreditation agency;
 - c. Each plan of correction with the Department in effect within the past five years or, if the licensee has submitted a report of inspection by a nationally recognized accreditation agency in lieu of having an inspection conducted by the Department, a plan of correction in effect as required by the nationally recognized accreditation agency;
 - d. 9 A.A.C. 20;
 - e. If the agency provides behavioral health services to an individual enrolled by the Department or a regional behavioral health authority as an individual who is seriously mentally ill, 9 A.A.C. 21;
 - f. A.R.S. Title 36, Chapters 4 and 5; and
 - g. The agency's refund policy and procedures; and

Notices of Exempt Rulemaking

3. The following information or documents are conspicuously posted on the premises and are available upon request to a staff member or client or a client's family member, guardian, custodian, designated representative, or agent:
 - a. The client rights listed in R9-20-203, in English and Spanish;
 - b. If the agency provides behavioral health services to an individual who is enrolled by the Department or a regional behavioral health authority as an individual who is seriously mentally ill, the client rights listed in 9 A.A.C. 21 that are required to be conspicuously posted;
 - c. The current telephone number and address of:
 - i. The OBHL;
 - ii. The Department's Division of Behavioral Health Services;
 - iii. Human rights advocates provided by the Department or the Department's designee;
 - iv. The Arizona Department of Economic Security Office of Adult Protective Services, if applicable;
 - v. The Arizona Department of Economic Security Office of Child Protective Services, if applicable; and
 - vi. The local office of the regional behavioral health authority, if applicable;
 - d. The location ~~at the agency where~~ at which inspection reports required in subsection (C)(2)(b) to be on the premises of the agency are available for review or can be made available for review;
 - e. The licensee's grievance policy and procedure; and
 - f. For a residential agency or an inpatient treatment program, the days, times, and locations in the facility where a client may accept visitors and make telephone calls.
- D. A licensee shall ensure that a staff member receives a written performance review at least once every 12 months that contains:
 1. The name and title of the individual conducting the performance review; and
 2. The name, signature, and professional credential or job title of the staff member receiving the performance review and the date signed.
- E. A licensee shall ensure that:
 1. A client or, if applicable, a family member, guardian, custodian, designated representative, or agent receives written notice at least 30 days before the licensee changes a fee that a client is required to pay;
 2. The notice required in subsection (E)(1) is:
 - a. Conspicuously posted in the facility; and
 - b. Provided to a client or, if applicable, a family member, guardian, custodian, designated representative, or agent;
 3. Labor performed by a client for an agency is consistent with A.R.S. § 36-510 and applicable state and federal law;
 4. A client has privacy in treatment and is not fingerprinted, photographed, or recorded without general consent, except:
 - a. For photographing for identification and administrative purposes, as provided by A.R.S. § 36-507(2);
 - b. For a client receiving treatment according to A.R.S. Title 36, Chapter 37; or
 - c. For temporary video recordings used ~~for security purposes;~~
 - i. For security purposes, or
 - ii. As provided in R9-20-602(A)(5);
 5. A client who is a child is only released to the child's custodial parent, guardian, or custodian or as authorized in writing by the child's custodial parent, guardian, or custodian;
 6. The licensee obtains documentation of the identity of the parent, guardian, custodian, or family member authorized to act on behalf of a client who is a child; and
 7. A client who is an incapacitated person according to A.R.S. § 14-5101 or who is gravely disabled is assisted in enlisting a parent, guardian, family member, or agent to act upon the client's behalf.
- F. A licensee shall ensure that research or treatment that is not a professionally recognized treatment is approved by a Human Subject Review Committee before a staff member, client, or client record is involved in the research or treatment. A licensee may establish and implement a Human Subject Review Committee or may use a Human Subject Review Committee established and implemented by the Department, a regional behavioral health authority, or a state university described in A.R.S. § 15-1601. A Human Subject Review Committee established and implemented by a licensee shall:
 1. Establish criteria for the approval or disapproval of research or treatment;
 2. Protect, during each phase of research or treatment:
 - a. Client rights;
 - b. Client health, safety, and welfare;
 - c. Client privacy;
 - d. The confidentiality of client records and information; and
 - e. Client anonymity, if applicable;
 3. Ensure that oversight is provided by a medical practitioner, if research or treatment may impact a client's health or safety;
 4. Inform a client of:
 - a. The purpose, design, scope, and goals of the research or treatment;
 - b. The full extent of the client's role in the research or treatment;

Notices of Exempt Rulemaking

- c. Any risks to the client involved in the research or treatment; and
 - d. The client's right to privacy, confidentiality, and voluntary participation;
 - 5. Obtain documentation of a client's informed consent, completed as required by R9-20-208(E), before allowing a client to participate in research or treatment; and
 - 6. Review research or treatment requests and approve or deny requests.
- G. A licensee shall ensure that if an individual arrives at an agency and requests a behavioral health service that the agency is unable to provide, the individual is provided a referral.

R9-20-202. Required Reports

A. A licensee shall:

1. Notify the OBHL within one working day of discovering that a client has experienced any of the following:
 - a. Death;
 - b. Any of the following that occurred on the premises or during a licensee-sponsored activity off the premises that requires medical services or immediate intervention by an emergency response team or a medical practitioner:
 - i. A medication error or an adverse reaction to a medication ~~that resulted in the client's needing immediate medical services or immediate intervention by an emergency response team or the client's medical practitioner; or~~
 - ii. ~~Suspected or alleged abuse, neglect, or exploitation of the client or a violation of the client's rights under R9-20-203(B) or (C); or~~
 - iii-ii. ~~A suicide attempt or a self-inflicted injury that resulted in the client's needing medical services or immediate intervention by an emergency response team;~~
 - c. Suspected or alleged abuse, neglect, or exploitation of the client or a violation of the client's rights under R9-20-203(B) or (C);
 - d. Either of the following that ~~resulted in the client's needing~~ requires medical services:
 - i. A physical injury that occurred on the premises or during a licensee-sponsored activity off the premises; ~~or~~
 - ii. Food poisoning possibly resulting from food provided at the agency or during a licensee-sponsored activity off the premises; ~~or~~
 - ~~d-e.~~ An unauthorized absence from a residential agency, ~~or~~ an inpatient treatment program, a Level 4 transitional agency providing services to clients who are under the age of 18, or an adult therapeutic foster home; or
 - f. A physical injury that occurred as the result of a personal or mechanical restraint;
2. Document the initial notification required in subsection (A)(1) and maintain documentation of the notification on the premises or at the administrative office for at least 12 months after the date of the notification;
3. Investigate an incident required to be reported according to subsection (A)(1) and develop a written incident report containing:
 - a. The agency name and license number;
 - b. The date and time of the incident;
 - c. ~~Unless otherwise prohibited by law, The~~ the following information about each client involved in or affected by the incident:
 - i. Name;
 - ii. Date of admission;
 - iii. Age or date of birth;
 - iv. Current diagnosis, if the client has a diagnosis;
 - v. Description of the client's physical and behavioral health condition before the incident; and
 - vi. Description of the client's physical and behavioral health condition after the incident;
 - d. The location of the incident;
 - e. A description of the incident, including events leading up to the incident;
 - f. The names of individuals who observed the incident or, if disclosure of the names is prohibited by law, the agency's identifier code for the individuals who observed the incident;
 - g. A description of the action taken by the licensee, including a list of the individuals or entities notified by the licensee and the date and time of each notification;
 - h. If a medical practitioner was notified, a report of the medical practitioner's examination, finding, or order;
 - i. A description of the action taken by the licensee to prevent a similar incident from occurring in the future;
 - j. The signature and professional credential or job title of the individual or individuals preparing the written incident report and the signature and professional credential of the clinical director or the clinical director's designee indicating that the clinical director or the clinical director's designee reviewed the written incident report; and
 - k. The date the written incident report was signed;
4. Submit the written incident report to the OBHL within five working days after the initial notification in subsection (A)(1); and
5. Maintain a copy of the written incident report on the premises or at the administrative office for at least 12 months after the date of the written incident report.

Notices of Exempt Rulemaking

B. A licensee:

1. Of a Level 1 psychiatric acute hospital that is certified under Title XIX of the Social Security Act, a Level 1 RTC, or a Level 1 sub-acute agency that is certified under Title XIX of the Social Security Act shall ensure that within one working day after a client's death, notification is submitted to the following entities:
 - a. The regional office of the Centers for Medicare and Medicaid Services;
 - b. The Arizona Center for Disability Law; and
 - c. The Arizona Health Care Cost Containment System;
2. Of a Level 1 RTC or a Level 1 sub-acute agency that is certified under Title XIX of the Social Security Act shall ensure that within one working day after the occurrence of an incident listed in subsection (A)(1)(b), ~~(A)(1)(c)~~, or ~~subsection (A)(1)(c)(i)~~ (A)(1)(d)(i), notification is submitted to the following entities:
 - a. The Arizona Center for Disability Law; and
 - b. The Arizona Health Care Cost Containment System; and
3. Described in subsection (B)(1) or (B)(2) shall ensure that:
 - a. The notification includes:
 - i. Client identifying information that protects the confidentiality of the client involved;
 - ii. A description of the incident; and
 - iii. The name, street address, and telephone number of the agency; and
 - b. Documentation of the notification required in this subsection is maintained in the client's record.

C. A licensee shall report suspected or alleged criminal activity that occurs on the premises or during a licensee-sponsored activity off the premises to the law enforcement agency having jurisdiction.

D. A licensee shall require that a staff member, employee, intern, or volunteer immediately report suspected or alleged abuse, neglect, or exploitation or a violation of a client's rights to the administrator or clinical director or to the designee for either.

E. A licensee shall notify the OBHL within 24 hours after discovering that a client, staff member, or employee has a communicable disease listed in A.A.C. R9-6-202(A) or (B) and shall include in the notification the name of the communicable disease and the action taken by the licensee to protect the health and safety of clients, staff members, and employees, according to confidentiality requirements established by law or this Chapter.

R9-20-203. Client Rights

A. A licensee shall ensure that:

1. At the time of admission, a client and, if applicable, the client's parent, guardian, custodian, designated representative, or agent receive a written list and verbal explanation of:
 - a. The client rights listed in subsection (B) and (C); and
 - b. If the client is an individual who is enrolled by the Department or a regional behavioral health authority as an individual who is seriously mentally ill, the rights contained in 9 A.A.C. 21;
2. A client or, if applicable, the client's parent, guardian, custodian, or agent acknowledges, in writing, receipt of the written list and verbal explanation required in subsection (A)(1); and
3. A client who does not speak English or who has a physical or other disability is assisted in becoming aware of client rights.

B. A licensee shall ensure that a client is afforded the rights listed in A.R.S. §§ 36-504 through 36-514.

C. A client has the following rights:

1. To be treated with dignity, respect, and consideration;
2. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, diagnosis, or source of payment;
3. To receive treatment that:
 - a. Supports and respects the client's individuality, choices, strengths, and abilities;
 - b. Supports the client's personal liberty and only restricts the client's personal liberty according to a court order; by the client's general consent; or as permitted in this Chapter; and
 - c. Is provided in the least restrictive environment that meets the client's treatment needs;
4. Not to be prevented or impeded from exercising the client's civil rights unless the client has been adjudicated incompetent or a court of competent jurisdiction has found that the client is unable to exercise a specific right or category of rights;
5. To submit grievances to agency staff members and complaints to outside entities and other individuals without constraint or retaliation;
6. To have grievances considered by a licensee in a fair, timely, and impartial manner;
7. To seek, speak to, and be assisted by legal counsel of the client's choice, at the client's expense;
8. To receive assistance from a family member, designated representative, or other individual in understanding, protecting, or exercising the client's rights;

Notices of Exempt Rulemaking

9. If enrolled by the Department or a regional behavioral health authority as an individual who is seriously mentally ill, to receive assistance from human rights advocates provided by the Department or the Department's designee in understanding, protecting, or exercising the client's rights;
10. To have the client's information and records kept confidential and released only as permitted under R9-20-211(A)(3) and (B);
11. To privacy in treatment, including the right not to be fingerprinted, photographed, or recorded without general consent, except:
 - a. For photographing for identification and administrative purposes, as provided by A.R.S. § 36-507(2);
 - b. For a client receiving treatment according to A.R.S. Title 36, Chapter 37; ~~or~~
 - c. For video recordings used for security purposes that are maintained only on a temporary basis; or
 - d. As provided in R9-20-602(A)(5);
12. To review, upon written request, the client's own record during the agency's hours of operation or at a time agreed upon by the clinical director, except as described in R9-20-211(A)(6);
13. To review the following at the agency or at the Department:
 - a. This Chapter;
 - b. The report of the most recent inspection of the premises conducted by the Department;
 - c. A plan of correction in effect as required by the Department;
 - d. If the licensee has submitted a report of inspection by a nationally recognized accreditation agency in lieu of having an inspection conducted by the Department, the most recent report of inspection conducted by the nationally recognized accreditation agency; and
 - e. If the licensee has submitted a report of inspection by a nationally recognized accreditation agency in lieu of having an inspection conducted by the Department, a plan of correction in effect as required by the nationally recognized accreditation agency;
14. To be informed of all fees that the client is required to pay and of the agency's refund policies and procedures before receiving a behavioral health service, except for a behavioral health service provided to a client experiencing a crisis situation;
15. To ~~consent to treatment, unless treatment is ordered by a court of competent jurisdiction, after receiving~~ receive a verbal explanation of the client's condition and ~~the a~~ proposed treatment, including the intended outcome, the nature of the proposed treatment, ~~any~~ procedures involved in the proposed treatment, ~~any~~ risks or side effects from the proposed treatment, and ~~any~~ alternatives to the proposed treatment;
16. To be offered or referred for the treatment specified in the client's treatment plan;
17. To receive a referral to another agency if the agency is unable to provide a behavioral health service that the client requests or that is indicated in the client's treatment plan;
18. To give general consent and, if applicable, informed consent to treatment, refuse treatment or withdraw general or informed consent to treatment, unless ~~such the~~ treatment is ordered by a court according to A.R.S. Title 36, Chapter 5, ~~or~~ is necessary to save the client's life or physical health, or is provided according to A.R.S. § 36-512;
19. To be free from:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Retaliation for submitting a complaint to the Department or another entity;
 - g. Discharge or transfer, or threat of discharge or transfer, for reasons unrelated to the client's treatment needs, except as established in a fee agreement signed by the client or the client's parent, guardian, custodian, or agent;
 - h. Treatment that involves the denial of:
 - i. Food,
 - ii. The opportunity to sleep, or
 - iii. The opportunity to use the toilet; and
 - i. Restraint or seclusion, of any form, used as a means of coercion, discipline, convenience, or retaliation;
20. To participate or, if applicable, to have the client's parent, guardian, custodian or agent participate in treatment decisions and in the development and periodic review and revision of the client's written treatment plan;
21. To control the client's own finances except as provided by A.R.S. § 36-507(5);
22. To participate or refuse to participate in religious activities;
23. To refuse to perform labor for an agency, except for housekeeping activities and activities to maintain health and personal hygiene;
24. To be compensated according to state and federal law for labor that primarily benefits the agency and that is not part of the client's treatment plan;
25. To participate or refuse to participate in research or experimental treatment;

Notices of Exempt Rulemaking

26. To give informed consent in writing, refuse to give informed consent, or withdraw ~~written~~ informed consent to participate in research or in treatment that is not a professionally recognized treatment;
27. To refuse to acknowledge gratitude to the agency through written statements, other media, or speaking engagements at public gatherings;
28. To receive behavioral health services in a smoke-free facility, although smoking may be permitted outside the facility; and
29. If receiving treatment in a residential agency, ~~or~~ an inpatient treatment program, a Level 4 transitional agency, or a domestic violence shelter:
 - a. If assigned to share a bedroom, to be assigned according to R9-20-405(F) and, if applicable, R9-20-404(A)(4)(a);
 - b. To associate with individuals of the client's choice, receive visitors, and make telephone calls during the hours established by the licensee and conspicuously posted in the facility, unless:
 - i. ~~The medical director or clinical director determines and documents a specific treatment purpose that justifies waiving restricting this right; and~~
 - ii. ~~The client is informed of the reason why this right is being waived restricted and the client's right to submit a grievance regarding this treatment decision; and~~
 - iii. The client is informed of the client's right to file a grievance and the procedure for filing a grievance;
 - c. To privacy in correspondence, communication, visitation, financial affairs, and personal hygiene, unless:
 - i. ~~The medical director or clinical director determines and documents a specific treatment purpose that justifies waiving restricting this right; and~~
 - ii. ~~The client is informed of the reason why this right is being waived restricted and the client's right to submit a grievance regarding this treatment decision; and~~
 - iii. The client is informed of the client's right to file a grievance and the procedure for filing a grievance;
 - d. To send and receive uncensored and unopened mail, unless restricted by court order; ~~or unless:~~
 - i. The medical director or clinical director determines and documents a specific treatment purpose that justifies restricting this right;
 - ii. The client is informed of the reason why this right is being restricted; and
 - iii. The client is informed of the client's right to file a grievance and the procedure for filing a grievance;
 - e. To maintain, display, and use personal belongings, including clothing, unless restricted by court order or according to A.R.S. § 36-507(5) and as documented in the client record;
 - f. To be provided storage space, capable of being locked, on the premises while the client receives treatment;
 - g. To be provided meals to meet the client's nutritional needs, with consideration for client preferences;
 - h. To be assisted in obtaining clean, seasonably appropriate clothing that is in good repair and selected and owned by the client;
 - i. To be provided access to medical services, including family planning, to maintain the client's health, safety, or welfare;
 - j. To have opportunities for social contact and daily social, recreational, or rehabilitative activities;
 - k. To be informed of the requirements necessary for the client's discharge or transfer to a less restrictive physical environment; and
 - l. To receive, at the time of discharge or transfer, recommendations for ~~any~~ treatment ~~needed when~~ after the client is discharged.

R9-20-204. Staff Member and Employee Qualifications and Records

- A. A licensee shall ensure that:
 1. A staff member is at least 21 years old;
 2. Except as provided in subsection (A)(3), an intern is at least 18 years old;
 3. An intern in a Level 1 specialized transitional agency is at least 21 years old; and
 4. A volunteer is at least 21 years old.
- B. A licensee shall ensure that a behavioral health professional has the skills and knowledge necessary to:
 1. Provide the behavioral health services that the agency is authorized to provide; and
 2. Meet the unique needs of the client populations served by the agency, such as children, adults age 65 or older, individuals with a substance abuse problem, individuals who are seriously mentally ill, individuals who have co-occurring disorders, or individuals who may be victims or perpetrators of domestic violence.
- C. A licensee shall ensure that an individual who is a ~~certified~~ baccalaureate social worker, ~~certified~~ master social worker, ~~certified~~ associate marriage and family therapist, ~~or certified~~ associate counselor, or substance abuse counselor according to A.R.S. Title 32, Chapter 33 is under direct supervision as defined in A.A.C. R4-6-101.
- D. A licensee shall ensure that a behavioral health technician has the skills and knowledge required in subsection (F) and otherwise required in this Chapter.
- E. A licensee shall ensure that a behavioral health paraprofessional hired after the effective date of this Chapter:
 1. Who has six weeks of behavioral health work experience has the skills and knowledge required in subsection (F); and

Notices of Exempt Rulemaking

2. Who does not have six weeks of behavioral health work experience:
 - a. Receives six weeks of continuous onsite direction from a behavioral health professional, a behavioral health technician, or a behavioral health paraprofessional who has at least six months of behavioral health work experience; and
 - b. Has the skills and knowledge required in subsection (F) after the six weeks of continuous onsite direction.
- F. A licensee shall ensure that a behavioral health technician or behavioral health paraprofessional hired after the effective date of this Chapter has the skills and knowledge necessary to perform the duties consistent with the job description of ~~that~~ the behavioral health technician or behavioral health paraprofessional and the services the agency is authorized to provide and including, if applicable, the skills and knowledge:
 1. Necessary to:
 - a. Protect client rights in R9-20-203;
 - b. Provide treatment that promotes client dignity, independence, individuality, strengths, privacy, and choice;
 - c. Recognize obvious symptoms of a mental disorder, personality disorder, or substance abuse;
 - d. Provide the behavioral health services that the agency is authorized to provide and that the staff member is qualified to provide;
 - e. Meet the unique needs of the client populations served by the agency or the staff member, such as children, adults age 65 or older, individuals who have substance abuse problems, individuals who are seriously mentally ill, or individuals who have co-occurring disorders;
 - f. Protect and maintain the confidentiality of client records and information;
 - g. Recognize and respect cultural differences;
 - h. Recognize, prevent, and respond to a situation in which a client:
 - i. May be a danger to self or a danger to others,
 - ii. Behaves in an aggressive or destructive manner,
 - iii. May be experiencing a crisis situation, or
 - iv. May be experiencing a medical emergency;
 - i. Read and implement a client's treatment plan;
 - j. Assist a client in accessing community services and resources;
 - k. Record and document client information;
 - l. Demonstrate ethical behavior, such as by respecting staff member and client boundaries and recognizing the inappropriateness of receiving gratuities from a client;
 - m. Identify types of medications commonly prescribed for mental disorders, personality disorders, and substance abuse and the common side effects and adverse reactions of the medications;
 - n. Recognize and respond to a fire, disaster, hazard, and medical emergency; and
 - o. Provide the activities or behavioral health services identified in the staff member's job description or the agency's policy and procedure; and
 2. That are verified:
 - a. Except as provided in subsection (E)(2), before the staff member provides behavioral health services to a client;
 - b. By the clinical director, a behavioral health professional, or a behavioral health technician with a combination of at least six years of education in a field related to behavioral health and full-time behavioral health work experience; and
 - c. Through one or more of the following:
 - i. Visual observation of the staff member interacting with another individual, such as through role playing exercises;
 - ii. Verbal interaction with the staff member, such as interviewing, discussion, or question and answer; or
 - iii. A written examination.
- G. A licensee shall ensure that verification of each of the skills and knowledge required in subsection (F) are documented, including the:
 1. Name of the staff member;
 2. Date skills and knowledge were verified;
 3. Method of verification used, according to subsection (F)(2)(c); and
 4. Signature and professional credential or job title of the individual who verified the staff member's skills and knowledge.
- H. A licensee of a residential agency or an inpatient treatment program shall ensure that:
 1. Before providing behavioral health services, a staff member submits documentation of a physical examination or nursing assessment that indicates that the staff member is capable of performing the duties contained in the staff member's job description;
 2. At the starting date of employment or before providing behavioral health services and every 12 months thereafter, a staff member submits one of the following as evidence of freedom from infectious pulmonary tuberculosis:
 - a. A report of a negative Mantoux skin test administered within six months before the report is submitted; or

Notices of Exempt Rulemaking

- b. If the staff member has had a positive skin test for tuberculosis, a written statement from a medical practitioner dated within six months before the statement is submitted indicating that the staff member is free from infectious pulmonary tuberculosis; and
- 3. If a staff member or employee has a communicable disease listed in R9-6-202(A) or (B), the staff member or employee provides written authorization from a medical practitioner before returning to work.
- I. A licensee shall ensure that a personnel record is maintained for each staff member that contains:
 - 1. The staff member's name, date of birth, home address, and home telephone number;
 - 2. The name and telephone number of an individual to be notified in case of an emergency;
 - 3. The starting date of employment or contract service and, if applicable, the ending date; and
 - 4. Documentation of:
 - a. The staff member's compliance with the qualifications required in this Chapter, as applicable;
 - b. The staff member's compliance with the behavioral health work experience requirements in this Section;
 - c. The staff member's compliance with the fingerprinting requirements in R9-20-201(A)(1)(c) or 9 A.A.C. 20, Article 13, if applicable;
 - d. The performance reviews required in R9-20-201(D);
 - e. The verification of the staff member's skills and knowledge required in subsection (G), if applicable, and as otherwise required in this Chapter;
 - f. The clinical supervision required in R9-20-205, if applicable;
 - g. The staff member's completion of the orientation required in R9-20-206(A);
 - h. The staff member's completion of the training required in R9-20-206(B), if applicable;
 - i. Any disciplinary action taken against the staff member;
 - j. The staff member's documentation of CPR and first aid training, as required in R9-20-207(B), if applicable; ~~and~~
 - k. The staff member's review of policies and procedures required in R9-20-201(B)(4), including the signature of the staff member and the date signed; and
 - ~~k-l.~~ For a staff member working in a residential agency or an inpatient treatment program:
 - i. The staff member's physical examination or nursing assessment as required in subsection (H)(1), and
 - ii. The staff member's freedom from infectious pulmonary tuberculosis as required in subsection (H)(2).
- J. A licensee shall ensure that a personnel record is maintained for each volunteer, intern, or employee that contains:
 - 1. The individual's name, date of birth, home address, and home telephone number;
 - 2. The name and telephone number of an individual to be notified in case of an emergency;
 - 3. The starting date of employment, contract service, or volunteer service and, if applicable, the ending date;
 - 4. For an individual working or providing volunteer services in a residential agency or an inpatient treatment program, documentation of the individual's freedom from infectious pulmonary tuberculosis as required in subsection (H)(2); and
 - 5. Documentation of the individual's compliance with the fingerprinting requirements in R9-20-201(A)(1)(c) or 9 A.A.C. 20, Article 13, if applicable.
- K. A licensee shall ensure that personnel records required in this Section are maintained:
 - 1. On the premises or at the administrative office;
 - 2. Throughout an individual's period of employment, contract service, volunteer service, or internship; and
 - 3. For at least two years after the last date of the individual's employment, contract service, volunteer service, or internship.

R9-20-205. Clinical Supervision

- A. A clinical director shall ensure that a behavioral health professional develops, implements, monitors, and complies with a written plan for clinical supervision for the agency. A written plan for clinical supervision shall:
 - 1. Ensure that clinical supervision addresses the treatment needs of all clients, including clients who receive treatment from the agency for a short period of time, such as 14 days or less;
 - 2. Establish criteria to determine:
 - a. When clinical supervision shall be provided to a staff member on an individual basis, which shall include a requirement that a staff member involved in an incident reported under R9-20-202(A)(1) receive clinical supervision related to the incident on an individual basis; and
 - b. When a staff member listed in subsection (B) is capable of providing clinical supervision;
 - 3. Establish a process for reviewing an incident reported under R9-20-202(A)(1); and
 - 4. Establish requirements and time-frames for documenting clinical supervision.
- B. A licensee shall ensure that clinical supervision is provided by an individual who:
 - 1. Has skills and knowledge in the behavioral health services that the agency is authorized to provide and the populations served by the agency; and
 - 2. Is one of the following:
 - a. A behavioral health professional, or

Notices of Exempt Rulemaking

- b. A behavioral health technician with a combination of full-time behavioral health work experience and post high school education in a field related to behavioral health totaling at least six years.
- C. A licensee shall ensure that a behavioral health technician who provides clinical supervision:
 - 1. Receives clinical supervision from a behavioral health professional according to the requirements in this Section; and
 - 2. Has skills and knowledge in providing clinical supervision that are verified:
 - a. Before the behavioral health technician provides clinical supervision;
 - b. By a behavioral health professional who provides clinical supervision; and
 - c. Through one or more of the following:
 - i. Visual observation of the behavioral health technician interacting with another individual, such as through role playing exercises;
 - ii. Verbal interaction with the behavioral health technician, such as interviewing, discussion, or question and answer; or
 - iii. A written examination.
- D. A licensee shall ensure that:
 - 1. A behavioral health technician or a behavioral health paraprofessional who works full time receives at least four hours of clinical supervision in a calendar month;
 - 2. A behavioral health technician or a behavioral health paraprofessional who works part time receives at least one hour of clinical supervision for every 40 hours worked; and
 - 3. Clinical supervision occurs on an individual or group basis and may include clinical supervision in response to an incident, an emergency safety response, or, if applicable, debriefings that occur after restraint or seclusion.
- E. A licensee shall ensure that clinical supervision includes:
 - 1. Reviewing and discussing client behavioral health issues, behavioral health services, or records;
 - 2. Recognizing and meeting the unique treatment needs of the clients served by the agency, such as children, adults age 65 or older, individuals who have substance abuse problems, individuals who are seriously mentally ill, or individuals who have co-occurring disorders;
 - 3. Reviewing and discussing other topics that enhance the skills and knowledge of staff members; and
 - 4. For a behavioral health technician providing a client with an assessment or treatment plan, determining whether an assessment or treatment plan is complete and accurate and meets the client's treatment needs.
- F. A licensee shall ensure that the four hours of clinical supervision required for a behavioral health technician and a behavioral health paraprofessional is documented at least once a month, to include:
 - 1. The date of the clinical supervision,
 - 2. The name, signature, and professional credential or job title of the staff member receiving clinical supervision,
 - 3. The signature and professional credential or job title of the individual providing clinical supervision and the date signed,
 - 4. The duration of the clinical supervision,
 - 5. A description of the topic or topics addressed in clinical supervision, as described in subsection (E),
 - 6. Whether clinical supervision occurred on a group or individual basis, and
 - 7. Identification or recommendation of additional training that may enhance the staff member's skills and knowledge.

R9-20-206. Orientation and Training

- A. A licensee shall ensure that:
 - 1. The clinical director develops and implements a written plan to provide staff orientation;
 - 2. A staff member completes orientation before providing behavioral health services;
 - 3. Orientation of a staff member includes:
 - a. Reviewing:
 - i. Client rights;
 - ii. Agency policies and procedures necessary for the performance of the staff member's duties;
 - iii. The staff member's job description;
 - iv. The agency's evacuation path; and
 - v. Procedures for responding to a fire, a disaster, a hazard, a medical emergency, and a client experiencing a crisis situation;
 - b. Informing the staff member of the requirement to immediately report suspected or alleged abuse, neglect, or exploitation or a violation of a client's rights to the administrator or clinical director; and
 - c. Identifying the location of client records and how client records and information are protected; and
 - 4. A staff member's orientation is documented, to include:
 - a. The staff member's name, signature, and professional credential or job title,
 - b. The date orientation was completed,
 - c. The subject or topics covered in the orientation,
 - d. The duration of the orientation, and
 - e. The name, signature, and professional credential or job title of the individual providing the orientation.

Notices of Exempt Rulemaking

- B.** A licensee shall ensure that the clinical director:
1. Develops and implements a written ~~staff member~~ training plan for the agency that includes a description of the training that a behavioral health professional, behavioral health technician, or behavioral health paraprofessional needs to:
 - a. Maintain current skills and knowledge;
 - b. Obtain or enhance skills and knowledge in the behavioral health services the agency is authorized to provide; and
 - c. Meet the unique needs of the client populations served by the agency, such as children, adults age 65 or older, individuals who have substance abuse problems, individuals who are seriously mentally ill, or individuals who have co-occurring disorders;
 2. Ensures that each staff member, except for a behavioral health professional who is required by state law to complete continuing education to maintain the behavioral health professional's occupational license or certificate, completes:
 - a. At least 48 hours of training during the first 12 months of full-time employment or contract service, or the equivalent amount for part-time employment or contract service, after the staff member's starting date of employment or contracted service, which may include time spent in orientation and in acquiring the skills and knowledge required in R9-20-204(F); and
 - b. At least 24 hours of training every 12 months of full-time employment or contract service, or the equivalent amount for part-time employment or contract service, after the staff member's first 12 months of employment or contract service;
 3. Ensures that during a staff member's first 12 months of employment or contract service, training includes the topics listed in R9-20-204(F) and other topics identified in the written staff member training plan; and
 4. Ensures that a staff member's training is documented, to include:
 - a. The staff member's name, signature, and professional credential or job title;
 - b. The date of the training;
 - c. The subject or topics covered in the training;
 - d. The duration of the training; and
 - e. The name, signature, and professional credential or job title of the individual providing the training.

R9-20-207. Staffing Requirements

- A.** A licensee shall ensure that an agency has staff members and employees to:
1. Meet the requirements in this Chapter;
 2. Provide at all times:
 - a. The behavioral health services the agency is authorized to provide;
 - b. The behavioral health services stated in the agency program description, as required in R9-20-201(A)(2)(c); and
 - c. The treatment identified in each client's treatment plan; and
 3. Ensure the health, safety, and welfare of a client:
 - a. On the premises;
 - b. On an agency-sponsored activity off the premises; and
 - c. While the client is receiving behavioral health services or ancillary services from the licensee off the premises.
- B.** A licensee shall ensure that at least one staff member is present at the facility during hours of agency operation or on an outing who has current documented successful completion of first-aid and CPR training specific to the populations served by the agency, such as children or adults, that included a demonstration of the staff member's ability to perform CPR.
- C.** A licensee of a residential agency or an inpatient treatment program shall ensure that:
1. At least one staff member is present and awake at the facility at all times when a client is on the premises,
 2. At least one staff member is on-call and available to come to the agency if needed, and
 3. The agency has sufficient staff members that provide general client supervision and treatment and sufficient staff members or employees to provide ancillary services to meet the scheduled and unscheduled needs of each client.
- D.** A licensee shall ensure that each agency has a daily staffing schedule that:
1. Indicates the date, scheduled work hours, and name of each staff member assigned to work, including on-call staff members;
 2. Includes documentation of the staff members who work each day and the hours worked by each staff member; and
 3. Is maintained on the premises or at the administrative office for at least 12 months after the last date on the documentation.

R9-20-208. Admission Requirements

- A.** A licensee may conduct a preliminary review of an individual's presenting issue and unique needs before conducting an assessment of the individual or admitting the individual into the agency. If a licensee determines, based on an individual's presenting issue and unique needs, that the individual is not appropriate to receive a behavioral health service or ancillary service at an agency, the licensee shall ensure that the individual is provided with a referral to another agency or entity. If an individual received a face-to-face preliminary review, a staff member shall provide the individual with a written referral.

Notices of Exempt Rulemaking

- B.** A licensee of an agency that provides respite shall ensure that a policy and procedure is developed, implemented, and complied with that ensures that:
1. A respite admission does not cause the agency to exceed the licensed capacity identified on the agency's license,
 2. A respite client meets the admission requirements in this Section,
 3. A respite client receives an assessment and treatment plan for the period of time that the client is receiving respite from the agency, and
 4. A respite client's treatment plan addresses how the client will be oriented to and integrated into the daily activities at the agency.
- C.** A licensee shall ensure that:
1. An individual is admitted into an agency based upon:
 - a. The individual's presenting issue and treatment needs and the licensee's ability to provide behavioral health services and ancillary services consistent with those treatment needs;
 - b. The criteria for admission contained in the agency program description, as required in R9-20-201(A)(2)(h)(i), and the licensee's policies and procedures; and
 - c. According to the requirements of state and federal law and this Chapter; and
 2. An individual admitted into and receiving treatment from an agency does not require from the agency:
 - a. A behavioral health service or medical service that the agency is not authorized to provide,
 - b. A behavioral health service or medical service that the agency's staff members are not qualified or trained to provide, or
 - c. A behavioral health service or ancillary service that the agency is unable to provide.
- D.** A licensee shall ensure that:
1. Based upon an assessment, if an individual is not appropriate to receive a behavioral health service or ancillary service according to the criteria in subsection (C), the individual is provided with a referral to another agency or entity; and
 2. If an individual received a face-to-face assessment, a staff member provides the individual with a written referral.
- E.** A licensee shall ensure that:
1. Except as stated in subsection (F), admission does not occur and treatment is not provided unless general consent is obtained from the client or, if applicable, the client's parent, guardian, custodian, or agent; and
 2. Informed consent consent to treatment is:
 - a. ~~Is obtained~~ Obtained from a client or, if applicable, the client's parent, guardian, custodian, or agent at the time of admission and before a client receives receiving a specific treatment or a change in treatment, such as use of a different medication, for which informed consent has not yet been obtained;
 - b. ~~Is obtained~~ Obtained only after a client or, if applicable, the client's parent, guardian, custodian, or agent receives receiving a verbal explanation of the following:
 - i. The specific treatment being proposed;
 - ii. The intended outcome, nature, and procedures of the proposed treatment;
 - iii. Any risks and side effects of the proposed treatment, including any risks of not proceeding with the proposed treatment;
 - iv. The alternatives to the proposed treatment; and
 - v. That informed consent is voluntary and may be withheld or withdrawn at any time; and
 - c. ~~Is documented~~ Documented by:
 - i. ~~having~~ Having the client sign and date or, if applicable, having the client's parent, guardian, custodian, or agent sign and date, an acknowledgment that the client or, if applicable, the client's parent, guardian, custodian, or agent has received the information in subsection (E)(2)(b) and consents gives informed consent to the treatment; ; or
 - ii. If the client or, if applicable, the client's parent, guardian, custodian, or agent gives verbal informed consent to the treatment but refuses to sign an acknowledgement according to subsection (E)(2)(c)(i), having the medical practitioner ordering the treatment sign and date a statement that the client or, if applicable, the client's parent, guardian, custodian, or agent received the information in subsection (E)(2)(b) and gives informed consent but refuses to sign the acknowledgement.
- F.** A licensee is not required to obtain general consent as described in subsection ~~(E)~~ (E)(1) from a client receiving court-ordered evaluation, ~~or~~ court-ordered treatment, or treatment in a Level 1 specialized transitional agency.
- G.** A licensee is not required to obtain general consent as described in subsection (E)(1) or informed consent as described in subsection (E)(2) from a client receiving treatment according to A.R.S. § 36-512.
- G.H.** A licensee shall ensure that, at the time of admission, a client and, if applicable, the client's parent, guardian, custodian, designated representative, or agent are provided the following information:
1. A list of client rights;
 2. An explanation of any fees that the client is required to pay;
 3. A copy of the agency's refund policy and procedure;

Notices of Exempt Rulemaking

4. The current telephone number and address of:
 - a. The OBHL;
 - b. The Department's Division of Behavioral Health Services;
 - c. If the client is enrolled by a regional behavioral health authority as an individual who is seriously mentally ill, the human rights advocates provided by the Department or the Department's designee;
 - d. The Arizona Department of Economic Security Office of Adult Protective Services, if applicable;
 - e. The Arizona Department of Economic Security Office of Child Protective Services, if applicable; and
 - f. The local office of the regional behavioral health authority;
5. A copy of the agency's grievance policy and procedure;
6. If the agency is a residential agency or an inpatient treatment program and has a dress code, a written description of the dress code;
7. If the agency is a residential agency or an inpatient treatment program, an explanation of whether treatment is provided in a secure facility; and
8. If the agency is a Level 1 RTC or a Level 1 sub-acute agency authorized to provide restraint or seclusion:
 - a. The agency's policy for the use of restraint or seclusion, in a language that the client or the client's parent, guardian, custodian, or agent understands; and
 - b. The name, telephone number, and mailing address for the Arizona Center for Disability Law.

~~H.I.~~ A licensee shall ensure that receipt of the applicable information in subsection ~~(G)~~ (H) is documented by having the client or the client's parent, guardian, custodian, or agent sign and date an acknowledgment that the client or the client's parent, guardian, custodian, or agent received the information.

R9-20-209. Assessment and Treatment Plan

- A. A licensee shall develop, implement, and comply with policies and procedures for conducting an assessment that ensure that a ~~staff member~~ behavioral health professional or a behavioral health technician under the supervision of a behavioral health professional, conducting an assessment:
1. Refers the client to a medical practitioner if there is evidence that the client's behavioral health issue may be related to a medical condition; and
 2. Addresses a client's:
 - a. Presenting issue;
 - ~~a.b.~~ Substance abuse history;
 - ~~b.c.~~ Co-occurring disorder;
 - ~~e.d.~~ Medical condition and history;
 - ~~d.e.~~ Legal history, such as custody, guardianship, or pending litigation, including:
 - i. Custody,
 - ii. Guardianship,
 - iii. Pending litigation,
 - iv. Court-ordered evaluation,
 - v. Court-ordered treatment, and
 - vi. Criminal justice record;
 - e- ~~Criminal justice history~~;
 - f. Family history; and
 - g. Behavioral health Treatment treatment history, court-ordered evaluation or court-ordered treatment.
- B. A licensee shall ensure that:
1. A behavioral health professional or a behavioral health technician, under the supervision of a behavioral health professional, initiates an assessment of a client before treatment is initiated, and
 2. If an assessment is conducted and documented by a behavioral health technician, A a behavioral health professional reviews and approves a client the assessment information completed documented by a the behavioral health technician to ensure that the assessment information is complete and accurate and identifies the behavioral health services needed by the client and whether the client may need needs medical services.
- C. A licensee shall ensure that a client's assessment is completed with the participation of:
1. The client or the client's guardian or agent, if applicable;
 2. If the client is a child, the client's parent, guardian, or custodian;
 3. An individual requested by the client or the client's guardian or agent or, if the client is a child, by the client's parent, guardian, or custodian; and
 4. Any individual required by federal or state law.
- D. A licensee may use a ~~written~~ documented assessment completed by a behavioral health professional or a behavioral health technician not affiliated with the licensee's agency if:
1. The assessment was completed in compliance with this Section;
 2. The assessment was completed within 12 months before the date of the client's admission to the licensee's agency; and

Notices of Exempt Rulemaking

3. ~~A behavioral health professional at the licensee's agency reviews the written assessment and verifies the accuracy of the assessment by speaking with the individuals listed in subsection (C); and~~
 4. The behavioral health professional or the behavioral health technician at the licensee's agency updates the ~~written documented~~ assessment to include any changes to the client's condition since the assessment was completed.
- E. A licensee shall ensure that, except for a client receiving behavioral health services in a crisis situation, a client's assessment information is documented in the client record within seven days after ~~completing~~ initiating or updating the assessment, to include:
1. A description of the client's presenting issue;
 2. An identification of the client's behavioral health symptoms and of each behavioral health issue that requires treatment;
 3. A description of the medical ~~services~~ symptoms reported by the client and medical referrals needed by the client, if any;
 4. Recommendations for further assessment or examination of the client's needs;
 5. Recommendations for treatment needed by the client;
 6. Recommendations for ancillary services or other services needed by the client; and
 7. The signature, professional credential or job title, and date signed of:
 - a. The staff member conducting the assessment; and
 - b. If the assessment information was ~~completed~~ documented by a behavioral health technician, the behavioral health professional ~~approving who reviewed~~ the assessment information.
- F. A licensee shall ensure that:
1. A client's assessment information is reviewed and updated, ~~as necessary~~:
 - a. When additional information that affects the client's assessment is identified, and
 - b. At least once every 12 months; and
 2. A review and update of a client's assessment information is documented in the client record within seven days after the review is completed.
- G. A licensee shall ensure that the assessment information of a client receiving behavioral health services in a crisis situation is documented in the client record:
1. Before the individual's or client's:
 - a. Admission,
 - b. Transfer, or
 - c. Referral; and
 2. To include the requirements in subsections (E)(1) through (6), the name of ~~the~~ each behavioral health professional who ~~verbally approved~~ reviewed the assessment information according to subsection (B)(2), and the date ~~and time~~ of the ~~verbal approval~~ the review.
- H. A licensee shall ensure that policies and procedures for developing, implementing, monitoring, and updating a treatment plan are developed, implemented, and complied with.
- I. A licensee shall ensure that an initial treatment plan is developed for each client that:
1. Is based upon the initial assessment of the client and, if applicable, the client's physical examination required in R9-20-1003(E);
 2. Is completed and documented:
 - a. Before a client:
 - i. Receives counseling;
 - ii. Is admitted to an inpatient facility or residential agency, unless a client's presenting issue requires immediate admission;
 - iii. Receives treatment of the client's behavioral health issue with medication; or
 - iv. Receives opioid treatment according to Article 10;
 - b. No later than 30 days after the client's first visit with a behavioral health professional or a behavioral health technician under the supervision of a behavioral health professional;
 - c. By a behavioral health professional or a behavioral health technician under the supervision of a behavioral health professional;
 - d. With the participation of the client or the client's guardian or agent or, if the client is a child, the client's parent, guardian, or custodian;
 3. Includes:
 - a. The client's presenting issue;
 - b. The behavioral health services or ancillary services to be provided to the client until completion of the treatment plan in subsection (J);
 - c. Identification of individuals or entities to provide behavioral health services or ancillary services in subsection (I)(3)(b);

Notices of Exempt Rulemaking

- d. The information in subsection (J) for a client:
 - i. Receiving DUI treatment,
 - ii. Receiving misdemeanor domestic violence offender treatment,
 - iii. Receiving counseling,
 - iv. Receiving treatment of the client's behavioral health issue with medication,
 - v. Admitted to an inpatient facility or residential agency, or
 - vi. Receiving opioid treatment according to Article 10;
 - e. The signature and date signed, or documentation of the refusal to sign, of the client or the client's guardian or agent or, if the client is a child, the client's parent, guardian, or custodian; and
 - f. The signature, professional credential or job title and date signed of:
 - i. The staff member developing the treatment plan; and
 - ii. If the treatment plan was completed by a behavioral health technician, the behavioral health professional who reviewed the treatment plan;
4. If the initial treatment plan was completed by a behavioral health technician, is reviewed by a behavioral health professional to ensure that the initial treatment plan is complete and accurate and meets the client's treatment needs; and
5. Is entered in the client record within seven days of completion.
- ~~I.~~ **J.** A licensee shall ensure that a treatment plan is developed for each client and that the treatment plan is:
- 1. ~~Based~~ Is based upon the ~~client's~~ initial assessment and ongoing assessment of the client;
 - 2. ~~Developed before treatment is initiated, except for orders from a medical practitioner at initiation of treatment~~ Is completed and documented no later than 90 days after the client's first visit with a behavioral health professional or behavioral health technician under supervision of a behavioral health professional;
 - 3. ~~Developed~~ Is developed by a behavioral health professional or a behavioral health technician under the supervision of a behavioral health professional;
 - 4. ~~Developed~~ Is developed with the participation of the client or the client's guardian or agent or, if the client is a child, the client's parent, guardian, or custodian;
 - 5. If the treatment plan was completed by a behavioral health technician, is reviewed and approved by a behavioral health professional to ensure that the treatment plan is complete and accurate and meets the client's treatment needs;
 - 6. ~~Except for a client receiving behavioral health services in a crisis situation, documented in the client record within seven days after initiation of treatment, to include:~~
 - 7. Includes:
 - a. The client's presenting issue;
 - b. One or more treatment goals;
 - c. One or more treatment methods and the frequency of each treatment method;
 - d. The date when the client's treatment plan ~~will~~ shall be reviewed;
 - e. ~~The method and frequency of communicating the client's progress to:~~
 - i. ~~The client;~~
 - ii. ~~The client's parent, guardian, custodian, agent, family member, or designated representative;~~
 - iii. ~~The individual who coordinates behavioral health services and ancillary services for the client; and~~
 - iv. ~~Other agencies, individuals, or entities that provide treatment to the client;~~
 - f. ~~If a discharge date has been determined, the treatment needed after discharge;~~
 - ~~g.f.~~ The signature and date signed, or documentation of the refusal to sign, of the client or the client's guardian or agent or, if the client is a child, the client's parent, guardian, or custodian; and
 - ~~h.g.~~ The signature, professional credential or job title and date signed of:
 - i. The staff member developing the treatment plan; and
 - ii. If the treatment plan was completed by a behavioral health technician, the behavioral health professional approving the treatment plan; ~~and~~
 - 8. ~~7.~~ Reviewed Is reviewed and updated on an on-going basis:
 - a. According to the review date specified in the treatment plan and at least annually;
 - b. When a treatment goal is accomplished or changes; ~~;~~
 - c. When additional information that affects the client's assessment is identified; ~~;~~ and
 - d. When a client has a significant change in condition or experiences an event that affects treatment; ~~;~~ and
 - e. If the client is receiving opioid treatment according to Article 10, at least once every three months during the client's first year of opioid treatment and at least once every six months after the client's first year of opioid treatment; and
 - 8. Is entered in the client record within seven days of completion.
- ~~J.~~ **K.** A licensee shall ensure that the treatment plan to resolve or address a crisis situation is documented at the agency:
- 1. Before the date of the individual's or client's:
 - a. Admission,
 - b. Transfer, or

Notices of Exempt Rulemaking

c. Referral; and

2. To include the name of the behavioral health professional who ~~verbally approved~~ reviewed the treatment plan and the date and time of the ~~verbal approval~~ review.

~~K-L~~A licensee shall ensure that:

1. A client's treatment is based upon the client's treatment plan;
2. When a client's treatment plan is reviewed under subsection ~~(I)(7)~~ (J)(7), a behavioral health professional or behavioral health technician reviews the client's progress in treatment and determines whether the client needs to continue with treatment or to be transferred or discharged; and
3. If a client's progress is reviewed by a behavioral health technician, the behavioral health technician's review and determinations are approved by a behavioral health professional.

M. A licensee shall ensure that a client's initial treatment plan and treatment plan are implemented.

R9-20-211. Client Records

A. A licensee shall ensure that a single active client record is maintained for each client and:

1. Is protected at all times from loss, damage, or alteration;
2. Is confidential;
3. Is only released or disclosed:
 - a. ~~To a person listed in A.R.S. § 12-2294;~~
 - b. As provided in:
 - i. A.R.S. § 12-2292(B);
 - ii. A.R.S. § 12-2294;
 - ~~ii-iii~~ iii. A.R.S. § 36-504;
 - ~~iii-iv~~ iv. A.R.S. § 36-509;
 - ~~iv-v~~ v. A.R.S. § 36-3283(D);
 - ~~v-vi~~ vi. 42 U.S.C. § 290dd-2 (1994 & Supplement V 1999) 42 CFR 2.11 through 42 CFR 2.67 (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available at www.access.gpo.gov/uscode/uscode.html www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954; or
 - ~~vi-vii~~ vii. Another applicable federal or state law that authorizes release or disclosure; or
 - e-b. With written permission authorization from the client or, if applicable, the client's parent, guardian, custodian, or agent, according to subsection (B);
4. Is legible and recorded in ink or electronically recorded;
5. Contains entries that are dated and:
 - a. Signed by the individual making the entry;
 - b. Initialed by the individual making the entry; or
 - c. Authenticated by the individual making the entry in accordance with the following:
 - i. The individual who makes the entry embosses the entry with a rubber stamp or uses a computer code;
 - ii. The rubber stamp or computer code is not authorized for use by another individual; and
 - iii. The individual who makes the entry signs a statement that the individual is responsible for the use of the rubber stamp or the computer code;
6. Is available for review during the agency's hours of operation or at another time agreed upon by the clinical director upon written request by the client or the client's parent, guardian, custodian, or agent, if applicable, unless the client's physician:
 - a. ~~For a client receiving court-ordered evaluation or court-ordered treatment, the client's physician determines~~ Determines that the client's review of the client record is contraindicated ~~according to A.R.S. § 36-507(3) and documents the reason for the determination in the client record; or, and~~
 - b. ~~For a client not receiving court-ordered evaluation or court-ordered treatment, the client's physician or psychologist determines that the client's review of the client record is contraindicated based upon A.R.S. § 12-2293 and documents~~ Documents the reason for the determination in the client record;
7. Does not contain information about another client or individual unless the information impacts the treatment to the client;
8. Is current and accurate;
9. Is amended as follows:
 - a. The information to be amended is struck out with a single line that allows the struck information to be read; and
 - b. The amended entry is signed, initialed, or authenticated as described in subsection (A)(5)(c) by the individual making the amended entry;
10. Except as provided in subsection (A)(11), contains original documents and original signatures, initials, or authentication;

Notices of Exempt Rulemaking

11. For events occurring in group counseling, may contain photocopies of original documents but with client specific treatment information added;
 12. Is maintained on the premises of the behavioral health agency at which the client is admitted until the client is discharged;
 13. Is available and accessible to staff members who provide behavioral health services to the client;
 14. Is retained after a client's discharge:
 - a. For a client who is an adult, for seven years after the date of the client's discharge, unless otherwise provided by law or this Chapter; and
 - b. For a client who is a child, for seven years after the date of discharge or for at least three years after the date of the client's 18th birthday, whichever is a longer period of time; and
 15. Is disposed of in a manner that protects client confidentiality.
- B.** A licensee shall ensure that written permission authorization for release of a client record or information, as described in subsection ~~(A)(3)(e)~~ (A)(3)(b), is obtained according to the following:
1. Written permission authorization is obtained before a client record or information is released or disclosed;
 2. Written permission authorization is obtained in a language understood by the individual signing the written ~~permission authorization~~ permission authorization under subsection ~~(3)(h)~~ (B)(3)(h);
 3. Written permission authorization includes:
 - a. The name of the agency disclosing the client record or information;
 - b. The purpose of the disclosure;
 - c. The individual, agency, or entity requesting or receiving the record or information;
 - d. A description of the client record or information to be released or disclosed;
 - e. A statement indicating permission authorization and understanding that permission authorization may be revoked at any time;
 - f. The date or condition when the permission authorization expires;
 - g. The date the permission authorization was signed; and
 - h. The signature of the client or the client's parent, guardian, custodian, or agent; and
 4. Written permission authorization is maintained in the client record.
- C.** A licensee shall ensure that a progress note is documented on the date that an event occurs. Any additional information added to the progress note is identified as a late entry.
- D.** A licensee shall ensure that a client record contains the following, if applicable:
1. The client's name, address, home telephone number, and date of birth;
 2. The name and telephone number of:
 - a. An individual to notify in case of medical emergency;
 - b. The client's medical practitioner, if applicable;
 - c. The individual who coordinates the client's behavioral health services or ancillary services, if applicable;
 - d. The client's parent, guardian, or custodian, if applicable; or
 - e. The client's agent, if applicable;
 3. The date the client was admitted into the agency;
 4. The following information about each referral made or received by the agency:
 - a. The date of the referral;
 - b. The reason for the referral; and
 - c. The name of the entity, agency, or individual that the client was referred to or from;
 5. Whether the client is receiving court-ordered evaluation or court-ordered treatment or is a DUI client or a client in a misdemeanor domestic violence offender treatment program;
 6. If the client is receiving court-ordered evaluation or court-ordered treatment, a copy of the court order, pre-petition screening, and court-ordered evaluation as required by A.R.S. Title 36, Chapter 5;
 7. Documentation of general and, if applicable, informed consent to treatment, as required in R9-20-208(E);
 8. Documentation signed and dated by the client or, if applicable, the client's parent, guardian, custodian, or agent, indicating receipt of the information required to be provided under R9-20-208(G);
 9. The client's written informed consent to participate in research or treatment that is not a professionally recognized treatment, according to R9-20-201(F), if applicable;
 10. The assessment information and updates to the assessment information, as required in R9-20-209(E) and (F);
 11. The initial treatment plan as required in R9-20-209(I)(2), and the treatment plan and updates and revisions to the treatment plan, as required in ~~R9-20-209(I)(6) and (7)~~ R9-20-209(J)(2) and (7);
 12. Results from an additional examination or assessment recommended according to R9-20-209(E)(4);
 13. Information or records provided by or obtained from another individual, agency, or entity regarding the client;
 14. Documentation of permission authorization to release a client record or information, as required in subsection ~~(A)(3)(e)~~ (A)(3)(b) and (B), if applicable;
 15. Documentation of requests for client records and of the resolution of those requests;

Notices of Exempt Rulemaking

16. Documentation of the release of the client record or information from the client record to an individual or entity as described in subsection (A)(3)(a) ~~or (b)~~;
 17. Progress notes;
 18. Documentation of telephone, written, or face-to-face contact with the client or another individual that relates to the client's health, safety, welfare, or treatment;
 19. Documentation of:
 - a. Assistance provided to a client who does not speak English;
 - b. Assistance provided to a client who has a physical or other disability, as required in R9-20-203(A)(3); and
 - c. A client's known allergies or other medical condition;
 20. Documentation of behavioral health services provided to the client, according to the client's treatment plan;
 21. Documentation of medication services or assistance in the self-administration of medication, if applicable;
 22. Medical orders, as required in this Chapter, if applicable;
 23. Date of discharge and discharge summary as required in R9-20-210(C), if applicable;
 24. If the client is receiving treatment in a residential agency or an inpatient treatment program, documentation of the client's:
 - a. Orientation, as required in R9-20-401(B);
 - b. Screening for infectious pulmonary tuberculosis, as required in R9-20-401(A)(3); and
 - c. Nursing assessment or physical examination, as required in R9-20-401(A)(1) or (2), as applicable;
 25. If the client is a child, the names of the individuals to whom the child may be released according to R9-20-201(E)(5); ~~and~~
 26. Documentation of an agency's coordination with or communication to an individual, agency, or entity involved in the provision of treatment or ancillary services to the client; and
 - ~~26-27.~~ Other information or documentation required by state or federal law or this Chapter.
- E. A licensee shall develop, implement, and comply with a policy and procedure to ensure the confidentiality and security of client records and client-related information, which shall include requirements that:
1. If maintained other than electronically, client records and other written client-related information be stored in a locked container or area;
 2. If maintained electronically, client records and other written client-related information be protected from unauthorized access; and
 3. Staff members release and discuss client-related information only as necessary for the provision of behavioral health services.

R9-20-212. Transportation

- A. A licensee of an agency that uses a vehicle owned or leased by the licensee to transport a client shall ensure that:
1. The vehicle:
 - a. Is safe and in good repair;
 - b. Contains a first aid kit that meets the requirements in R9-20-214(I);
 - c. Contains drinking water sufficient to meet the needs of each client present;
 - d. Contains a working heating and air conditioning system; and
 - e. Is insured according to A.R.S. Title 28, Chapter 9;
 2. Documentation of vehicle insurance and a record of each maintenance or repair of the vehicle is maintained on the premises or at the administrative office;
 3. A driver of the vehicle:
 - a. Is 21 years of age or older;
 - b. Has a valid driver license;
 - c. Does not wear headphones or operate a cellular telephone while operating the vehicle;
 - d. Removes the keys from the vehicle and engages the emergency brake before exiting the vehicle or, if the vehicle locks in the park position, places the gear in the park position;
 - e. Does not leave in the vehicle an unattended:
 - i. Child;
 - ii. Client who may be a threat to the health, safety, or welfare of the client or another individual; or
 - iii. Client who is incapable of independent exit from the vehicle;
 - f. Operates the vehicle safely; and
 - g. Ensures the safe and hazard-free loading and unloading of clients;
 4. Transportation safety is maintained as follows:
 - a. Each individual in the vehicle wears a working seat belt while the vehicle is in motion;
 - b. Each seat in a vehicle is securely fastened to the vehicle and provides sufficient space for a client's body; and
 - c. Each individual in the vehicle is sitting in a seat while the vehicle is in motion; and
 5. There is a sufficient number of staff members present to ensure each client's health, safety, and welfare.

Notices of Exempt Rulemaking

- B.** A licensee of a residential agency or an inpatient treatment program shall ensure that:
1. A client receives transportation to needed medical services and to the treatment identified in the client's treatment plan or assessment; and
 2. Emergency information for each client transported is maintained in the vehicle used to transport the client and includes:
 - a. The client's name;
 - b. Medication information, including the name, dosage, route of administration, and directions for each medication needed by the client during the anticipated duration of the transportation;
 - c. The client's allergies; and
 - d. The name and telephone number of the individual to notify at the agency in case of medical emergency or other emergency.

R9-20-213. Outings

- A.** A clinical director or designee shall ensure that:
1. An outing is consistent with the age, developmental Level, physical ability, medical condition, and treatment needs of each client participating in the outing; and
 2. Probable hazards, such as weather conditions, adverse client behavior, or medical situations, that may occur during the outing are identified and staff members participating in the outing are prepared and have the supplies necessary to prevent or respond to each probable hazard.
- B.** A licensee shall ensure that:
1. There is a sufficient number of staff members present to ensure each client's health, safety, and welfare on an outing;
 2. There are at least two staff members present on an outing;
 3. At least one staff member on the outing has documentation of current training in CPR and first aid according to R9-20-207(B);
 4. Documentation is developed before an outing that includes:
 - a. The name of each client participating in the outing;
 - b. A description of the outing;
 - c. The date of the outing;
 - d. The anticipated departure and return times;
 - e. The name, address, and, if available, telephone number of the outing destination; and
 - f. The license plate number of each vehicle used to transport a client;
 5. The documentation described in subsection (B)(4) is updated to include the actual departure and return times and is maintained on the premises for at least 12 months after the date of the outing;
 6. Emergency information for each client participating in the outing is maintained in the vehicle used to transport the client and includes:
 - a. The client's name;
 - b. Medication information, including the name, dosage, route of administration, and directions for each medication needed by the client during the anticipated duration of the outing;
 - c. The client's allergies; and
 - d. The name and telephone number of the individual to notify at the agency in case of medical emergency or other emergency;
 7. A copy of the agency's policy and procedure for outings, as required in ~~R9-20-201(B)(1)(a)~~ R9-20-201(B)(1)(a)(iii), is maintained in each vehicle used on the outing; and
 8. Each client participating in the outing is safely returned after the outing.

R9-20-214. Environmental Standards

- A.** A licensee shall ensure that:
1. An agency's facility, furnishings, and premises are:
 - a. In good repair;
 - b. Clean; and
 - c. Free of:
 - i. Odors, such as from urine or rotting food;
 - ii. Insects and rodents;
 - iii. Accumulations of garbage or refuse; and
 - iv. Hazards;
 2. A heating and cooling system maintains the facility at a temperature between 65° F and 85° F;
 3. Water is available and accessible to a client at all times unless otherwise indicated in the client's treatment plan;
 4. Hot water provided in an area of the facility used by a client is maintained between 90° F and 120° F;
 5. Each common area of the facility has lighting sufficient to allow staff members to monitor client activity;

Notices of Exempt Rulemaking

6. Except as described in subsection (A)(7), a toxic or other hazardous material stored by the licensee on the premises is in a labeled container in a locked area other than a food preparation or storage area, a dining area, or a medication storage area;
 7. Except for medical supplies needed for a client, such as oxygen, a combustible or flammable liquid material stored by the licensee on the premises is stored in the original labeled container or a safety container in a locked area inaccessible to a client outside of the facility or in an attached garage;
 8. Garbage and refuse are:
 - a. Stored in covered containers or in plastic bags, and
 - b. Removed from the premises at least once a week; and
 9. If a pet or other animal is on the premises or at the administrative office, the pet or other animal is:
 - a. Controlled to prevent endangering a client or another individual,
 - b. Controlled to maintain sanitation of the premises, and
 - c. Vaccinated against rabies and all other diseases that are communicable to humans and for which a vaccine is available and documentation is maintained at the facility or administrative office indicating current vaccinations.
- B.** A licensee shall ensure that:
1. ~~No smoking is~~ Smoking or tobacco products are not permitted within a facility; and
 2. ~~Smoking is or tobacco products may be~~ permitted on the premises outside a facility ~~only~~ if:
 - a. Signs designating smoking areas are conspicuously posted, and
 - b. Smoking is prohibited in areas where combustible materials are stored or in use.
- C.** A licensee shall ensure that:
1. If a client has a mobility, sensory, or other physical impairment, modifications are made to the premises to ensure that the premises are accessible to and usable by the client; and
 2. An agency's premises has:
 - a. ~~Except for an adult therapeutic foster home, A~~ a waiting area with seating for clients and visitors;
 - b. A room that provides privacy for a client to receive treatment or visitors; and
 - c. Rooms or areas sufficient to accommodate the activities, treatment, and ancillary services stated in the agency's program description.
- D.** A licensee shall ensure that an agency has a bathroom that:
1. Is available for use by a client and visitors during the agency's hours of operation;
 2. Provides privacy; and
 3. Contains:
 - a. A working sink with running water,
 - b. A working toilet that flushes and has a seat,
 - c. Toilet tissue,
 - d. Soap for hand washing,
 - e. Paper towels or a mechanical air hand dryer,
 - f. Lighting, and
 - g. A window that opens or another means of ventilation.
- E.** A licensee shall ensure that if a swimming pool is located on the premises:
1. The pool is enclosed by a wall or fence that:
 - a. Is at least five feet in height;
 - b. Has no vertical openings greater than four inches across;
 - c. Has no horizontal openings, except as described in subsection (E)(1)(e);
 - d. Is not chain-link;
 - e. Does not have a space between the ground and the bottom fence rail that exceeds four inches in height;
 - f. Has a self-closing, self-latching gate that opens away from the pool and that has a latch located at least five feet from the ground; and
 - g. Is locked when the pool is not in use;
 2. At least one staff member with CPR training, as required in R9-20-207(B), is present in the pool area when a client is in the pool area;
 3. At least two staff members are present in the pool area if two or more clients are in the pool area; and
 4. A life preserver is available and accessible in the pool area.
- F.** A licensee shall ensure that a spa that is not enclosed by a wall or fence as described in subsection (E)(1) is covered and locked when not in use.
- G.** A licensee shall ensure that:
1. An evacuation path is conspicuously posted on each hallway of each floor of the facility; and
 2. A written disaster plan is developed and maintained on the premises.

Notices of Exempt Rulemaking

- H. A licensee shall ensure that:
1. A fire drill for staff members and, except for clients in a correctional facility, clients on the premises is conducted at least once every three months on each shift;
 2. Documentation of each fire drill is created and includes:
 - a. The date and time of the drill;
 - b. The amount of time taken for all clients and staff members to evacuate the facility;
 - c. Any problems encountered in conducting the drill; and
 - d. Recommendations for improvement, if applicable; and
 3. Documentation of a fire drill is available for review for 12 months after the date of the drill.
- I. A licensee shall ensure that a first aid kit is maintained on the premises, is accessible to staff members, and contains the following supplies in a quantity sufficient to meet the needs of all clients:
1. Adhesive bandages,
 2. Gauze pads,
 3. Antiseptic solution,
 4. Tweezers,
 5. Scissors,
 6. Tape,
 7. Disposable medical-grade latex and non-latex gloves, and
 8. Resealable plastic bags of at least one-gallon size.

R9-20-215. Time Out ~~and Emergency Safety Response~~

- ~~A.~~ A licensee shall ensure that a time out:
1. Takes place in an area that is unlocked, lighted, quiet, and private;
 2. Is time limited and does not exceed two hours per incident or four hours per day;
 3. Does not result in a client's missing a meal if the client is in time out at mealtime;
 4. Includes monitoring of the client by a staff member at least once every 15 minutes to ensure the client's health, safety, and welfare and to determine if the client is ready to leave time out; and
 5. Is documented in the client record, to include:
 - a. The date of the time out,
 - b. The reason for the time out,
 - c. The duration of the time out, and
 - d. The action planned and taken by the licensee to prevent the use of time out in the future.
- ~~B.~~ A licensee shall ensure that an emergency safety response:
1. ~~Is used only as follows:~~
 - a. ~~According to an agency's policy and procedure for the use of an emergency safety response;~~
 - b. ~~To manage a sudden, intense, or out-of-control behavior;~~
 - c. ~~To prevent harm to the client or others;~~
 - d. ~~When less restrictive methods were attempted and unsuccessful;~~
 - e. ~~For the shortest possible duration of time needed to bring the client's behavior under control or to prevent harm to the client or others;~~
 - f. ~~To ensure safety of the client and other individuals; and~~
 - g. ~~Without undue force;~~
 2. ~~Is documented, reported, and reviewed as follows:~~
 - a. ~~Is documented at the agency within one day of the emergency safety response including:~~
 - i. ~~The date and time that the emergency safety response took place;~~
 - ii. ~~The names of the client and staff members involved in the emergency safety response;~~
 - iii. ~~The specific emergency safety response that was used;~~
 - iv. ~~The precipitating factors that led up to the emergency safety response;~~
 - v. ~~The outcome of the emergency safety response, including any injuries that may have resulted from the emergency safety response and, if applicable, compliance with R9-20-202; and~~
 - vi. ~~If any individual was injured, the circumstances that caused the injury and a plan to prevent future injuries;~~
 - b. ~~If an emergency safety response occurs in a calendar month, the clinical director reviews documentation of each use of an emergency safety response that has occurred at the agency in the past month and documents the clinical director's determination of:~~
 - i. ~~Whether staff members are using each emergency safety response according to the agency's policy and procedure, this Chapter, and applicable federal or state laws and rules;~~
 - ii. ~~Actions to be taken by the agency to prevent the use of emergency safety response, such as additional staff training, additional staffing, or changes to agency policy and procedure;~~
 - iii. ~~Whether a client is appropriately placed at the agency; and~~
 - iv. ~~Whether the client's treatment plan should be reviewed or revised to ensure that the client's treatment is~~

Notices of Exempt Rulemaking

- meeting the client's treatment needs; and
- e. ~~If an emergency safety response occurred in a calendar month, the information in subsection (B)(2)(a) through (b) is reported in writing to the OBHL within five days after the end of the calendar month and documentation is maintained at the agency that the written report was provided; and~~
- 3. ~~Is only used by a staff member who has documentation of annual successful completion of a nationally recognized training program in crisis intervention, that includes:~~
 - a. ~~Techniques to identify staff member and client behaviors, events, and environmental factors that may trigger the need for an emergency safety response;~~
 - b. ~~The use of nonphysical intervention skills, such as de-escalation, mediation, conflict resolution, active listening, and verbal and observational methods; and~~
 - e. ~~The safe use of an emergency safety response, including the ability to recognize and respond to signs of physical distress in a client who is receiving an emergency safety response.~~

R9-20-216. Emergency Safety Response

A licensee shall ensure that an emergency safety response:

- 1. Is used only:
 - a. In an emergency that is an immediate threat to the life or health of a client or other individual.
 - b. When less restrictive methods have been attempted and were unsuccessful.
 - c. For the shortest possible duration of time needed to bring the client's behavior under control or to prevent harm to the client or another individual and not longer than five minutes.
 - d. With the least amount of force needed to bring the client's behavior under control or to prevent harm to the client or another individual.
 - e. Not more than twice in a period of 60 minutes, and
 - f. Not more than four times within a 12 hour period of time;
- 2. Is documented, reported, and reviewed as follows:
 - a. Is documented within one day from the date of the emergency safety response including:
 - i. The date and time of the emergency safety response;
 - ii. The name of the client for whom the emergency safety response was used;
 - iii. The names of each staff member using the emergency safety response;
 - iv. The specific emergency safety response that was used;
 - v. The precipitating factors that created a need for use of the emergency safety response;
 - vi. The outcome of the emergency safety response, including any injuries resulting from the emergency safety response;
 - vii. If applicable, whether requirements in R9-20-202 were complied with; and
 - viii. If any individual was injured, the circumstances that caused the injury and a plan addressing ways to prevent future injuries;
 - b. Documentation in subsection (2)(a) is reviewed at least once monthly by the administrator, manager, or clinical director for each use of an emergency safety response that occurred at the agency during the previous month and the following is documented at the agency by the administrator, manager, or clinical director:
 - i. Whether each staff member using an emergency safety response complied with the agency's policies and procedures and this Chapter;
 - ii. Actions the agency shall take to prevent the need for use of an emergency safety response, such as additional staff training, additional staffing, or changes to the agency's policies and procedures;
 - iii. Whether a client is appropriately placed at the agency; and
 - iv. Whether a client's treatment plan shall be reviewed or revised to ensure that the client's treatment is meeting the client's treatment needs;
 - c. The information in subsections (2)(a) and (b) is reported in writing to OBHL within five days after the end of the calendar month in which an emergency safety response occurred; and
 - d. Documentation required in subsections (2)(a) and (b) and documentation of each report required in subsection (2)(c) is maintained at the agency for six years from the date of the report; and
- 3. Is only used by a staff member who has documentation of successful completion annually of a:
 - a. Training program in crisis intervention from an organization nationally recognized for providing training in crisis intervention; or
 - b. For an emergency safety response used before July 1, 2004, nationally recognized training program in crisis intervention that includes:
 - i. Techniques to identify staff member and client behaviors, events, and environmental factors that may trigger the need for an emergency safety response;
 - ii. The use of nonphysical intervention skills, such as de-escalation, mediation, conflict resolution, active listening, and verbal and observational methods; and

Notices of Exempt Rulemaking

- iii. The safe use of an emergency safety response, including the ability to recognize and respond to signs of physical distress in a client who is receiving an emergency safety response.

ARTICLE 3. OUTPATIENT CLINIC REQUIREMENTS

R9-20-301. Universal Outpatient Clinic Requirements

- A. A licensee shall ensure that an outpatient clinic is located:
1. In an area of a facility that is physically separated from the bedrooms, treatment rooms and common areas used by a client in a residential agency or an inpatient treatment program; or
 2. In a separate facility from a residential agency, ~~or an inpatient treatment program,~~ a Level 4 transitional agency, or a domestic violence shelter.
- B. A licensee of an outpatient clinic that provides partial care to more than ten clients and serves food on the premises shall:
1. Comply with 9 A.A.C. 8, Article 1;
 2. If the licensee contracts with a food establishment to prepare and deliver food to the facility, maintain on the premises or at the administrative office a copy of the food establishment's license issued according to 9 A.A.C. 8, Article 1; and
 3. Ensure that if a client needs a therapeutic diet:
 - a. A therapeutic diet is provided to the client; and
 - b. A therapeutic diet manual with a copyright date that is no more than five years before the current date is available and accessible for use by employees or staff members who prepare food at the facility.
- C. A licensee of an outpatient clinic that serves food on the premises shall ensure that:
1. Each meal served includes a variety of foods from each food group in "The Food Guide Pyramid" in Center for Nutrition Policy and Promotion, U.S. Department of Agriculture, Home and Garden Bulletin No. 252, The Food Guide Pyramid (rev. 1996), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available from the U.S. Department of Agriculture, Center for Nutrition Policy and Promotion, 1120 20th Street, N.W., Suite 200, North Lobby, Washington, DC 20036-3475; and
 2. Client input is obtained in planning menus.

ARTICLE 4. RESIDENTIAL AGENCY REQUIREMENTS

R9-20-401. Supplemental Admission Requirements

- A. A licensee shall ensure that:
1. A client who is an adult receives a nursing assessment within seven days after the date of the client's admission unless medical records are provided indicating that the client has received a physical examination or a nursing assessment within the 12 months before the date of the client's admission and the medical records are reviewed and verified as complete by a registered nurse or a medical practitioner;
 2. A client who is a child receives a physical examination within seven days after the date of the client's admission unless medical records are provided indicating that the client has received a physical examination within the 12 months before the date of the client's admission and the medical records are reviewed and verified as complete by a medical practitioner; and
 3. A client receives a Mantoux skin test for infectious pulmonary tuberculosis within seven days after the date of the client's admission- unless the client has documentation of the client's freedom from infectious pulmonary tuberculosis in the client's record from another residential agency, inpatient treatment program, or adult therapeutic foster home and was discharged from the other residential agency, inpatient treatment program, or adult therapeutic foster home no more than seven days before the date of the client's admission. If a client's Mantoux skin test is positive, the licensee shall ensure that the client is examined by a medical practitioner to determine whether the client is free from infectious pulmonary tuberculosis and documentation of the client's freedom from infectious pulmonary tuberculosis is maintained in the client's record.
- B. A licensee of a residential agency shall ensure that a client receives orientation to the agency, within 24 hours after admission to the agency or arrival on the premises, that:
1. Includes:
 - a. An explanation of the behavioral health services the agency provides;
 - b. A description of the expectations for the client's behavior and of any program rules;
 - c. A tour of the premises and identification of the evacuation path;
 - d. A schedule of the client's planned activities; and
 - e. Introductions to staff members and employees at the facility at the time of the client's orientation; and
 2. Is documented by having the client sign and date an acknowledgment that the client has completed orientation.

R9-20-405. Environmental Standards

- A. A licensee of a residential agency or an inpatient treatment program shall ensure that the premises have:
1. An indoor common area, that is not used as a sleeping area, and that has:
 - a. A working telephone that allows a client to make a private telephone call;

Notices of Exempt Rulemaking

- b. A distortion-free mirror;
 - c. A current calendar and an accurate clock;
 - d. A variety of books, current magazines and newspapers, and arts and crafts supplies appropriate to the age, educational, cultural, and recreational needs of clients;
 - e. A working television and access to a radio; and
 - f. Space sufficient to accommodate the social and recreational needs of clients and to allow private conversations and group activities;
2. A dining room or dining area that:
 - a. Is lighted and ventilated,
 - b. Contains tables and seats, and
 - c. Is not used as a sleeping area;
 3. For every six clients, at least one working toilet that flushes and one sink with running water;
 4. For every eight clients, at least one working bathtub or shower, with a slip resistant surface;
 5. ~~An individual~~ A separate lockable storage space, capable of being locked, for use by each client according to the agency's policy and procedure; and
 6. An outdoor area that:
 - a. Is accessible to clients,
 - b. Has sufficient space to accommodate the social and recreational needs of clients, and
 - c. Has shaded and unshaded areas.
- B.** A licensee of a residential agency or an inpatient treatment program shall ensure that a client's sleeping area is in a bedroom that:
1. Meets one of the following:
 - a. Is a private bedroom that contains at least 60 square feet of floor space, not including the closet; or
 - b. Is a shared bedroom that:
 - i. Is shared by no more than four individuals;
 - ii. Except as provided in subsection (C), contains at least 60 square feet of floor space, not including a closet, for each individual occupying the bedroom; and
 - iii. Provides at least three feet of space between beds;
 2. For an agency licensed after the effective date of this Chapter, has walls from floor to ceiling;
 3. Contains a door that opens into a hallway, common area, or the outside;
 4. Is constructed and furnished to provide unimpeded access to the door;
 5. Is not used as a passageway to another bedroom or a bathroom unless the bathroom is for the exclusive use of an individual occupying the bedroom;
 6. Contains the following for each client:
 - a. An individual storage space, such as a dresser or chest;
 - b. A table or other surface;
 - c. ~~A closet, wardrobe, or equivalent space for hanging clothes;~~
 - ~~d.~~ Except for a child who sleeps in a crib as permitted in R9-20-404(A)(5), a bed that:
 - i. Consists of at least a mattress and frame;
 - ii. Is in good repair, clean, and free of odors and stains; and
 - iii. Is at least 36 inches wide and 72 inches long; and
 - ~~e.~~ d. A pillow and linens that are clean, free of odors, and in good repair, including:
 - i. A mattress pad;
 - ii. A top sheet and a bottom sheet that are large enough to tuck under the mattress;
 - iii. A pillow case;
 - iv. A waterproof mattress cover, if needed; and
 - v. A blanket or bedspread sufficient to ensure the client's warmth; and
 7. Contains:
 - a. Lighting sufficient for a client to read;
 - b. Windows or doors with adjustable window or door covers that provide client privacy, if applicable; and
 - c. To provide safe egress in an emergency, a working door to the outside or an openable window to the outside, unless the facility contains an automatic sprinkler system as required in R9-20-406(C)(3)(b), that is no higher than 20 feet above grade and that:
 - i. Meets the fire safety requirements of the local jurisdiction;
 - ii. Has no dimension less than 20 inches, has an area of at least 720 square inches, and has a window sill that is no more than 44 inches off the floor; or
 - iii. Is large enough, accessible to a client, and within the capability of the client to egress in an emergency.

Notices of Exempt Rulemaking

- C. If a licensee's agency was licensed before the effective date of this Chapter with a shared bedroom containing at least 50 square feet of floor space, not including a closet, for each individual occupying the room, the licensee may operate the agency with a shared bedroom containing at least 50 square feet of floor space, not including a closet, for each individual occupying the room.
- D. A licensee shall ensure that:
 - 1. The supply of hot water is sufficient to meet:
 - a. Each client's daily personal hygiene needs; and
 - b. The laundry, cleaning, and sanitation requirements in this Chapter;
 - 2. Clean linens and bath towels are provided to a client as needed and at least once every seven days;
 - 3. One of the following is available to ensure that client clothing can be cleaned:
 - a. A working washing machine and dryer on the premises,
 - b. An agency-provided process for cleaning clothing, or
 - c. An agency-provided process for transporting a client to a building with washing machines and dryers that a client can use; and
 - 4. Soiled linen and clothing stored by the licensee are in covered containers or closed plastic bags away from a food preparation or food storage area or a dining area.
- E. A licensee shall ensure that:
 - 1. Except for an agency located in a correctional facility, a client is not locked into a bedroom; and
 - 2. If a client's bedroom is capable of being locked from the inside, a staff member has a key that allows access to the bedroom at all times.
- F. A licensee shall ensure that clients are assigned to a bedroom:
 - 1. As required in R9-20-404(A)(4)(a), if applicable;
 - 2. To ensure client health, safety, and welfare; and
 - 3. After considering a client's:
 - a. Age;
 - b. Gender;
 - c. Developmental level;
 - d. Behavioral health issues;
 - e. Treatment needs; and
 - f. Need for group support, independence, and privacy.

R9-20-406. Fire Safety Standards

- A. A licensee of a residential agency or an inpatient treatment program shall ensure that a fire inspection is conducted at least every 12 months by the local fire department, the Office of the State Fire Marshal, or a designee of the Office of the State Fire Marshal.
- B. A licensee of a residential agency or an inpatient treatment program shall ensure that:
 - 1. The agency address is posted on a contrasting background and is visible from the street;
 - 2. A battery operated smoke detector is:
 - a. Installed in each:
 - i. Bedroom,
 - ii. Hallway adjacent to a bedroom,
 - iii. Utility room, and
 - iv. Room or hallway adjacent to a kitchen; and
 - b. In working order;
 - 3. There are at least two means of egress from each bedroom;
 - 4. A multipurpose fire extinguisher with at least a 2A10BC rating is hung on wall brackets with the top of the extinguisher handhold located less than five feet above the floor as follows:
 - a. In the kitchen; and
 - b. One fire extinguisher for every 3,000 square feet in the facility, not including the fire extinguisher in the kitchen;
 - 5. An exit sign is posted above each door to the outside;
 - 6. No extension cord is used in place of permanent wiring;
 - 7. If an extension cord is used on a temporary basis, an extension cord does not exceed seven feet in length; is not fastened to a wall, fixture, floor, or ceiling; and is not placed under a rug;
 - 8. An electrical outlet:
 - a. Is not used beyond its rate of capacity; and
 - b. Has a safety cover placed in each receptacle opening that is not in use;
 - 9. No electrical cord in use is spliced or has tears or exposed wires;
 - 10. Circuit breakers or fuses are labeled;

Notices of Exempt Rulemaking

11. A space heater:
 - a. Is labeled as acceptable by a nationally recognized testing laboratory, such as Underwriters Laboratory, Factory Mutual, or American Gas Association;
 - b. Does not use kerosene or other flammable liquid; and
 - c. Is placed away from a trash can, curtain, towel, or other material that may create a hazard;
 12. A fireplace opening is protected by a screen that prevents sparks from leaving the fireplace;
 13. The cooking range contains a hood, grease filter, and fan that are free of grease buildup;
 14. No flammable liquid or material is stored near a water heater or other heat producing appliance;
 15. All walls and ceilings are intact; and
 16. A door separating the facility from an attached garage, carport, or storage room is of solid core construction.
- C. A licensee of a residential agency or an inpatient treatment program shall ensure that a facility meets the fire safety requirements of the local jurisdiction and one of the following, as applicable:
1. If licensed for three or fewer clients, meets the requirements in subsections (A) and (B);
 2. If licensed for between four and eight clients who are able to evacuate the facility in three minutes or less, has an automatic sprinkler system that complies with subsection (C)(3)(b) or a fire alarm system, installed according to NFPA 72: National Fire Alarm Code (1999), incorporated by reference in R9-1-412(A)(4), with a fire alarm control panel that includes:
 - a. A manual-pull fire alarm system,
 - b. Automatic occupancy notification,
 - c. A smoke or fire detection system, and
 - d. Notification of a local emergency response team;
 3. If licensed for between four and eight clients who are unable to evacuate the facility in three minutes or less, has at least one of the following:
 - a. A fire alarm system that complies with subsection (C)(2) and at least two staff members present at the facility at all times; or
 - b. An automatic sprinkler system installed according to the applicable standard incorporated by reference in R9-1-412(A)(4):
 - i. NFPA 13: Installation of Sprinkler Systems (1999),
 - ii. NFPA 13D: Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes (1999), or
 - iii. NFPA 13R: Standard for Installation of Sprinkler Systems in Residential Occupancies Up to and Including Four Stories in Height (1999);
 4. If licensed for nine or more clients:
 - a. Has an automatic sprinkler system that complies with subsection (C)(3)(b); or
 - b. If a licensee's agency was licensed before the effective date of this Chapter without an automatic sprinkler system, meets the requirements in subsection (C)(2); or
 5. If a secure facility, has an automatic sprinkler system that complies with subsection (C)(3)(b).

R9-20-407. Food Service Requirements

- A. A licensee of an agency that provides behavioral health services to more than 10 clients and serves food on the premises shall:
1. Comply with 9 A.A.C. 8, Article 1; and
 2. If the licensee contracts with a food establishment to prepare and deliver food to the facility, maintain on the premises or at the administrative office a copy of the food establishment's license issued according to 9 A.A.C. 8, Article 1.
- B. A licensee shall ensure that:
1. Except as provided in subsection (B)(2) for a correctional facility, three three meals a day are served with not more than a 14-hour time span between the evening meal and the morning meal;
 2. For a correctional facility:
 - a. Three meals a day are served with not more than a 14-hour time span between the evening meal and the morning meal; or
 - b. On Saturday, Sunday, or state and federal holidays, two meals are served.
 - ~~2-3.~~ At least one snack a day is available to clients;
 - ~~3-4.~~ A client's daily nutritional needs are met based upon the client's age, health needs, and, if applicable, prescribed therapeutic diet;
 - ~~4-5.~~ Each meal or snack is served according to a preplanned menu;
 - ~~5-6.~~ Each meal provides a variety of foods from each food group in the Food Guide Pyramid incorporated by reference in R9-20-301(C)(1);
 - ~~6-7.~~ Menus are developed with consideration for client food preferences; eating habits; customs; health needs; appetites; and religious, cultural, and ethnic backgrounds;

Notices of Exempt Rulemaking

~~7-8.~~ Menus are:

- a. Prepared at least one week before the date food is served;
- b. Dated and conspicuously posted, reflecting any substitutions made to the menu;
- c. Approved by a registered dietician at least once every 12 months; and
- d. Maintained on the premises for at least six months after the date on the menu;

~~8-9.~~ Documentation of the dietician's review is maintained at the facility or administrative office for at least two years after the date of the review;

~~9-10.~~ At least a one-day supply of perishable food and at least a three-day supply of non-perishable food is maintained on the premises; and

~~10-11.~~ If a client needs a therapeutic diet:

- a. A therapeutic diet is provided to the client; and
- b. A therapeutic diet manual with a copyright date that is no more than five years before the current date is available and accessible for use by employees or staff members who prepare food at the facility.

C. A licensee shall ensure that:

1. Food is free from spoilage, filth, or other contamination and is safe for human consumption;
2. Food is protected from potential contamination;
3. Except for food from a garden or orchard, food is obtained only from commercial sources;
4. If canned food is used, only commercially canned food is used;
5. Foods requiring refrigeration are maintained at 41° F or below;
6. Food is cooked according to the requirements in §§ 3-401.11, 3-401.12, and 3-401.13 and reheated according to the requirements in § 3-403.11 of the U.S. Food and Drug Administration publication, Food Code: 1999 Recommendations of the U.S. Public Health Service, Food and Drug Administration (1999), as modified and incorporated by reference in A.A.C. R9-8-107;
7. Food service is provided by an individual who:
 - a. Is not infected with a communicable disease listed in R9-6-202(A) or (B) that may be transmitted by food handling;
 - b. Washes the individual's hands and arms with soap and warm water:
 - i. Before handling food,
 - ii. After smoking,
 - iii. After using the toilet, and
 - iv. As often as necessary to remove soil and contamination; and
 - c. Maintains or restrains the individual's hair to ensure that food and food-contact surfaces do not come in contact with the individual's hair;
8. A refrigerator contains a thermometer, accurate to $\pm 3^\circ$ F;
9. Raw fruits and raw vegetables are rinsed with water before being cooked or served;
10. Food that has been opened or removed from its original container is stored in a dated covered container, a minimum of four inches off the floor, and protected from splash and other contamination;
11. Frozen foods are maintained in a frozen state;
12. Tableware and eating utensils are provided and are clean and in good repair;
13. Food preparation, storage, and service areas are clean, in good repair, and free of insects or rodents;
14. Food preparation equipment and food-contact surfaces are clean and in good repair; and
15. Second servings of a meal or snack are available to a client at meal or snack time, unless otherwise indicated in the client's treatment plan or the client record.

R9-20-408. Assistance in the Self-Administration of Medication

A. A licensee shall ensure that a client who requires assistance in the self-administration of medication receives assistance in the self-administration of medication, which may include one or more of the following:

1. Storage of the client's medication;
2. A reminder when it is time to take a medication;
3. Verification that the medication is taken as directed by the client's medical practitioner by:
 - a. Confirming that a medication is being taken by the client for whom it is prescribed;
 - b. Checking the dosage against the label on the container; and
 - c. Confirming that the client is taking the medication as directed;
4. Opening of the medication container for the client; or
5. Observation of the client while the client removes the medication from the container or takes the medication.

B. A licensee of an agency that provides assistance in the self-administration of medication shall ensure that policies and procedures are developed; approved by a medical practitioner, pharmacist, or registered nurse; implemented; and complied with and include:

1. A requirement that each client receive instruction in the use of the prescribed medication and information regarding:

Notices of Exempt Rulemaking

- a. The prescribed medication's:
 - i. Anticipated results,
 - ii. Potential adverse reactions, and
 - iii. Potential side effects; and
 - b. Potential adverse reactions that could result from not taking the medication as prescribed;
2. Procedures for:
 - a. Storage of medication;
 - b. Informing a client when medication should be taken;
 - c. Ensuring that a client takes only medication prescribed for the client and that medication is taken as directed;
 - d. Observing a client taking medication;
 - e. Preventing, responding to, and reporting a medication error, adverse reaction to medication, or medication overdose;
 - f. Disposing of medication;
 - g. Assisting a client in obtaining medication and ensuring that a client does not run out of medication; and
 - h. Documenting the instruction provided in subsection (B)(1);
 3. A list of the staff members authorized to assist a client in self-administration of medication and to have access to a client's medication;
 4. A requirement that a client's medication regimen:
 - a. Be reviewed by a registered nurse or medical practitioner according to the client's treatment needs, and
 - b. Meet the client's treatment needs; and
 5. A requirement that each instance of assistance in the self-administration of medication be documented.
- C.** A licensee of an agency that provides assistance in the self-administration of medication shall ensure that:
1. Assistance in the self-administration of medication is provided only by:
 - a. A medical practitioner;
 - b. A nurse; or
 - c. A staff member who has the following skills and knowledge before providing assistance in the self-administration of medication to a client and that are verified by a pharmacist, medical practitioner, or registered nurse according to the requirements in R9-20-204(F)(2)(c) and documented according to R9-20-204(G)(1) through (4), although training to obtain skills and knowledge may be obtained from another agency, entity or staff member:
 - i. Knowledge of the medications commonly prescribed for clients with behavioral health issues treated by the agency;
 - ii. Knowledge of the common benefits, side effects, and adverse reactions of those medications;
 - iii. Knowledge of the signs, symptoms, or circumstances indicating that a client should not take a medication and of who to contact to review and address the client's situation;
 - iv. Knowledge of the differences between assisting in the self-administration of medication and medication administration;
 - v. Skill in assisting in the self-administration of medication;
 - vi. Knowledge of the medical terminology used in assisting in the self-administration of medication;
 - vii. Knowledge of the signs, symptoms, and indicators of toxicity or overdose and skill in identifying the signs, symptoms, and indicators of toxicity or overdose;
 - viii. Skill in responding to a medication error or medical emergency; and
 - ix. Skill in documenting assistance in the self-administration of medication;
 2. A staff member qualified according to subsection (C)(1) is present at the facility at all times when a client who needs assistance in the self-administration of medication is present at the facility; and
 3. A staff member who is not a medical practitioner or nurse receives training in the items listed in subsection (C)(1)(c) from another agency, entity or staff member at least once every 12 months according to R9-20-206(B)(2) and that the training is documented according to R9-20-206(B)(4).
- D.** A licensee shall ensure that if a client receives assistance in the self-administration of injectable medication, the client:
1. Has written authorization from a medical practitioner;
 2. Receives instruction from a nurse or medical practitioner in administering the injectable medication and demonstrates to the nurse or medical practitioner that the client is capable of administering the injectable medication; and
 3. Disposes of used syringes, vials, and testing materials in a manner that protects the health and safety of the client and other individuals.
- E.** A licensee of an agency that provides assistance in the self-administration of medication shall ensure that a client's medication regimen is reviewed to determine if the client's medication regimen is meeting the client's treatment needs:
1. By a registered nurse or medical practitioner, and
 2. According to the timeline determined by the client and the client's medical practitioner.

Notices of Exempt Rulemaking

- F.** A licensee of an agency that provides assistance in the self-administration of medication shall ensure that a medication error or a client's adverse reaction to a medication is immediately reported to the clinical director or the clinical director's designee and recorded in the client record.
- G.** A licensee of an agency that provides assistance in the self-administration of medication shall ensure that the following texts, ~~with copyright dates that are no more than two years before the current date,~~ are available and accessible to a staff member assisting in the self-administration of medication at the facility or off the premises:
1. A drug reference guide, such as the Physician Desk Reference, with a copyright date that is no more than two years before the current date; and
 2. A toxicology reference book, with a copyright date that is no more than five years before the current date.
- H.** A licensee of an agency that provides assistance in the self-administration of medication shall ensure that a client's medication:
1. Is stored in one of the following containers:
 - a. An original labeled container that indicates:
 - i. The client's name;
 - ii. The name of the medication, the dosage, and directions for taking the medication;
 - iii. The name of the individual prescribing the medication; and
 - iv. The date that the medication was prescribed; or
 - b. In a medication organizer that:
 - i. May be prepared up to one week in advance;
 - ii. States the client's name and the date prepared;
 - iii. Is prepared according to a medical practitioner's orders; and
 - iv. Is prepared by a medical practitioner; a nurse; a client or the client's parent, guardian, family member, custodian, or agent with observation from a medical practitioner, nurse, or staff member qualified according to subsection (C)(1); or another individual authorized by state law;
 2. Is stored in a locked container, cabinet, or area that is inaccessible to a client and that complies with the medication manufacturer's recommendations;
 3. While unlocked, is not left unattended by a staff member; and
 4. If medication for other than oral administration, is stored separately from medication for oral administration.
- I.** A licensee of an agency that provides assistance in the self-administration of medication shall ensure that a staff member qualified according to subsection (C)(1) conducts an inspection of the medication storage area or areas at least once every three months to ensure compliance with this Section and documents the results of the inspection, to include:
1. The name of the staff member conducting the inspection,
 2. The date of the inspection,
 3. The area or areas inspected,
 4. Whether medication is stored according to the requirements in this Section,
 5. Whether medication is disposed of according to the requirements in this Section, and
 6. Any action taken to ensure compliance with the requirements in this Section.
- J.** A licensee of an agency that provides assistance in the self-administration of medication shall ensure that:
1. Medication is disposed of when:
 - a. The medication has expired, according to the date on the medication container label;
 - b. The label on the medication container is missing or illegible;
 - c. The client's medical practitioner orders that the client discontinue use of the medication;
 - d. The client's medical practitioner orders that the client's medication not be released to the client at the time of the client's discharge or transfer; and
 - e. When required by state or federal law or the agency's policy and procedure;
 2. Medication is disposed of by at least two staff members qualified according to subsection (C)(1); and
 3. Medication disposal is documented in the client record, to include:
 - a. The date of disposal,
 - b. The method of disposal, and
 - c. The name, signature, and professional credential or job title of the staff members disposing of the medication and the date signed.
- K.** A licensee of an agency that provides assistance in the self-administration of medication shall ensure that a separate medication record is maintained for each client that:
1. Is current and accurate;
 2. Documents each instance when a client received assistance in the self-administration of medication;
 3. Is maintained at the agency where the client receives treatment; and
 4. Contains the following:
 - a. The name of the client;
 - b. The name of the medication and dosage and directions for taking the medication;

Notices of Exempt Rulemaking

- c. The name of the medical practitioner who prescribed the medication;
 - d. The date and time the medication was taken by the client;
 - e. If the assistance in the self-administration of medication occurred off the premises, the location where it occurred;
 - f. The observations of the staff member, if applicable;
 - g. The signature or initials and professional credential or job title of the staff member providing assistance in the self-administration of medication; and
 - h. The signature or initials of the client receiving assistance in the self-administration of medication.
- L. A licensee of an agency that provides assistance in the self-administration of medication shall ensure that a record is maintained for storage and administration of a medication that is a schedule II drug listed in A.R.S. § 36-2513, a schedule III drug listed in A.R.S. § 36-2514, or a schedule IV drug listed in A.R.S. § 36-2515, to include:
- 1. The name of the medication;
 - 2. The date and quantity of the medication received by the agency;
 - 3. The name of the individual who ordered the medication;
 - 4. The name of each client for whom the medication is prescribed;
 - 5. The date, time, and dosage of each medication administration;
 - 6. The signature and professional credential or job title of each staff member assisting in the self-administration of the medication; and
 - 7. The amount of medication remaining in the container after each self-administration of medication.

ARTICLE 5. INPATIENT TREATMENT PROGRAM REQUIREMENTS

R9-20-501. Universal Inpatient Treatment Program Requirements

- A. A licensee of an inpatient treatment program shall designate in writing a medical director who is:
- 1. A psychiatrist or a physician with behavioral health work experience, and
 - 2. In charge of medical services at the agency.
- B. A licensee of an inpatient treatment program shall ensure that a behavioral health medical practitioner is present at the facility or on-call at all times to admit an individual to the inpatient treatment program or to respond to the needs of clients.
- C. A licensee of an inpatient treatment program shall ensure that:
- 1. If a client requires medical services that the agency is not authorized or able to provide, a staff member provides transportation or arranges for the client to be transported to a hospital or another health care institution where the medical services can be provided;
 - 2. The licensee has a written agreement with a hospital in or near the community where the agency is located to provide medical services for clients who require medical services that the agency is not authorized or able to provide; and
 - 3. The written agreement described in subsection (C)(2) is maintained on the premises or at the administrative office.

R9-20-502. Supplemental Requirements for a Level 1 Psychiatric Acute Hospital

- A. A licensee of a Level 1 psychiatric acute hospital shall ensure compliance with the following:
- 1. The requirements for a general hospital, rural general hospital, or special hospital contained in 9 A.A.C. 10, Article 2, unless:
 - a. The agency was licensed as a Level 1 psychiatric acute care behavioral health facility before the effective date of this Chapter; and
 - b. The agency is not certified under Title XIX of the Social Security Act;
 - 2. If the agency is certified under Title XIX of the Social Security Act, as verified by the Department:
 - a. 42 CFR 456.160 ~~(2000)~~ (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available ~~from Government Institutes Division, 4 Research Place, Rockville, MD 20850~~ at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954;
 - b. 42 CFR 441.102 ~~(2000)~~ (2002), or 42 CFR 456.180 through 456.181 ~~(2000)~~ (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available ~~from Government Institutes Division, 4 Research Place, Rockville, MD 20850~~ at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954;
 - c. 42 CFR 456.200 through 456.213 ~~(2000)~~ (2002), and 42 CFR 482.30 ~~(2000)~~ (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available ~~from Government Institutes Division, 4 Research Place, Rockville, MD 20850~~ at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954;

Notices of Exempt Rulemaking

- d. 42 CFR 456.170 through 456.171 (~~2000~~) (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available ~~from Government Institutes Division, 4 Research Place, Rockville, MD 20850 at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954;~~
 - e. 42 CFR 456.231 through 456.238 (~~2000~~) (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available ~~from Government Institutes Division, 4 Research Place, Rockville, MD 20850 at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954;~~
 - f. 42 CFR 456.241 through 456.245 (~~2000~~) (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available ~~from Government Institutes Division, 4 Research Place, Rockville, MD 20850 at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954;~~
 - g. 42 CFR 456, Subpart J (~~2000~~) (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available ~~from Government Institutes Division, 4 Research Place, Rockville, MD 20850 at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954;~~
 - h. 42 CFR 482.13(f) (~~2000~~) (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available ~~from Government Institutes Division, 4 Research Place, Rockville, MD 20850 at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954;~~ and
 - i. 42 CFR 482.61 and 482.62 (~~2000~~) (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available ~~from Government Institutes Division, 4 Research Place, Rockville, MD 20850 at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954;~~
3. If the agency is certified to receive funds under Title XIX of the Social Security Act and provides treatment to an individual under the age of 21, ~~the following:~~
- a. 42 CFR 441.150 ~~and 441.152~~ through 441.156 (~~2000~~) (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available ~~from Government Institutes Division, 4 Research Place, Rockville, MD 20850 at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954;~~ and
 - b. CFR 441.151, as published in 66 FR 7148 (2001) and amended in 66 FR 15800 (2001), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available ~~from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954;~~
4. R9-20-401;
 5. R9-20-402;
 6. R9-20-403; and
 7. R9-20-405.
- B.** A licensee of a Level 1 psychiatric acute hospital shall ensure that a behavioral health technician is available at all times to ~~admit~~ initiate an admission of an individual to the agency.
- C.** A licensee of a Level 1 psychiatric acute hospital shall ensure that:
1. A fire inspection is conducted by the local fire department having jurisdiction or the Office of the State Fire Marshal according to the requirements of the local jurisdiction;
 2. The most recent fire inspection report and documentation of any corrections stated in the inspection report are maintained on the premises or at the administrative office; and
 3. The facility meets the fire safety requirements of the local jurisdiction and has:
 - a. A fire alarm system, installed according to NFPA 72: National Fire Alarm Code (1999), incorporated by reference in R9-1-412(A)(4), with a fire alarm control panel that includes:
 - i. A manual-pull fire alarm system,
 - ii. Automatic occupancy notification,
 - iii. A smoke or fire detection system, and
 - iv. Notification of a local emergency response team; and
 - b. An automatic sprinkler system that:
 - i. Is installed as required in R9-20-406(C)(3)(b);
 - ii. Has a water flow device; and
 - iii. Has all control valve tamper tied into the fire alarm control panel.

Notices of Exempt Rulemaking

R9-20-505. Supplemental Requirements for a Level 1 RTC

- A. A licensee of a Level 1 RTC shall ensure compliance with the following:
1. 42 CFR 441.150 ~~and 441.152~~ through 441.156 ~~(2000)~~ (2002), incorporated by reference in ~~R9-20-502(A)(3)(a)~~ R9-20-502(A)(3);
 2. 42 CFR 441.151, as published in 66 FR 7148 (2001) and amended in 66 FR 15800 (2001), incorporated by reference in ~~R9-20-502(A)(3)(b)~~;
 - ~~3.~~ 42 CFR 456.180, incorporated by reference in R9-20-502(A)(2)(b);
 - ~~4.~~ 42 CFR 456, Subpart J, incorporated by reference in R9-20-502(A)(2)(g);
 - ~~5.~~ 42 CFR Part 483, Subpart G, as published in 66 FR 7148 (2001) and amended in 66 FR 15800 (2001) and ~~66 FR 28110 (2001)~~ (2002), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954;
 - ~~6.~~ R9-20-401;
 - ~~7.~~ R9-20-402;
 - ~~8.~~ R9-20-403;
 - ~~9.~~ R9-20-404(A)(1) through (A)(3), (A)(5) through (A)(9), and (B).
 - ~~10.~~ R9-20-405; and
 - ~~11.~~ R9-20-407.
- B. A licensee of a Level 1 RTC shall ensure that:
1. A registered nurse is present at the facility full time to provide or oversee medical services; and
 2. A nurse is present at the facility at all times.
- C. A licensee of a Level 1 RTC shall ensure that within 24 hours after an individual's arrival at the agency, the individual is:
1. Admitted to the agency for treatment,
 2. Transferred to another entity capable of meeting the individual's needs, or
 3. Provided a referral to another entity capable of meeting the individual's needs.
- D. A licensee of a Level 1 RTC shall ensure that a client who is a child does not:
1. Share a bedroom, indoor common area, dining area, outdoor area, or other area where behavioral health services or activities are provided with a client age 18 or older, unless the client age 18 or older is a client described under subsection (E)(2); or
 2. Interact with a client who is age 18 or older, unless the client age 18 or older is a client described under subsection (E)(2).
- E. A licensee of a Level 1 RTC may:
1. Admit an individual who is younger than 21; and
 2. Continue to provide behavioral health services to a client age 18 or older until the client reaches the age of 22 if the client was admitted to the agency before the client's 21st birthday and continues to require treatment.
- F. A licensee of a Level 1 RTC shall ensure that:
1. A fire inspection is conducted by the local fire department having jurisdiction or the Office of the State Fire Marshal according to the requirements of the local jurisdiction;
 2. The most recent fire inspection report and documentation of any corrections stated in the inspection report are maintained on the premises or at the administrative office; and
 3. The facility meets the fire safety requirements of the local jurisdiction and has:
 - a. A fire alarm system, installed according to NFPA 72: National Fire Alarm Code (1999), incorporated by reference in R9-1-412(A)(4), with a fire alarm control panel that includes:
 - i. A manual-pull fire alarm system,
 - ii. Automatic occupancy notification,
 - iii. A smoke or fire detection system, and
 - iv. Notification of a local emergency response team; and
 - b. An automatic sprinkler system that:
 - i. Is installed as required in R9-20-406(C)(3)(b);
 - ii. Has a water flow device; and
 - iii. Has all control valve tampers tied into the fire alarm control panel.

R9-20-506. Supplemental Requirements for a Level 1 Sub-Acute Agency

- A. A licensee of a Level 1 sub-acute agency shall ensure compliance with the following:
1. If the agency is certified under Title XIX of the Social Security Act, R9-20-505(A)(1) through (5);
 2. R9-20-401,
 3. R9-20-402,
 4. R9-20-403,
 5. R9-20-404,

Notices of Exempt Rulemaking

6. R9-20-405, and
 7. R9-20-407.
- B.** A licensee of a Level 1 sub-acute agency shall ensure that a behavioral health technician is available at all times to admit an individual to the agency.
- C.** A licensee of a Level 1 sub-acute agency shall ensure that:
1. A written agreement is developed, implemented, and maintained at the facility or administrative office to provide the services of a psychiatrist as needed by the agency;
 2. A behavioral health medical practitioner is present at the facility and available to see clients at least five days a week and sees and interacts with each client at least once a week;
 3. A registered nurse is present at the facility full time to provide or oversee medical services;
 4. A nurse is present at the facility at all times; and
 5. There is a sufficient number of behavioral health professionals to meet the needs of the clients.
- D.** A licensee of a Level 1 sub-acute agency shall ensure that within 24 hours after a client's admission:
1. A client who is an adult receives a nursing assessment from a registered nurse or a medical practitioner unless medical records are provided indicating that the client has received a physical examination or a nursing assessment within the 12 months before the date of the client's admission and the medical records are reviewed and verified as complete by a registered nurse or a medical practitioner;
 2. A client who is a child receives a physical examination from a medical practitioner unless medical records are provided indicating that the client has received a physical examination within the 12 months before the date of the client's admission and the medical records are reviewed and verified as complete by a medical practitioner; and
 3. ~~A client has an assessment performed by a registered nurse or medical practitioner according to the requirements in R9-20-209; and~~
 4. A psychiatrist or behavioral health medical practitioner:
 - a. Conducts the assessment or reviews the assessment and reviews other written information or records concerning the client, and
 - b. Interacts with the client.
- E.** A licensee of a Level 1 sub-acute agency shall ensure that a progress note is written in a client record at least once every shift.
- F.** A licensee of a Level 1 sub-acute agency shall ensure that:
1. A fire inspection is conducted by the local fire department having jurisdiction or the Office of the State Fire Marshal according to the requirements of the local jurisdiction;
 2. The most recent fire inspection report and documentation of any corrections stated in the inspection report are maintained on the premises or at the administrative office; and
 3. The facility meets the fire safety requirements of the local jurisdiction and has:
 - a. A fire alarm system, installed according to NFPA 72: National Fire Alarm Code (1999), incorporated by reference in R9-1-412(A)(4), with a fire alarm control panel that includes:
 - i. A manual-pull fire alarm system,
 - ii. Automatic occupancy notification,
 - iii. A smoke or fire detection system, and
 - iv. Notification of a local emergency response team; and
 - b. An automatic sprinkler system that:
 - i. Is installed as required in R9-20-406(C)(3)(b);
 - ii. Has a water flow device; and
 - iii. Has all control valve tamper tied into the fire alarm control panel.

ARTICLE 6. USE OF RESTRAINT OR SECLUSION

R9-20-601. Definitions

In addition to the definitions in R9-20-101, the following definitions apply in this Article unless otherwise specified:

1. "Emergency safety situation" means ~~an~~ unanticipated client behavior that creates a substantial and imminent risk that the client may inflict injury, and has the ability to inflict injury, upon:
 - a. ~~Places the client or another individual at imminent threat of violence or injury if no intervention occurs, and~~ The client, as evidenced by threats or attempts to commit suicide or to inflict injury on the client; or
 - b. ~~Calls for the use of restraint or seclusion.~~ Another individual, as evidenced by threats or attempts to inflict injury on another individual or individuals, previous behavior that has caused injury to another individual or individuals, or behavior that places another individual or individuals in reasonable fear of sustaining injury.
2. "Minor" means:
 - a. An individual under the age of 18 who is not an emancipated child, or
 - b. A client who has been declared legally incompetent by a court of competent jurisdiction.

Notices of Exempt Rulemaking

3. "Serious injury" means any significant impairment of the physical condition of the client as determined by a medical practitioner or nurse.
4. "Serious occurrence" means:
 - a. A serious injury,
 - b. A client's death, or
 - c. A client's suicide attempt.

R9-20-602. Requirements for Use of Restraint or Seclusion

- A. A licensee shall ensure that:
 1. A policy and procedure is developed, implemented, and complied with:
 - a. For the use of each type of restraint or seclusion; and
 - b. That identifies the qualifications of a staff member to:
 - i. Order restraint or seclusion;
 - ii. Place a client in restraint or seclusion;
 - iii. Monitor a client in restraint or seclusion; and
 - iv. Evaluate a client's physical and psychological well being within one hour after being placed in restraint or seclusion and upon being released from restraint or seclusion;
 2. Restraint or seclusion is not used as a means of coercion, discipline, convenience, or retaliation;
 3. An order for restraint or seclusion ~~is not written as a PRN order;~~
 - a. Is not written as a PRN order; and
 - b. If a drug used as a restraint is ordered, the dosage is not written as PRN;
 4. Restraint or seclusion does not result in harm to a client and is only used:
 - a. To ensure the safety of the client or another individual during an emergency safety situation;
 - b. After other available less restrictive methods to control the client's behavior have been tried and were unsuccessful; and
 - c. Until the emergency safety situation has ceased and the client's safety and the safety of others can be ensured, even if the restraint or seclusion order has not expired; and
 5. Restraint and seclusion are not used on a client simultaneously, except in a Level 1 psychiatric hospital where restraint and seclusion may be used simultaneously if the client receives continuous:
 - a. Face-to-face monitoring by a staff member; or
 - b. Video and audio monitoring by a staff member who is in close proximity to the client.
- B. A licensee shall ensure that restraint or seclusion is performed in a manner that is:
 1. Safe; and
 2. Proportionate and appropriate to the severity of a client's behavior and to the client's:
 - a. Chronological and developmental age;
 - b. Size;
 - c. Gender;
 - d. Physical condition;
 - e. Medical condition;
 - f. Psychiatric condition; and
 - g. Personal history, including any history of physical or sexual abuse.
- C. A licensee shall ensure that:
 1. Restraint or seclusion is only ordered by:
 - a. A physician providing treatment to the client; or
 - b. If a physician providing treatment to the client is not present on the premises or on-call, ~~a medical practitioner;~~
 - i. If the agency is a Level 1 psychiatric acute hospital, another physician, or a nurse practitioner; or
 - ii. If the agency is a Level 1 sub-acute agency, a Level 1 RTC, or a Level 1 specialized transitional agency, a medical practitioner;
 2. If the ~~physician or medical practitioner individual~~ who orders restraint or seclusion is not present, the ~~physician's or medical practitioner's individual's~~ verbal order is obtained by a nurse at the time the restraint or seclusion is initiated;
 3. ~~A physician or medical practitioner~~ An individual who orders restraint or seclusion:
 - a. Is available to staff members for consultation, at least by telephone, throughout the period of the restraint or seclusion; and
 - b. Orders the least restrictive restraint or seclusion that is likely to resolve the emergency safety situation, based upon consultation with staff members at the agency;
 4. An order for restraint or seclusion includes:
 - a. The name of the ~~physician or medical practitioner individual~~ ordering the restraint or seclusion;
 - b. The date and time that the restraint or seclusion was ordered;
 - c. The specific restraint or seclusion ordered;
 - d. The specific criteria for release from restraint or seclusion without an additional order; and

Notices of Exempt Rulemaking

- e. The maximum duration authorized for the restraint or seclusion;
5. An order for restraint or seclusion is limited to the duration of the emergency safety situation and does not exceed:
 - a. ~~Four~~ Three hours for a client who is 18 years of age or older;
 - b. Two hours for a client who is between the ages of nine and 17; or
 - c. One hour for a client who is younger than nine;
6. ~~A physician or medical practitioner~~ An individual ordering restraint or seclusion signs the order as soon as possible after the date of the order; and
7. If the ~~medical practitioner~~ individual ordering the use of restraint or seclusion is not a physician providing treatment to the client, the ~~medical practitioner~~ individual ordering restraint or seclusion:
 - a. Consults with the ~~physician~~ medical practitioner providing treatment as soon as possible and informs that ~~physician~~ medical practitioner of the emergency safety situation that required the client to be restrained or placed in seclusion; and
 - b. Provides documentation for the client record of the date and time that the ~~physician~~ medical practitioner providing treatment to the client was consulted.
- D. A licensee shall ensure that a face-to-face assessment of a client's physical and psychological well-being is performed within one hour after the initiation of restraint or seclusion by a:
 1. For a Level 1 psychiatric acute hospital, a ~~medical practitioner~~ physician or nurse practitioner, who is either onsite or on-call at the time that the restraint or seclusion was initiated; or
 2. For a Level 1 RTC, a Level 1 sub-acute agency, or a Level 1 specialized transitional agency, a registered nurse with at least one year of full time behavioral health work experience, who is either onsite or on-call at the time that the restraint or seclusion was initiated.
- E. A licensee shall ensure that the face-to-face assessment, described in subsection (D) determines:
 1. The client's physical and psychological status,
 2. The client's behavior,
 3. The appropriateness of the restraint or seclusion used,
 4. Whether the emergency safety situation has passed; and
 5. Any complication resulting from the restraint or seclusion used.
- F. A licensee shall ensure that a staff member documents a client's restraint or seclusion in the client record:
 1. Before the end of the shift in which restraint or seclusion occurs; or
 2. If the restraint or seclusion does not end during the shift in which it began, during the shift in which restraint or seclusion ends.
- G. A licensee shall ensure that a record is maintained at the agency of each emergency safety situation that includes:
 1. Each use of restraint or seclusion;
 2. Each order for restraint or seclusion, as required in subsection (C);
 3. The times the restraint or seclusion actually began and ended;
 4. The time and results of the face-to-face assessment required in subsection (D) through (E), (J)(2), and (K) as applicable;
 5. Documentation of the monitoring required in subsection (H) and (I);
 6. The emergency safety situation that required the client to be restrained or put in seclusion;
 7. The names of the staff members involved in the restraint or seclusion; and
 8. The outcome of each emergency safety situation or use of restraint or seclusion.
- H. A licensee shall ensure that a client is monitored during a restraint as follows:
 1. A staff member monitors the client's physical and psychological well-being and safety during the restraint on a face-to-face basis, except that a Level 1 psychiatric hospital may use video and audio monitoring according to subsection (A)(5)(b), as follows:
 - a. At least once every 15 minutes;
 - b. If the client has a medical condition that may be adversely impacted by the restraint or seclusion, at least once every five minutes; and
 - c. If other clients have access to the client who is restrained or secluded, continuous staff monitoring on a one-to-one basis is provided;
 2. If a client is in a restraint during a mealtime, the client is given the opportunity to eat and drink;
 3. At least once every two hours, the client is given the opportunity to use a toilet; and
 4. If a client is maintained in a mechanical restraint, the restraints are loosened at least once every 15 minutes.
- I. A licensee shall ensure that:
 1. A client is monitored during seclusion according to the requirements in subsection (H)(1);
 2. A room used for seclusion:
 - a. Is designated by the licensee as a room used for seclusion;
 - b. Is not a client's bedroom or a sleeping area;
 - c. Allows staff members full view of the client in all areas of the room;

Notices of Exempt Rulemaking

- d. Is free of hazards, such as unprotected light fixtures or electrical outlets; ~~and~~
 - e. Contains at least 60 square feet of floor space; and
 - f. Contains a metal-framed bed that is bolted to the floor;
3. If a client is in seclusion during a mealtime, the client is given the opportunity to eat and drink; and
4. At least once every two hours, a client in seclusion is given the opportunity to use a toilet.
- J.** A licensee shall ensure that if the emergency safety situation continues beyond the time limit of the order, the order for the use of restraint or seclusion may be renewed as follows:
- 1. An order for the use of restraint or seclusion may be renewed one time, according to the time-frames in subsection (C)(5);
 - 2. If an emergency safety situation continues after the order is renewed one time, as described in subsection (J)(1), an individual who meets the qualifications in subsection (D) conducts a face-to-face assessment of the client's physical and psychological well-being before another order for restraint or seclusion is renewed; and
 - 3. No order for restraint or seclusion is renewed for more than 12 consecutive hours without the review and approval of the medical director.
- K.** A licensee of a Level 1 RTC, a Level 1 sub-acute agency, or a Level 1 specialized transitional agency shall ensure that immediately after a client is removed from restraint or seclusion, a medical practitioner or registered nurse with at least one year of full time behavioral health work experience assesses the client's health, safety, and welfare.
- L.** A licensee shall ensure that:
- 1. If a client is a minor, the parent, guardian, or custodian of the client is notified, or an attempt is made to notify, as soon as possible and no later than one day after the initiation of restraint or seclusion or as requested by the parent, guardian, or custodian of the client; and
 - 2. The notification required in subsection (L)(1) is documented in the client record and includes:
 - a. The date and time of the notification or attempt, and
 - b. The name of the staff member providing the notification.
- M.** A licensee shall ensure that within 24 hours after the use of restraint or seclusion face-to-face debriefings occur or are scheduled to occur within seven days as follows:
- 1. Both the client, unless the client declines to participate, and all staff members involved in the restraint or seclusion receive a debriefing, although the client and staff member debriefings do not need to occur at the same time;
 - 2. A client's debriefing is conducted:
 - a. By a behavioral health professional; and
 - b. In a language that is understood by the client and, if present, the client's parent, guardian, or custodian;
 - 3. A debriefing may include the client's parent, guardian, or custodian and other staff members, if directed by the clinical director or the clinical director's designee;
 - 4. A debriefing provides the client and staff members the opportunity to discuss the circumstances that resulted in restraint or seclusion and strategies that ~~could~~ may be used by the client, staff members, or other individuals to prevent future use of restraint or seclusion; and
 - 5. Each debriefing is documented at the agency and includes the:
 - a. ~~The date~~ Date of the debriefing;
 - b. ~~The names~~ Names of the individuals participating in the debriefing;
 - c. ~~The precipitating~~ Precipitating factors that led up to the restraint or seclusion;
 - d. Alternative techniques that were used to prevent the use of restraint or seclusion;
 - e. ~~The outcome~~ Outcome of the restraint or seclusion, including any injuries that may have resulted from the restraint or seclusion; and
 - f. If any individual was injured, ~~the~~ circumstances that caused the injury and a plan to prevent future injuries.
- N.** A licensee shall ensure that, at least once a month, the clinical director or medical director reviews documentation of each use of restraint or seclusion that has occurred at the agency in the past month ~~as follows~~ and:
- 1. ~~The clinical director or medical director determines~~ Determines and documents:
 - a. Whether staff members are using restraint or seclusion according to the agency's policy and procedure, this Chapter, and applicable federal or state laws and rules;
 - b. Actions to be taken by the agency to prevent the use of restraint or seclusion, such as additional staff training or changes to agency policy and procedure;
 - c. Whether a client is appropriately placed at the agency; and
 - d. Whether the client's treatment plan should be reviewed or revised to ensure that the client's treatment is meeting the client's treatment needs; ~~and~~
 - 2. ~~Provides the documentation required in subsection (N)(1) to the OBHL within five days after the end of the calendar month and~~ Maintains the documentation in subsection (N)(1) is maintained at the agency ~~that the written report was provided for six years- ; and~~
 - 3. Provides the documentation in subsection (N)(1) to the Department within two hours of a request for the documentation by the Department.

Notices of Exempt Rulemaking

- O.** A licensee shall ensure that:
1. If restraint or seclusion results in injury to a client, staff members immediately obtain medical treatment for the client;
 2. The licensee is affiliated with or develops and implements a written transfer agreement with one or more hospitals that provide acute medical services or psychiatric acute services and ensures that:
 - a. A client who is injured is transferred to a hospital in time to meet the client's medical or psychiatric needs;
 - b. A client's medical record or other information needed for the client's treatment is exchanged between the hospital; and the licensee according to the requirements in R9-20-211(A)(3) and (B); and
 - c. Medical services or psychiatric services provided by a hospital are available to a client at all times; and
 3. All injuries that occur as a result of a client's restraint or seclusion, including injuries to staff members, are documented in the client record.
- P.** A licensee shall ensure that:
1. If a client involved in a serious occurrence is a minor, the client's parent, guardian, or custodian is notified as soon as possible and no later than 24 hours after the serious occurrence; and
 2. Compliance is maintained with the applicable requirements in R9-20-202(A) and (B).
- Q.** A licensee shall ensure that any staff member, including a medical practitioner, who is involved in ordering restraint or seclusion, performing restraint or seclusion, monitoring a client during restraint or seclusion, or evaluating a client after restraint or seclusion:
1. Before participating in restraint or seclusion, completes education and training:
 - a. That includes:
 - i. Techniques to identify staff member and client behaviors, events, and environmental factors that may trigger emergency safety situations;
 - ii. The use of nonphysical intervention skills, such as de-escalation, mediation, conflict resolution, active listening, and verbal and observational methods;
 - iii. The safe use of restraint and the safe use of seclusion, including the ability to recognize and respond to signs of physical distress in a client who is restrained or secluded; and
 - iv. Training exercises in which staff members successfully demonstrate in practice the techniques that they have learned for managing emergency safety situations; and
 - b. Taught by individuals who have education, training, and experience in preventing and using restraint or seclusion;
 2. For a Level 1 RTC and a Level 1 sub-acute agency, demonstrates skills and knowledge in the subject areas in subsection (Q)(1)(a) at least once every six months, that are verified according to R9-20-204(F)(2) and documented according to R9-20-204(G)(1) through (4);
 3. Successfully completes CPR training that includes a demonstration of the staff member's ability to perform CPR at least once every 12 months; and
 4. Has documentation in the staff member's personnel file indicating compliance with the training requirements of subsections (Q)(1) through (3) and including:
 - a. The date training was completed; and
 - b. The name of the individual verifying the staff member's completion of the training.
- R.** A licensee shall ensure that all training materials related to restraint or seclusion used by the licensee are available for review at the agency.
- S.** If a client is enrolled by the Department or a regional behavioral health authority as an individual who is seriously mentally ill, a licensee shall ensure that, in addition to meeting the requirements in this Section, the licensee meets the requirements for restraint or seclusion in 9 A.A.C. 21.

ARTICLE 7. LEVEL 1 SPECIALIZED TRANSITIONAL AGENCY

R9-20-701. Supplemental Requirements for a Level 1 Specialized Transitional Agency

- A.** A licensee of a Level 1 specialized transitional agency shall ensure compliance with:
1. A.R.S. Title 36, Chapter 37;
 2. R9-20-402;
 3. R9-20-403; and
 4. R9-20-407.
- B.** A licensee of a Level 1 specialized transitional agency shall ensure that:
1. At the time of admission, a client and, if the client has a guardian or custodian, the client's guardian or custodian, receive a written list and verbal explanation of the client rights in subsections (B)(4) and (C);
 2. A client and, if the client has a guardian or custodian, the client's guardian or custodian acknowledge, in writing, receipt of the written list and verbal explanation required in subsection (B)(1);
 3. A client who does not speak English or who has a physical or other disability that limits the client's ability to understand the client rights without assistance is provided assistance in understanding the client rights; and
 4. A client is afforded the rights listed in A.R.S. §§ 36-504 through 36-514.

Notices of Exempt Rulemaking

- C. A client in a Level 1 specialized transitional agency has the following rights:
1. To be treated with dignity, respect, and consideration;
 2. To be free from:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Retaliation; and
 - g. Treatment that involves the denial of:
 - i. Food;
 - ii. The opportunity to sleep, or
 - iii. The opportunity to use the toilet;
 3. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, diagnosis, or economic means;
 4. To receive treatment that:
 - a. Supports and respects the client's individual characteristics, strengths, and abilities, while enhancing pro-social decision making and choices;
 - b. Supports the client's ability to increase personal liberty, to the extent possible within the legal restrictions required by court-ordered commitment;
 - c. Is provided in the least restrictive environment that meets the client's treatment needs and is approved by the court;
 5. Not to be impeded from exercising the client's civil rights except those rights limited by a court order;
 6. To submit complaints to outside agencies without constraint or retaliation;
 7. To submit complaints to staff without constraint or retaliation.
 8. To have complaints to staff addressed in a fair, timely, and objective manner;
 9. To seek, speak to, and be assisted by legal counsel:
 - a. Whom the court assigns to the client, or
 - b. Whom the client obtains at the client's own expense;
 10. If enrolled by the Department or a regional behavioral health authority as an individual who is seriously mentally ill, to receive assistance from human rights advocates provided by the Department or the Department's designee in understanding, protecting, or exercising the client's rights;
 11. Upon written request, to review the client's own record during the agency's hours of operation or at a time agreed upon by the clinical director, except as described in R9-20-211(A)(6);
 12. To review the following at the agency or at the Department:
 - a. This Chapter;
 - b. The report of the most recent inspection of the premises conducted by the Department;
 - c. A plan of correction in effect as required by the Department;
 - d. If the licensee has submitted a report of inspection by a nationally recognized accreditation agency in lieu of having an inspection conducted by the Department, the most recent report of inspection conducted by the nationally recognized accreditation agency; and
 - e. If the licensee has submitted a report of inspection by a nationally recognized accreditation agency in lieu of having an inspection conducted by the Department, a plan of correction in effect as required by the nationally recognized accreditation agency;
 13. To participate in and, if the client has a legal guardian or custodian, to have the client's legal guardian or custodian participate in, treatment decisions and the development and periodic review and revision of the client's written treatment plan;
 14. To control the client's own finances except as provided by A.R.S. § 36-507(5)(a);
 15. To receive a verbal explanation of a proposed treatment, including the intended outcome, the nature of the proposed treatment, procedures involved in the proposed treatment, risks or side effects from the proposed treatment, and alternatives to the proposed treatment;
 16. To be offered the treatment or referred for the treatment specified in the client's treatment plan;
 17. To give informed consent to treatment, refuse treatment, or withdraw informed consent to treatment, unless such treatment is ordered by a court under A.R.S. Title 36, Chapter 37, is necessary to save the client's life or physical health, or is provided according to A.R.S. § 36-512;
 18. To participate or refuse to participate in the religious and spiritual activities provided on the premises;
 19. To refuse to perform labor for an agency, except for housekeeping activities and activities to maintain health and personal hygiene;

Notices of Exempt Rulemaking

20. To be compensated according to state and federal law for labor that primarily benefits the agency and that is not part of the client's treatment plan;
21. To participate or refuse to participate in research or experimental treatment;
22. To give informed consent in writing, refuse to give informed consent, or withdraw written informed consent to participate in research or in treatment that is not a professionally recognized treatment;
23. To refuse to acknowledge gratitude to the agency through written statements, other media, or speaking engagements at public gatherings;
24. To receive behavioral health services in a smoke-free facility, although smoking may be permitted outside the facility;
25. To associate in the same housing unit with a current client of the client's choice, who resides in the same housing unit as the client, unless:
 - a. The clinical director determines and documents in the treatment plan a specific treatment purpose that justifies restricting this right.
 - b. The client is informed of the reason why this right is being restricted, and
 - c. The client is informed of the client's right to file a complaint and the procedure for filing a complaint;
26. To receive visitors and make telephone calls during the hours established by the licensee and conspicuously posted in the facility, unless:
 - a. The clinical director determines and documents a specific treatment purpose that justifies restricting this right,
 - b. The client is informed of the reason why this right is being restricted, and
 - c. The client is informed of the client's right to file a complaint and the procedure for filing a complaint;
27. To privacy in correspondence, communication, visitation, financial affairs, and personal hygiene, unless:
 - a. The clinical director determines and documents a specific treatment purpose that justifies restricting this right,
 - b. The client is informed of the reason why this right is being restricted, and
 - c. The client is informed of the client's right to file a complaint and the procedure for filing a complaint;
28. To send and receive uncensored and unopened mail, unless restricted by court order, or unless:
 - a. The clinical director determines and documents a specific treatment purpose that justifies restricting this right,
 - b. The client is informed of the reason why this right is being restricted, and
 - c. The client is informed of the client's right to file a complaint and the procedure for filing a complaint;
29. To be provided storage space, capable of being locked, on the premises while the client receives treatment;
30. To be provided meals to meet the client's nutritional needs, with consideration for the client's dietary restrictions and preferences;
31. To be assisted in obtaining clean, seasonably appropriate clothing that is in good repair and is selected and owned by the client;
32. To be provided access to medical services to maintain the client's health, safety, or welfare;
33. To have opportunities for social contact and daily social, recreational, or rehabilitative activities;
34. To maintain, display, and use personal belongings, including clothing, that have been approved by the clinical director, unless restricted by court order;
35. To be informed of the requirements necessary for the client's discharge or conditional release to a less restrictive alternative; and
36. To receive, at the time of discharge or legal transfer, recommendations for treatment after the client is discharged.

B.D. A licensee of a Level 1 specialized transitional agency shall ensure that policies and procedures are developed, implemented, and complied with that include:

1. A description of the clothing that a client is required and permitted to wear;
2. The process for the issuance and return of a razor or other potentially hazardous object;
3. Requirements regarding locking a client in the client's bedroom, including:
 - a. The training required for a staff member who locks a client in the client's bedroom;
 - b. The criteria for locking a client in the client's bedroom;
 - c. A requirement that the need for a client to be locked in the client's bedroom be evaluated and adjusted, if necessary, by a psychiatrist or psychologist each time the client's treatment plan is reviewed as required by subsection ~~(D)(3)(F)(3)~~;
 - d. The procedures that may be used to lock a client in the client's bedroom;
 - e. The monitoring that is required while a client is locked in the client's bedroom; and
 - f. The criteria for releasing a client from the client's bedroom;
4. The process and criteria for determining whether a client is capable of and eligible to self administer medication;
5. A client's visitation privileges; and
6. The criteria for using a locking mechanism to restrict a client's movement during transport.

C.E. A licensee of a Level 1 specialized transitional agency shall ensure that, in addition to the staffing requirements contained in R9-20-207, staffing is provided as follows:

1. A medical practitioner is present at the facility at least ten hours a week;
2. A psychiatrist is present at the facility at least ten hours a week;

Notices of Exempt Rulemaking

3. A registered nurse is present at the facility at all times;
4. Each of the following staff members is present at the facility full time:
 - a. A psychologist;
 - b. A social worker;
 - c. A registered nurse with overall responsibility for the provision of nursing services; and
 - d. An individual who provides educational activities and social, recreational, or rehabilitative activities;
5. Between 7:00 a.m. and 11:00 p.m., at least one behavioral health paraprofessional is present at the facility for every 15 clients;
6. Between 11:00 p.m. and 7:00 a.m., at least one behavioral health paraprofessional is present at the facility for every 30 clients;
7. At least two employees responsible for maintaining a safe and secure facility are located outside the facility at all times; and
8. At least one employee for every 30 clients is responsible for maintaining a safe and secure facility and is located inside the facility at all times.

~~D.F.~~ A licensee of a Level 1 specialized transitional agency shall ensure that:

1. Within seven days after the date that an individual is committed to the custody of the Department for treatment:
 - a. The client receives a physical examination,
 - b. Medical records are provided indicating that the client received a physical examination within 12 months before the date of the client's admission and are reviewed and verified as current and complete by a medical practitioner, or
 - c. The client's refusal of a physical examination is documented in the client record;
2. A client's assessment and treatment plan is initiated within 30 days after the date the client is admitted for treatment and is completed within 90 days after that date;
3. A client's treatment is reviewed, and the client's treatment plan is updated according to the requirements in ~~R9-20-209(I)(7)~~R9-20-209(J)(7) and at least once every 30 days; and
4. Progress notes are written in a client record at least:
 - a. Once every shift for the first seven days after the date of the client's admission for treatment, and
 - b. Once each day thereafter.

~~E.G.~~ A licensee of a Level 1 specialized transitional agency shall ensure that:

1. A client receives treatment in a secure facility;
2. A client's rights are denied only if necessary to protect the safety of the client or others as determined according to A.R.S. § 36-507(E); and
3. Transportation of a client is provided according to the agency's policy and procedure and R9-20-212 and as follows:
 - a. Sufficient staff members are present during transportation to meet the health, safety, and security needs of the client, other individuals, and the community; and
 - b. A locking mechanism may be used to restrict a client's physical movement during transportation to another portion of the facility, another facility, or another entity to ensure the health and safety of the client, other individuals, and the community.

~~F.H.~~ A licensee of a Level 1 specialized transitional agency shall ensure that a premises has:

1. An indoor common area that is not used as a sleeping area and that has:
 - a. A working telephone that allows a client to make a private telephone call;
 - b. A distortion-free mirror;
 - c. A current calendar and an accurate clock;
 - d. A variety of books, current magazines and newspapers, and arts and crafts supplies appropriate to the age, educational, cultural, and recreational needs of clients;
 - e. A working television and access to a radio; and
 - f. Space sufficient to accommodate the social and recreational needs of clients;
2. A dining room or dining area that:
 - a. Is lighted and ventilated,
 - b. Contains tables and seats, and
 - c. Is not used as a sleeping area;
3. An outdoor area that:
 - a. Is accessible to clients,
 - b. Has sufficient space to accommodate the social and recreational needs of clients, and
 - c. Has shaded and unshaded areas; and
4. Bathrooms that contain at least:
 - a. One working bathtub or shower, with a slip resistant surface, for every 12 clients; and
 - b. One working flushable toilet, with a seat, for every ten clients.

~~G.I.~~ A licensee of a Level 1 specialized transitional agency shall ensure that a client's sleeping area is in a bedroom that:

Notices of Exempt Rulemaking

1. Is a private bedroom that contains at least 60 square feet of floor space, not including the closet;
2. Contains a door that opens into a corridor, common area, or the outside;
3. Is constructed and furnished to provide unimpeded access to the door;
4. Is not used as a passageway to another bedroom or a bathroom unless the bathroom is for the exclusive use of the individual occupying the bedroom; and
5. Contains the following for each client:
 - a. An individual storage space, such as a dresser or chest;
 - b. A bed that:
 - i. Consists of at least a mattress and frame;
 - ii. Is in good repair, clean, and free of odors and stains; and
 - iii. Is at least 36 inches wide and 72 inches long; and
 - c. A pillow and linens that are clean, free of odors, and in good repair, including:
 - i. A mattress pad;
 - ii. A top sheet and a bottom sheet that are large enough to tuck under the mattress;
 - iii. A pillow case;
 - iv. A waterproof mattress cover, if needed; and
 - v. A blanket or bedspread sufficient to ensure the client's warmth.

H.J. A licensee of a Level 1 specialized transitional agency shall ensure that:

1. The supply of hot water is sufficient to meet:
 - a. Each client's daily personal hygiene needs; and
 - b. The laundry, cleaning, and sanitation requirements in this Chapter;
2. Clean linens and bath towels are provided to a client as needed and at least once every seven days;
3. One of the following is available to ensure that client clothing can be cleaned:
 - a. A working washing machine and dryer on the premises,
 - b. An agency-provided process for cleaning clothing, or
 - c. An agency-provided process for transporting a client to a building with washing machines and dryers that a client can use;
4. Soiled linen and clothing stored by the licensee are in covered containers or closed plastic bags away from a food preparation or storage area or a dining area; and
5. Pets and animals, except for service animals, are prohibited on the premises.

I.K. A licensee of a Level 1 specialized transitional agency shall ensure that:

1. A facility meets the fire safety requirements of the local jurisdiction,
2. A fire inspection is conducted by the local fire department having jurisdiction or the Office of the State Fire Marshal according to the requirements of the local jurisdiction, and
3. The most recent fire inspection report and documentation of any corrections stated on the inspection report are maintained on the premises or at the administrative office.

ARTICLE 8. COURT-ORDERED SERVICES

R9-20-802. Supplemental Requirements for Court-Ordered Evaluation

- A.** A licensee of an agency that only provides court-ordered evaluation is not required to comply with the following provisions in this Chapter:
 1. R9-20-208 and other requirements related to admission,
 2. R9-20-209 and other requirements related to a client's assessment or treatment plan,
 3. R9-20-210 and other requirements related to a client's discharge.
- B.** A licensee of an agency that provides court-ordered evaluation shall ensure compliance with the court-ordered evaluation requirements in A.R.S. Title 36, Chapter 5.
- C.** A licensee of an agency that provides court-ordered evaluation shall ensure that:
 1. Policies and procedures are developed, implemented, and complied with for conducting a court-ordered evaluation;
 2. A medical director is appointed who:
 - a. Meets the definition of a medical director of an evaluation agency in A.R.S. § 36-501, and
 - b. May deputize an individual according to A.R.S. § 36-503;
 3. If a client is receiving an evaluation according to A.R.S. §§ 36-520 through 36-531, persons are notified according to A.R.S. § 36-504(B);
 4. A staff member or employee does not deprive a client of a client right identified in A.R.S. §§ 36-504(A), 36-506(A) or (B), 36-507, 36-512, 36-514, 36-520(H), or 36-528(D);
 5. If a petition for a court-ordered evaluation is not filed because the individual for whom the evaluation is sought requests a voluntary evaluation, a voluntary evaluation is not conducted unless:
 - a. For a voluntary inpatient evaluation, informed consent is obtained according to A.R.S. § 36-518; and
 - b. For a voluntary outpatient evaluation, informed consent is obtained according to A.R.S. § 36-522(C);

Notices of Exempt Rulemaking

6. A client admitted to an agency for an evaluation under an emergency admission does not receive treatment unless informed consent is obtained according to A.R.S. § 36-528(A), except as otherwise provided according to A.R.S. § 36-528(A);
7. A client's records and information are confidential and are not disclosed except according to ~~A.R.S. §§ 12-2292, 36-504, 36-509, and 36-517.01~~ R9-20-211(A)(3) and (B);
8. An evaluation is conducted according to the definition in A.R.S. § 36-501 and according to A.R.S. §§ 36-511(A), 36-513, and 36-530;
9. If a client is evaluated on an inpatient basis and does not make application for further care and treatment:
 - a. The client is discharged according to A.R.S. §§ 36-506(D), 36-531(A) and (D), and 36-534; or
 - b. A petition for court-ordered treatment is prepared and filed according to A.R.S. §§ 36-531(B) and (C) and 36-533;
10. Before a hearing on a petition for court-ordered treatment, information is provided to:
 - a. The client's attorney, according to A.R.S. § 36-537(A); and
 - b. The physicians treating the client, according to A.R.S. § 36-539(A);
11. At the hearing on a petition for court-ordered treatment, testimony is provided by the physicians who conducted the evaluation, according to A.R.S. § 36-539(B);
12. If a petition for court-ordered evaluation is not filed because it has been determined that the proposed client will voluntarily receive an evaluation and is unlikely to present a danger to self or others pending the voluntary evaluation, a voluntary evaluation is conducted according to the requirements in A.R.S. §§ 36-518 and 36-522;
13. If a client admitted voluntarily according to A.R.S. § 36-522 is discharged, the discharge meets the requirements in A.R.S. § 36-519; and
14. A client receives an emergency evaluation according to:
 - a. The admission requirements in A.R.S. §§ 36-524, 36-526, and 36-527(A);
 - b. The informed consent requirements in A.R.S. § 36-528(A);
 - c. The notification requirements in A.R.S. § 36-528(B) and (D);
 - d. The requirements for protection of personal property in A.R.S. § 36-528(C); and
 - e. The discharge requirements in A.R.S. § 36-527(B).

R9-20-803. Supplemental Requirements for Court-Ordered Treatment

- A. A licensee of an agency that provides court-ordered treatment shall ensure compliance with the court-ordered treatment requirements in A.R.S. Title 36, Chapter 5, Article 5.
- B. A licensee of an agency that provides court-ordered treatment shall ensure that:
 1. Policies and procedures are developed, implemented, and complied with for providing court-ordered treatment;
 2. A medical director is appointed who:
 - a. Meets the definition of a medical director of a mental health treatment agency in A.R.S. § 36-501, and
 - b. May deputize an individual according to A.R.S. § 36-503;
 3. If a client is receiving court-ordered treatment according to A.R.S. §§ 36-533 through 36-544, the following persons are immediately notified according to A.R.S. § 36-504(B):
 - a. The client's guardian or, if the client does not have a guardian, a family member of the client; and
 - b. The client's agent, if applicable;
 4. A staff member or employee does not deprive a client of a client right identified in A.R.S. §§ 36-504(A), 36-506(A) or (B), 36-507, 36-510, 36-512, 36-514, or 36-520(H);
 5. The property of a client receiving court-ordered treatment is protected according to A.R.S. § 36-508;
 6. Client records and information are confidential and are not disclosed except according to ~~A.R.S. §§ 12-2292, 36-504, and 36-517.01~~ R9-20-211(A)(3) and (B);
 7. Treatment:
 - a. Is provided according to the requirements in A.R.S. §§ 36-511, 36-540(E) and (K), and 36-540.01;
 - b. Is documented according to the requirements in A.R.S. § 36-511(A); and
 - c. Is provided without the use of restraint or seclusion, except as provided in A.R.S. § 36-513;
 8. A client who has been found to be gravely disabled and who is undergoing court-ordered treatment receives an annual examination and review to determine whether the continuation of court-ordered treatment is appropriate according to A.R.S. § 36-543(D) through (F);
 9. A client is discharged according to A.R.S. §§ 36-506(D), 36-519, 36-541.01, 36-542, and 36-543(A) and (B); and
 10. If a client seeks judicial review, the medical director complies with the requirements in A.R.S. § 36-546.

ARTICLE 9. DUI SERVICES

R9-20-902. Supplemental Requirements for DUI Screening

- A. A licensee of an agency that provides DUI screening shall ensure that policies and procedures are developed, implemented, and complied with for:
 1. Conducting DUI screening,

Notices of Exempt Rulemaking

2. Tracking and referring a DUI client to DUI education or DUI treatment, and
 3. Communicating with and reporting information to a referring court.
- B.** A licensee of an agency that provides DUI screening shall ensure that:
1. The following information is reported to the referring court:
 - a. The results of a DUI client's DUI screening;
 - b. The agency's recommendations, based upon the DUI screening, for DUI education or DUI treatment;
 - c. The name of the licensed agency selected by the client to provide DUI education or DUI treatment; and
 - d. If the DUI client is enrolled in DUI education or DUI treatment, the DUI client's compliance, progress, and completion; and
 2. The referring court receives written notification within five working days, unless otherwise specified by the court, when a DUI client:
 - a. Fails to obtain or complete DUI screening;
 - b. Fails to pay the cost of DUI screening;
 - c. Fails to comply with or to complete DUI education or DUI treatment; or
 - d. Completes DUI screening, DUI education, or DUI treatment.
- C.** A licensee of an agency that provides DUI screening shall ensure that a client's DUI screening:
1. Occurs within 30 days after the date of the court order, unless otherwise required in the court order;
 2. Is conducted by a behavioral health professional or a behavioral health technician;
 3. Consists of a face-to-face interview that lasts at least 30 minutes but not more than three hours;
 4. Includes administering at least one standardized instrument for measuring alcohol dependency or substance abuse, such as the Driver Risk Inventory, the Michigan Alcoholism Screening Test, the Minnesota Multiphasic Personality Inventory, the Mortimer-Filkins, or the Substance Abuse Subtle Screening Inventory; and
 5. Is documented in the client record.
- D.** A licensee of an agency that provides DUI screening shall ensure that a DUI client is given the following information in writing before DUI screening is conducted and that the DUI client's receipt of the information is documented:
1. ~~The procedures for conducting~~ A description of the DUI screening process;
 2. The timeline for initiating and completing DUI screening;
 3. The consequences to the DUI client for not complying with the procedures and timeline; and
 4. The cost and methods of payment for DUI screening, DUI education, and DUI treatment.
- E.** A licensee of an agency that provides DUI screening shall classify a DUI client based upon the information obtained in the DUI screening in subsection (C) as follows:
1. A Level 1 DUI client is a DUI client who:
 - a. Meets at least one of the following:
 - i. Has ~~previously~~ been arrested or convicted two or more times for alcohol or drug-related offenses;
 - ii. Had an alcohol concentration of .15 or higher at the time of the arrest that led to the current referral and meets at least one of the criteria in subsection (E)(1)(b)(i) or (E)(1)(b)(iii) through (xii);
 - iii. Has been unable to control use of alcohol or drugs or has habitually abused alcohol or drugs;
 - iv. Admits a problem controlling alcohol or drug use;
 - v. Has been diagnosed with substance abuse or organic brain disease resulting from substance abuse;
 - vi. Has experienced symptoms of withdrawal from alcohol or drug use that included visual, auditory, or tactile hallucinations; convulsive seizures; or delirium tremens; or
 - vii. Has been diagnosed with alcoholic liver disease, alcoholic pancreatitis, or alcoholic cardiomyopathy by a medical practitioner; or
 - b. Meets at least three of the following, ~~based upon the results of a standardized instrument described in subsection (C)(4):~~
 - i. During DUI screening, Provided provided responses during DUI screening on the standardized instrument in subsection (C)(4) that indicated substance abuse;
 - ii. Had an alcohol concentration of .08 or higher at the time of the arrest that led to the current referral;
 - iii. Has previously been arrested or convicted one time for an alcohol-or drug-related offense;
 - iv. Has experienced a decrease in attendance or productivity at work or school as a result of drug or alcohol use;
 - v. Has experienced family, peer, or social problems associated with drug or alcohol use;
 - vi. Has previously participated in substance abuse education or treatment for problems associated with alcohol or drug use;
 - vii. Has experienced blackouts as a result of alcohol or drug use;
 - viii. Has passed out as a result of drug or alcohol use;
 - ix. Has experienced symptoms of withdrawal from alcohol or drug use including shakes or malaise relieved by resumed alcohol or drug use; irritability; nausea; or anxiety;
 - x. Exhibits a psychological dependence on drugs or alcohol;
 - xi. Has experienced an increase in consumption, a change in ~~or~~ tolerance, or a change in the pattern of alcohol

Notices of Exempt Rulemaking

- or drug use; or
- xii. Has experienced personality changes associated with alcohol or drug use; and
- 2. A Level 2 DUI client is a DUI client who:
 - a. Does not meet any of the criteria in subsection (E)(1)(a); ~~and~~
 - b. Meets ~~two, one, or none~~ no more than two of the criteria in subsection (E)(1)(b).
- F. A licensee of an agency that provides DUI screening shall ensure that after completing a client's DUI screening:
 - 1. The results of the DUI screening are documented in the client record and include:
 - a. The DUI client's alcohol concentration at the time of the arrest that led to the current referral, if available;
 - b. The DUI client's history of alcohol and drug use;
 - c. The DUI client's history of treatment associated with alcohol or drug use; and
 - d. The DUI client's history of impairments in physical, educational, occupational, or social functioning as a result of alcohol or drug use; and
 - 2. A recommendation is made to the referring court for DUI education or DUI treatment or both, and referrals are made as follows:
 - a. A Level 1 DUI client is referred to:
 - i. An agency that provides DUI education for at least 16 hours of DUI education; and
 - ii. An agency that provides DUI treatment for at least 20 hours of DUI treatment; and
 - b. A Level 2 DUI client is referred to an agency that provides DUI education for at least 16 hours of DUI education.
- G. A licensee of an agency that provides DUI screening may refer a Level 1 or Level 2 DUI client to a self-help or peer-support program that assists individuals in achieving and maintaining freedom from alcohol or drugs, such as Alcoholics Anonymous or Narcotics Anonymous. Participation in a self-help group or peer support program is not DUI education or DUI treatment and does not count toward required hours in DUI education or DUI treatment.
- H. Unless a court requires otherwise, A a licensee of an agency that provides DUI screening shall ensure that a referral of a DUI client made under subsection (F)(2) includes:
 - 1. Providing the DUI client with the following information about three agencies authorized to provide DUI education or DUI treatment, as applicable, in the geographic area requested by the DUI client, at least two of which are not owned by, operated by, or affiliated with the licensee of the DUI screening agency:
 - a. Name,
 - b. Address, and
 - c. Telephone number;
 - 2. Instructing the DUI client:
 - a. To select an agency that provides DUI education or DUI treatment, as applicable;
 - b. To schedule an appointment or enroll in DUI education or DUI treatment, as applicable, within five working days after the date of completion of the DUI screening; and
 - c. To notify the DUI screening agency of the name of the agency selected to provide DUI education or DUI treatment, as applicable;
 - 3. Obtaining, in writing, a DUI client's permission authorization to release information to the selected agency; and
 - 4. Providing the following in writing to the selected agency and the referring court within five working days after the DUI client's completion of DUI screening:
 - a. The date that the DUI client completed DUI screening; ~~and~~
 - b. The results of DUI screening; ~~and~~
 - c. The recommendations of the DUI screening agency made under subsection (F)(2); ~~and~~
 - d. The name of the DUI education or DUI treatment agency selected by the client.
- I. If a licensee of an agency that provides DUI screening does not comply with subsection (C)(3) for a referral of a DUI client because a court's requirements conflict with subsection (C)(3), the licensee shall:
 - 1. Comply with the court's requirements.
 - 2. Document in the client's record that the court's requirements conflict with subsection (C)(3), and
 - 3. Maintain at the agency a written document identifying the court's requirements.
- ~~H.~~J. A licensee of an agency that provides DUI screening shall maintain a record for each DUI client that contains:
 - 1. The citation number or complaint number from the arrest that led to the current referral, if available;
 - 2. A copy of the documents referring the DUI client to DUI screening, if available;
 - 3. Documentation of the DUI client's receipt of the information contained in subsection (D);
 - 4. Documentation of the client's DUI screening, including the completed standardized instrument required under subsection (C)(4);
 - 5. Documentation of the recommendations and referrals for DUI education or DUI treatment, as applicable, required under subsections (F)(2) and (H);
 - 6. The DUI client's signed and dated release of information required under subsection (H)(3); and

Notices of Exempt Rulemaking

7. A copy of the information provided to the agency selected to provide DUI education or DUI treatment, as applicable, and to the referring court as required under subsection (H)(4).

R9-20-904. Supplemental Requirements for DUI Treatment

- A. A licensee of an agency that provides DUI treatment shall ensure that ~~a policy policies and procedure is~~ procedures are developed, implemented, and complied with ~~for providing written notification of the following events to the DUI screening agency and, if applicable, the referring court within five working days after the event that:~~
 1. Require a client to complete DUI treatment within 16 weeks after the date the client was admitted to DUI treatment, unless the agency extends the time for completion of DUI treatment;
 2. Establish criteria the agency considers when determining whether to extend the time for a client's completion of DUI treatment, such as an occurrence of one of the following during the 16 weeks after the date the client was admitted to DUI treatment:
 - a. A client serving jail time.
 - b. Illness of a client or a family member of the client, and
 - c. Death of a family member;
 3. Require the agency to provide written notification of the following events to the DUI screening agency and, if applicable, the referring court within five working days after the event:
 - ~~1-a.~~ A DUI client's failure to enroll in DUI treatment by the deadline established by the DUI screening agency or the referring court;
 - ~~2-b.~~ A DUI client's failure to comply with the requirements of DUI treatment, including failure to attend DUI treatment or failure to pay required costs; and
 - ~~3-c.~~ A DUI client's completion of DUI treatment.
- B. A licensee of an agency that provides DUI treatment shall ensure that a DUI client is given the following information in writing before DUI treatment is conducted and that the DUI client's receipt of the information is documented:
 1. The procedures for conducting DUI treatment,
 2. The timeline for initiating and completing DUI treatment and criteria the agency considers when determining whether to extend the time for completion of the DUI treatment,
 3. The consequences to the DUI client for not complying with the procedures and timeline,
 4. The information that will be contained in a report to the DUI screening agency or the referring court, and
 5. The cost and methods of payment for DUI treatment.
- C. A licensee of an agency that provides DUI treatment shall ensure that DUI treatment:
 1. Is based upon the information and results obtained from the DUI screening agency or referring court; and
 2. Includes 16 hours of DUI education and at least 20 hours of group counseling that:
 - a. Is provided by a behavioral health technician or behavioral health professional;
 - b. Is provided in at least ten sessions that last between 90 and ~~120~~ 180 minutes each;
 - c. Includes no more than 15 DUI clients or, if family members participate in group counseling, 20 individuals; and
 - d. Is documented in a client record according to subsection (H).
- D. Participation in a self-help group or peer support program, such as Alcoholics Anonymous or Narcotics Anonymous, is not DUI treatment and does not count toward required hours in DUI treatment.
- E. A licensee of an agency that provides DUI treatment shall ensure that, for each DUI client, a written report is prepared and provided to the DUI screening agency and, if applicable, the referring court according to the timeline established by the DUI screening agency and the DUI treatment agency that includes:
 1. Whether the DUI client:
 - a. Enrolled in DUI treatment and the date of enrollment;
 - b. Complied with the requirements of DUI treatment; and
 - c. Completed DUI treatment and, if so, the date of completion;
 2. The DUI client's progress in DUI treatment; and
 3. Any recommendation for additional DUI treatment.
- F. A licensee of an agency that provides DUI treatment shall ensure that:
 1. DUI treatment is scheduled to be completed within 16 weeks after the date that the client was admitted into DUI treatment, according to subsection (A)(1); and
 2. A DUI client, after completing DUI treatment, receives an exit interview from a staff member that includes a review of the information contained in the report required in subsection (E).
- G. A licensee of an agency that provides DUI treatment may refer a DUI client back to the DUI screening agency:
 1. If the DUI treatment agency determines that the DUI client's treatment needs cannot be met by the DUI treatment agency because the DUI client:
 - a. Requires behavioral health services that the DUI treatment agency is not authorized or able to provide,
 - b. Has a physical or other disability that the DUI treatment agency is unable to reasonably accommodate, or
 - c. Requires treatment to be provided in a language in which instruction is not provided by the DUI treatment agency; and

Notices of Exempt Rulemaking

2. With written documentation of the reason that the DUI treatment agency is unable to meet the DUI client's treatment needs and a recommendation for additional or alternative DUI treatment that would meet the DUI client's treatment needs.
- H. A licensee of an agency that provides DUI treatment shall ensure that a record is maintained for each DUI client that contains:
1. Information and documents received from the screening agency or the referring court regarding the DUI client, if any;
 2. The DUI client's assessment and treatment plan required in R9-20-209;
 3. Documentation of each group counseling session in which the DUI client participated, including:
 - a. The date of the group counseling session,
 - b. The topics discussed, and
 - c. The DUI client's progress in meeting treatment goals;
 4. Documentation of the DUI client's exit interview required in subsection (F)(2);
 5. A copy of the report provided to the DUI screening agency or referring court as required in subsection (E); and
 6. Documentation of any other written information from or verbal contact with the DUI screening agency or the referring court, if any.

ARTICLE 10. OPIOID TREATMENT

R9-20-1001. Definitions

In addition to the definitions in R9-20-101, the following definitions apply in this Article, unless otherwise specified:

1. "Administrative withdrawal" means a client's ~~detoxification treatment coinciding with the client's~~ involuntary discharge from opioid treatment, typically resulting from non-payment of fees, violent or disruptive behavior, or incarceration or other confinement.
2. "Comprehensive initial assessment" means the collection and analysis of a client's social, medical, and treatment history.
3. "Comprehensive maintenance treatment" means:
 - a. Dispensing or administering an opioid agonist treatment medication at stable dosage levels for a period in excess of 21 days to an individual for opioid addiction, and
 - b. Providing medical and therapeutic services to the individual with opioid addiction.
4. ~~"Detoxification treatment" means dispensing or administering an opioid agonist treatment medication in decreasing doses to an individual to alleviate adverse physical or psychological effects of withdrawal from the continuous or sustained use of an opioid drug and as a method of bringing the individual to a drug-free state.~~
5. "Dispense" has the same meaning as in A.R.S. § 32-1901.
- 6-5. "Diversion" means the unauthorized transfer of an opioid agonist treatment medication, such as a street sale.
- 7-6. "Dosage" means the amount, frequency, and number of doses of medication for an individual.
- 8-7. "Dose" means a single unit of opioid agonist treatment medication.
- 9-8. "Illicit opiate drug" means an illegally obtained opioid drug that causes addiction and reduces or destroys an individual's physical, social, occupational, or educational functioning, such as heroin.
- 10-9. "Intake screening" means determining whether an individual meets the criteria for receiving opioid treatment.
- 11-10. "Long-term detoxification treatment" means detoxification treatment for a period of more than 30 days but less than 180 days.
11. "Medical withdrawal" means a condition of an individual effectuated by dispensing or administering an opioid agonist treatment medication in decreasing doses to an individual to alleviate adverse physical or psychological effects of withdrawal from the continuous or sustained use of an opioid drug and as a method of bringing the individual to a drug-free state.
12. "Opioid treatment" means:
 - a. ~~Detoxification treatment,~~
 - b. Short-term detoxification treatment,
 - e-b. Long-term detoxification treatment, or
 - d-c. Comprehensive maintenance treatment.
13. "Opioid agonist treatment medication" means a prescription medication, such as methadone or levo-alpha-acetyl-methadol, that is approved by the U.S. Food and Drug Administration under 21 U.S.C. § 355 for use in the treatment of opiate addiction.
14. "Physiologically dependent" means physically addicted to an opioid drug, as manifested by the symptoms of withdrawal in the absence of the opioid drug.
15. "Program sponsor" means the person named in the application for licensure as responsible for the operation of the opioid treatment program and who assumes responsibility for the acts and omissions of staff members or employees of the opioid treatment program.
16. "Short-term detoxification" means detoxification treatment that occurs over a continuous period of 30 days or less.

Notices of Exempt Rulemaking

17. "Take-home medication" means one or more doses of an opioid agonist treatment medication dispensed to a client for use off the premises.
18. "Withdrawal treatment" means:
 - a. Administrative withdrawal, or
 - b. Medical withdrawal.

R9-20-1003. Admission

- A. A program sponsor shall ensure that an individual is only admitted for opioid treatment after an agency medical practitioner determines and documents that:
 1. Opioid treatment is medically necessary;
 2. The individual meets the definition of opioid dependence contained in the DSM-IV;
 3. The individual has received a physical examination as required by subsection (E);
 4. If the individual is requesting maintenance treatment, the individual has been physiologically dependent for at least 12 months before the admission, unless the individual receives a waiver of this requirement from an agency physician because the individual:
 - a. Was released from a penal institution within the last six months;
 - b. Is pregnant, as confirmed by the agency physician;
 - c. Was treated for opioid dependence within the last 24 months; or
 - d. Is under the age of 18; ~~and~~ has had two documented unsuccessful attempts at short-term detoxification or drug-free treatment within a 12-month period; ~~and~~ and has had informed consent for treatment from provided by a parent, guardian, or custodian; and
 5. If the individual is requesting long-term or short-term detoxification treatment, the individual has not been admitted for detoxification services within the past 12 months.
- B. A program sponsor shall ensure that an individual requesting long-term or short-term detoxification treatment who has had two or more unsuccessful detoxification treatment episodes within a 12-month period is assessed by an agency physician for other forms of treatment.
- C. An agency physician shall ensure that each client at the time of admission:
 1. Provides written, voluntary, agency-specific informed consent to treatment using one of the following:
 - a. ~~U.S. Food and Drug Administration, U.S. Department of Health and Human Services, Form FDA 2635, Consent to Treatment With an Approved Narcotic Drug (July 1993), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available at <http://www.fda.gov/opacom/morechoices/fdaforms/default.html>; or~~
 - b. ~~U.S. Food and Drug Administration, U.S. Department of Health and Human Services, Form FDA 2635a, Consentimiento Para El Tratamiento Con Un Narcotico Aprobado (May 1996), incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available at <http://www.fda.gov/opacom/morechoices/fdaforms/default.html>;~~
 2. Is informed of all services that are available to the client through the agency and of all policies and procedures that impact the client's treatment;
 3. Is informed of the following:
 - a. The progression of opioid addiction and the client's apparent stage of opioid addiction;
 - b. The goal and benefits of opioid treatment;
 - c. The signs and symptoms of overdose and when to seek emergency assistance;
 - d. The characteristics of opioid agonist treatment medication, including common side-effects and potential interaction effects with non-opioid agonist treatment medications or illicit drugs;
 - e. The requirement for a staff member to report suspected or alleged abuse or neglect of a child or an incapacitated or vulnerable adult according to state law;
 - f. The requirement for a staff member to comply with the confidentiality requirements of ~~42 CFR Part 2 (2000)~~ 42 CFR 2.1 and 2.2 (2002) incorporated by reference, on file with the Department and the Office of the Secretary of State, and including no future editions or amendments, available ~~from Government Institutes Division, 4 Research Place, Rockville, MD 20850 at www.access.gpo.gov/nara/cfr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954;~~
 - g. Drug screening and urinalysis procedures;
 - h. Take-home medication requirements;
 - i. Testing and treatment available for HIV and other communicable diseases; and
 - j. The client's right to file a grievance with the agency for any reason, including involuntary discharge, and to have the client's grievance handled in a fair and timely manner.
- D. A program sponsor shall ensure that a written plan of relapse prevention is developed and implemented for each client admitted for opioid treatment and requires:
 1. That the client continue to receive opioid treatment as long as opioid treatment is medically necessary and acceptable to the client;

Notices of Exempt Rulemaking

2. That the client's other behavioral health issues be identified in the client's treatment plan and addressed;
 3. If the client is ~~receiving detoxification treatment~~ in medical withdrawal, that counseling or other behavioral health services be offered to the client;
 4. That the client's treatment plan be reviewed and adjusted, if necessary, at the first signs of the client's relapse or impending relapse; and
 5. That the client's family members be provided opportunities to be involved in the client's opioid treatment.
- E. A program sponsor shall ensure that an agency medical practitioner conducts a physical examination of an individual who requests admission to an agency before the individual receives a dose of opioid agonist treatment medication and that the physical examination includes:
1. Reviewing the individual's bodily systems;
 2. Determining whether the individual shows signs of addiction, such as old and fresh needle marks, constricted or dilated pupils, an eroded or perforated nasal septum, or a state of sedation or withdrawal;
 3. Evaluating the observable or reported presence of withdrawal signs and symptoms, such as yawning, chills, restlessness, irritability, perspiration, nausea, or diarrhea;
 4. Obtaining a medical and family history and documentation of current information to determine chronic or acute medical conditions such as diabetes; renal diseases; hepatitis B, C, or Delta; HIV infection; tuberculosis; sexually transmitted disease; pregnancy; or cardiovascular disease;
 5. Obtaining a history of behavioral health issues and treatment, including any diagnoses and medications;
 6. Obtaining the following information on the client's family:
 - a. The ~~date~~ dates of birth of the client's children;
 - b. Whether the client's children are living with parents;
 - c. Family medical history; and
 - d. Family history of illicit drug use and alcohol abuse;
 7. Initiating the following laboratory tests:
 - a. A Mantoux skin test;
 - b. A test for syphilis;
 - c. A laboratory drug detection test for at least the following:
 - i. Opiates;₂
 - ii. Methadone;₂
 - iii. Amphetamines;₂
 - iv. Cocaine;₂
 - v. Barbiturates;₂ and
 - vi. Benzodiazepines; and
 8. Recommending additional tests based upon the individual's history and physical condition, such as:
 - a. Complete blood count;
 - b. EKG, chest X-ray, pap smear, or screening for sickle cell disease;
 - c. A test for Hepatitis B and C; or
 - d. HIV testing.
- F. A program sponsor shall ensure that the results of a client's physical examination are documented in the client record.

R9-20-1004. Assessment and Treatment Plan

- ~~A~~ A program sponsor shall ensure that:
1. Except as provided in this Section, A a client receives an assessment conducted according to the requirements in R9-20-209(A), ~~(B)(2)~~, (C), and (D);
 2. An assessment is conducted by a behavioral health professional or a behavioral health technician; and
 3. ~~A behavioral health professional reviews and approves a client assessment completed by a behavioral health technician to ensure that the assessment is complete and accurate and identifies whether the client may need medical services;~~
 4. An assessment Assessment information is documented in the client record within seven working days after completing initiating or updating the assessment and includes:
 - a. A description of the client's presenting issue;
 - b. An identification of the client's behavioral health symptoms and the behavioral health issue or issues that require treatment;
 - c. A list of the medical services, including medication, needed by the client, as identified in the physical examination conducted under R9-20-1003(E);
 - d. Recommendations for further assessment or examination of the client's needs;
 - e. Recommendations for treatment needed by the client, such as counseling;
 - f. Recommendations for ancillary services or other services needed by the client;
 - g. The signature and date signed, or documentation of the refusal to sign, of the client or the client's guardian or agent or, if the client is a child, the client's parent, guardian, or custodian; and

Notices of Exempt Rulemaking

- h. The signature, professional credential or job title, and date signed of:
 - i. The staff member conducting and developing the assessment; and
 - ii. If the assessment was completed by a behavioral health technician, the behavioral health professional approving the assessment.
- B.** A program sponsor shall ensure that a treatment plan is developed for each client and that the treatment plan is:
 - 1. Based upon the results of the client's physical examination and assessment;
 - 2. Developed by a behavioral health professional or a behavioral health technician;
 - 3. Developed with the participation of the client, the client's guardian, or the client's agent or, if the client is a child, the client's parent, guardian, or custodian;
 - 4. If the treatment plan was completed by a behavioral health technician, reviewed and approved by a behavioral health professional to ensure that the treatment plan is complete and accurate and meets the client's treatment needs;
 - 5. Documented in the client record within seven working days after completion, to include:
 - a. The client's presenting issue;
 - b. One or more treatment goals;
 - c. One or more treatment methods and the frequency of each treatment method;
 - d. The date when the client's treatment plan will be reviewed;
 - e. The method and frequency of communicating the client's progress to:
 - i. The client;
 - ii. The client's parent, guardian, custodian, agent, family member, or designated representative;
 - iii. The individual who coordinates behavioral health services and ancillary services for the client; and
 - iv. Other agencies, individuals, or entities that provide treatment to the client;
 - f. If a discharge date has been determined, the treatment needed after discharge;
 - g. The signature and date signed, or documentation of the refusal to sign, of the client or the client's guardian or agent or, if the client is a child, the client's parent, guardian, or custodian; and
 - h. The signature, professional credential or job title, and date signed of:
 - i. The staff member conducting and developing the treatment plan; and
 - ii. If the treatment plan was completed by a behavioral health technician, the behavioral health professional approving the treatment plan; and
 - 6. Reviewed and updated on an on-going basis:
 - a. According to the review date specified in the treatment plan;
 - b. When a treatment goal is accomplished or changes;
 - c. When additional information that affects the client's assessment is identified;
 - d. When a client has a significant change in condition or experiences an event that affects treatment; and
 - e. At least once every three months during the client's first year of opioid treatment and at least once every six months after the client's first year of opioid treatment.

R9-20-1008. Detoxification Withdrawal Treatment

A licensee shall ensure that:

- 1. Policies and procedures are developed, implemented, and complied with for detoxification withdrawal treatment and:
 - a. Are designed to promote successful detoxification withdrawal treatment;
 - b. Require that dose reduction occur at a rate well tolerated by the client;
 - c. Require that a variety of ancillary services, such as self-help groups, be available to the client through the agency or through referral;
 - d. Require that the amount of counseling available to the client be increased before discharge; and
 - e. Require that a client be re-admitted to the agency or referred to another agency if relapse occurs;
- 2. A client's detoxification withdrawal treatment:
 - a. For a client involved in comprehensive maintenance treatment, is only initiated as administrative withdrawal or when requested by the client and approved by an agency medical practitioner; and
 - b. Is planned and supervised by an agency medical practitioner;
- 3. Before a client begins detoxification withdrawal treatment, whether with or against the advice of an agency medical practitioner, the client:
 - a. Is informed by an agency medical practitioner or a staff member:
 - i. That the client has the right to leave opioid treatment at any time, and
 - ii. Of the risks of detoxification withdrawal treatment; and
 - b. Upon request, receives a schedule for detoxification withdrawal treatment that is developed by an agency medical practitioner with input from the client;
- 4. If a client who is receiving detoxification withdrawal treatment, other than a client experiencing administrative withdrawal, appears to a staff member to relapse, the client is permitted to begin comprehensive maintenance treatment, if otherwise eligible;

Notices of Exempt Rulemaking

5. If a client who has completed ~~detoxification~~ withdrawal treatment within the past 30 days appears to a staff member to relapse, the client is re-admitted into the agency without a physical examination or assessment;
6. A client experiencing administrative withdrawal is referred or transferred to an agency that is capable of or more suitable for meeting the client's needs, and the referral or transfer is documented in the client record; and
7. The following information is documented in the client record:
 - a. The reason that the client sought ~~detoxification~~ withdrawal treatment or was placed on administrative withdrawal; and
 - b. The information and assistance provided to the client in ~~detoxification treatment~~ medical withdrawal or administrative withdrawal.

R9-20-1010. Diverse Populations

- A. A program sponsor shall ensure that:
 1. Opioid treatment is provided regardless of race, ethnicity, gender, age, or sexual orientation;
 2. Opioid treatment is provided with consideration for a client's individual needs, cultural background, and values;
 3. Agency staff members are culturally competent;
 4. Unbiased language is used in the agency's print materials, electronic media, and other training or educational materials;
 5. HIV testing and education are available to clients either at the agency or through referral;
 6. A client who is HIV-positive and who requests treatment for HIV or AIDS:
 - a. Is offered treatment for HIV or AIDS either at the agency or through referral, and
 - b. Has access to an HIV- or AIDS-related peer group or support group and to social services either at the agency or through referral to a community group; and
 7. The agency has a procedure for transferring a client's opioid treatment to the medical practitioner treating the client for HIV or AIDS when HIV or AIDS becomes the client's primary health concern.
- B. A program sponsor shall ensure that:
 1. An individual who requires administration of opioid agonist treatment medication only for relief of chronic pain is:
 - a. Identified during the physical examination or assessment,
 - b. Not admitted for opioid agonist medication treatment, and
 - c. Referred for medical services; and
 2. ~~For a client with a chronic pain disorder who is also physically dependent, is treated by a multi-disciplinary team of medical practitioners that includes specialists in addiction medicine and pain management, the agency coordinates with the medical practitioner treating the client for pain management.~~
- C. A program sponsor shall ensure that:
 1. ~~If, during the assessment or physical examination, a determination is made that a client who may have a mental disorder, is identified during the physical examination the client is referred for treatment of the mental disorder, and of assessment,~~
 2. ~~A client who may have a mental disorder is referred for treatment for the mental disorder, and~~
 3. The agency has a procedure to communicate and collaborate with a client's behavioral health professional to monitor and evaluate interactions between the client's opioid agonist treatment medication and medications used to treat the client's mental disorder.
- D. A program sponsor shall ensure that a policy and procedure is developed, implemented, and complied with for the treatment of female clients, to include:
 1. A requirement that staff members be educated in the unique needs of female clients,
 2. A requirement that each female client be informed about or referred to a same sex support group at the agency or in the community, and
 3. A requirement that breast feeding be encouraged during comprehensive maintenance treatment unless medically contraindicated.
- E. A program sponsor shall ensure that a policy and procedure is developed, implemented, and complied with for the treatment of pregnant clients, to include:
 1. A requirement that priority be given to pregnant individuals seeking opioid treatment;
 2. A requirement that the reasons for a pregnant individual's denial of admission to an agency be documented;
 3. A requirement that a pregnant client be offered prenatal care either at the agency or through referral to a medical practitioner;
 4. A requirement that the agency establish a written agreement with a medical practitioner who is providing prenatal care to a pregnant client, to include a procedure for exchanging opioid treatment and prenatal care information in accordance with R9-20-211(A)(3);
 5. A requirement that a staff member educate a pregnant client who does not obtain prenatal care services on prenatal care;
 6. A requirement that a staff member obtain a written refusal of prenatal care services from a pregnant client who refuses prenatal care services offered by the agency or a referral for prenatal care;

Notices of Exempt Rulemaking

7. A requirement that a pregnant client receiving comprehensive maintenance treatment before pregnancy be maintained at the pre-pregnancy dose of opioid agonist medication, if effective, and that the dosage requirements of R9-20-1005 be applied;
 8. A requirement that dosage requirements in R9-20-1005 be followed for a pregnant client's initial and subsequent doses of opioid agonist treatment medication;
 9. A requirement that a pregnant client be monitored by an agency medical practitioner to determine if pregnancy induced changes in the elimination or metabolism of opioid agonist treatment medication may necessitate an increased or split dose;
 10. A requirement that ~~detoxification~~ withdrawal treatment not be initiated before 14 weeks or after 32 weeks of gestation and that a pregnant client receiving ~~detoxification~~ withdrawal treatment be referred to a medical practitioner for supervision of withdrawal that includes fetal assessments; and
 11. A requirement that a pregnant client discharged from the agency be referred to a medical practitioner and that a staff member document the name, address, and telephone number of the medical practitioner in the client record.
- F. A program sponsor shall ensure that, if a client is placed in jail, the agency:
1. ~~Agreements and procedures are established with the criminal justice system to allow the agency to continue providing opioid treatment to clients who are incarcerated, on probation, or on parole; and~~
Makes efforts to obtain approval from the criminal justice system for the continued treatment of the client by the agency while the client is in jail;
 2. ~~Staff members advocate to the criminal justice system for continuous opioid treatment for clients who are incarcerated, on probation, or on parole.~~
If approval is obtained according to subsection (F)(1), the agency continues to treat the client while the client is in jail; and
 3. If approval is not obtained according to subsection (F)(1), the agency's attempts to obtain approval are documented in the client's record.

R9-20-1013. Community Relations

- A. A program sponsor shall ensure that policies and procedures are developed, implemented, and complied with to educate the community about opioid treatment and to promote understanding in the surrounding community and include:
1. A mechanism for eliciting input from the community about the agency's impact on the community,
 2. A requirement that the program sponsor or designee interface with community leaders to foster positive relations,
 3. A requirement that the program sponsor or designee establish a liaison with community representatives to share information about the agency,
 4. A requirement that the agency have information on substance abuse and related health and social issues available to the public, ~~and~~
 5. A mechanism for addressing and resolving community concerns about opioid treatment or the agency's presence in the community, ~~and~~
 6. A mechanism that addresses getting approval for continued treatment in treatment or care facilities and jails.
- B. A program sponsor shall ensure that community relations efforts are documented and are evaluated at least once every 12 months.

R9-20-1014. Diversion Control

- A program sponsor shall ensure that a written plan is developed, implemented, and complied with to prevent diversion of opioid agonist treatment medication from its intended purpose to illicit use and that the written plan includes:
1. ~~Procedures to hold~~ Policies for how a staff member who diverts medication is held accountable for diverting the medication diversion,
 2. A requirement that treatment and administrative activities be continuously monitored to reduce the risk of diversion, and
 3. A procedure for stopping identified diversion and for preventing future diversion.

ARTICLE 11. MISDEMEANOR DOMESTIC VIOLENCE OFFENDER TREATMENT

R9-20-1101. Misdemeanor Domestic Violence Offender Treatment Standards

- A. A licensee of an agency that provides misdemeanor domestic violence offender treatment shall ensure that:
1. The agency's program description includes, in addition to the items listed in R9-20-201(A)(2), the agency's method for providing misdemeanor domestic violence offender treatment;
 2. The agency's method for providing misdemeanor domestic violence offender treatment:
 - a. Is professionally recognized treatment for which supportive research results have been published within the five years before the date of application for an initial or renewal license;
 - b. Does not ~~disproportionately emphasize~~ or exclusively include one or more of the following:
 - i. Anger or stress management,
 - ii. Conflict resolution,

Notices of Exempt Rulemaking

- iii. Family counseling, or
 - iv. Education or information about domestic violence;
 - c. Emphasizes personal responsibility;
 - d. Identifies domestic violence as a means of asserting power and control over another individual;
 - e. Does not require the participation of a victim of domestic violence;
 - f. Includes individual counseling, group counseling, or a combination of individual counseling and group counseling according to the requirements in R9-20-302; and
 - g. Does not include more than 15 clients in group counseling; ~~and~~
 - 3. Misdemeanor domestic violence offender treatment is not provided at a location where a victim of domestic violence is sheltered-; ~~and~~
 - 4. Misdemeanor domestic violence offender treatment for a client is scheduled to be completed within not less than four months and not more than 12 months after the client is admitted into misdemeanor domestic violence offender treatment.
- B.** A licensee of an agency that provides misdemeanor domestic violence offender treatment shall ensure that policies and procedures are developed, implemented, and complied with that:
- 1. Require a client to complete misdemeanor domestic violence offender treatment not less than four months or more than 12 months after the date the client begins misdemeanor domestic violence offender treatment, unless the agency extends the time for completion of the misdemeanor domestic violence offender treatment;
 - 2. Establish criteria the agency considers when determining whether to extend the time for a client's completion of misdemeanor domestic violence offender treatment, such as an occurrence of one of the following during the 12 months after the date the client is admitted to misdemeanor domestic violence offender treatment:
 - a. A client serving jail time.
 - b. Illness of a client or a family member of the client.
 - c. Death of a family member, and
 - d. The court requiring the client to complete more than 52 sessions of misdemeanor domestic violence offender treatment.
- C.** Misdemeanor domestic violence offender treatment shall include, at a minimum, the following number of sessions, to be completed after the applicable offense for which the client was required to complete misdemeanor domestic violence offender treatment:
- 1. For a first offense, 26 sessions;
 - 2. For a second offense, 36 sessions; and
 - 3. For a third offense or any subsequent offense, 52 sessions.
- D.** The duration of a session in subsection (C) shall be:
- 1. For an individual session, not less than 45 minutes and not longer than 60 minutes; and
 - 2. For a group session, not less than 90 minutes and not longer than 180 minutes.
- ~~B.E.~~** A licensee of an agency that provides misdemeanor domestic violence offender treatment shall ensure that, for each referring court, a policy and procedure is developed, implemented, and complied with for providing misdemeanor domestic violence offender treatment that:
- 1. Establishes:
 - a. The process for a client to begin and complete misdemeanor domestic violence offender treatment;
 - b. The timeline for a client to begin misdemeanor domestic violence offender treatment;
 - c. The time-line for a client to complete misdemeanor domestic violence offender treatment, which shall not exceed 12 months; and
 - d. Criteria for a client's successful completion of misdemeanor domestic violence offender treatment, including attendance, conduct, and participation requirements;
 - 2. Requires the licensee that provides misdemeanor domestic violence offender treatment to notify a client at the time of admission of the consequences to the client, imposed by the referring court or the licensee, if the client fails to successfully complete misdemeanor domestic violence offender treatment;
 - 3. Requires the licensee to notify the referring court or the entity that referred the client to the agency on behalf of the court, in writing, within a timeline established with the referring court or the entity that referred the client to the agency on behalf of the court, when any of the following occur:
 - a. The licensee determines that a client referred by the referring court has not reported for admission to the misdemeanor domestic violence offender treatment program,
 - b. The licensee determines that a client referred by the referring court is ineligible or inappropriate for the agency's misdemeanor domestic violence offender treatment program,
 - c. A client is admitted to the agency's misdemeanor domestic violence offender treatment program,
 - d. A client is voluntarily or involuntarily discharged from the agency's misdemeanor domestic violence offender treatment program,
 - e. A client fails to comply with misdemeanor domestic violence offender treatment, or

Notices of Exempt Rulemaking

- f. A client completes misdemeanor domestic violence offender treatment;
- 4. Is reviewed by the referring court or the entity that refers clients to the agency on behalf of the court before the agency provides misdemeanor domestic violence offender treatment;
- 5. Requires that the ~~referring court's~~ review required in subsection (E)(4) be documented, to include:
 - a. The date of the review;
 - b. The name and title of the individual performing the review for the referring court; and
 - c. Changes to the policy and procedure requested by the referring court, if applicable;
- 6. Requires the licensee to contact the referring court or entity that referred a client to the agency on behalf of the court at least once every 12 months after the date the licensee begins to provide misdemeanor domestic violence offender treatment to determine whether the referring court has made any changes in its procedures or requirements that necessitate changes to the licensee's policy and procedure;
- 7. Is reviewed and revised as necessary by the licensee at least once every 12 months; and
- 8. Is maintained at the agency.

~~E.F.~~ A licensee of an agency that provides misdemeanor domestic violence offender treatment shall ensure that misdemeanor domestic violence offender treatment is provided by a staff member who:

- 1. Is either:
 - a. A behavioral health professional, or
 - b. A behavioral health technician with at least an associate's degree;
- 2. Satisfies one of the following:
 - a. Has at least six months of full-time work experience with domestic violence offenders or other criminal offenders, or
 - b. Is visually observed and directed by a staff member with at least six months of full-time work experience with domestic violence offenders or other criminal offenders; and
- 3. Has completed at least 40 hours of education or training in one or more of the following areas within the four years before the date the individual begins providing misdemeanor domestic violence offender treatment:
 - a. Domestic violence offender treatment,
 - b. The dynamics and impact of domestic violence and violent relationships, or
 - c. Methods to determine an individual's potential to harm the individual or another.

~~D.G.~~ A licensee of an agency that provides misdemeanor domestic violence offender treatment shall ensure that:

- 1. In addition to meeting the training requirements in R9-20-206(B), a staff member completes at least eight hours of training, every 12 months after the staff member's starting date of employment or contract service, in one or more of the areas listed in subsection ~~(E)(3)~~ (F)(3); and
- 2. Training required in this Section is documented according to R9-20-206(B)(4).

~~E.H.~~ A licensee of an agency that provides misdemeanor domestic violence offender treatment shall ensure that a staff member completes an assessment of each client that ~~includes~~, in addition to the requirements of R9-20-209, includes the following:

- 1. Requesting the following information:
 - ~~1-a.~~ Obtaining the The case number or identification number assigned by the referring court;
 - ~~2-b.~~ Determining whether Whether the client has any past or current orders for protection or no-contact orders issued by a court;
 - ~~3-c.~~ Obtaining the The client's history of domestic violence or family disturbances, including incidents that did not result in arrest;
 - ~~4-d.~~ Obtaining the The details of the misdemeanor domestic violence offense that led to the client's referral for misdemeanor domestic violence offender treatment; and
- ~~5-2.~~ Determining the client's potential to harm the client or another.

~~F.I.~~ A licensee of an agency that provides misdemeanor domestic violence offender treatment shall ensure that a client who has completed misdemeanor domestic violence offender treatment receives a certificate of completion that includes:

- 1. The case number or identification number assigned by the referring court or, if the agency has made three documented attempts to obtain the case number or identification number without success, the client's date of birth;
- 2. The client's name;
- 3. The date of completion of misdemeanor domestic violence offender treatment;
- 4. The name, address, and telephone number of the agency providing misdemeanor domestic violence offender treatment; and
- 5. The signature of an individual authorized to sign on behalf of the licensee.

~~G.J.~~ A licensee of an agency that provides misdemeanor domestic violence offender treatment shall:

- 1. Provide the original of a client's certificate of completion to the referring court according to the timeline established in the licensee's policy and procedure,
- 2. Provide a copy of the client's certificate of completion to the client, and
- 3. Maintain a copy of the client's certificate of completion in the client record.

ARTICLE 12. LEVEL 4 TRANSITIONAL AGENCY

R9-20-1202. Standards for a Level 4 Transitional Agency

- A. A licensee of a Level 4 transitional agency shall:
1. Ensure that the licensee complies with this Article and applicable federal, state, and local law;
 2. Ensure that a record, report, or document required to be maintained by this Article or applicable federal, state, or local law is provided to the Department as soon as possible upon request and no later than:
 - a. Two hours after the time of a request for a client currently receiving behavioral health services at the agency, or
 - b. Three working days after the time of a request for a client discharged from the agency;
 3. Adopt and maintain a current program description that:
 - a. Meets the requirements in R9-20-201(A)(2), and
 - b. Identifies whether the Level 4 transitional agency provides a substance abuse program at the facility;
 4. Develop, implement, and comply with policies for a client's use and occupancy of the Level 4 transitional agency that:
 - a. Ensure the security of a client's possessions that are allowed on the premises;
 - b. Address smoking and use of tobacco products on the premises;
 - c. Address requirements regarding pets or animals on the premises;
 - d. Ensure the safety of clients;
 - e. Establish requirements regarding clients, staff members, and other individuals entering and exiting the premises;
 - f. Establish guidelines for meeting the needs of an individual residing at an agency with a client, such as a child accompanying a parent in treatment, if applicable;
 - g. Establish the process for responding to a client's need for immediate and unscheduled behavioral health services or medical emergency;
 - h. Establish criteria for determining when a client's absence is unauthorized including whether the client:
 - i. Was admitted under A.R.S. Title 36, Chapter 5, Articles 1, 2, or 3;
 - ii. Is absent against medical advice; or
 - iii. Is under the age of 18; and
 - i. Address how the agency will respond to a client's sudden, intense, or out of control behavior to prevent harm to the client or another individual.
 5. Designate a manager who:
 - a. ~~Has the authority and responsibility to operate the Level 4 transitional agency according to the requirements in this Article;~~
 - b. Is at least 21 years old;
 - e-b. Has one of the following:
 - i. A bachelor's degree and at least one year of full-time behavioral health work experience or part-time behavioral health work experience equivalent to one year of full-time behavioral health work experience;
 - ii. An associate's degree and at least two years of full-time behavioral health work experience or part-time behavioral health work experience equivalent to two years of full-time behavioral health work experience; or
 - iii. A high school diploma or a high school equivalency diploma and at least four years of full-time behavioral health work experience or part-time behavioral health work experience equivalent to four years of full-time behavioral health work experience; and
~~d-c.~~ Has access to all areas of the premises;
6. Ensure that a manager designates in writing a Level 4 transitional staff member who:
 - a. Is not a client who is receiving services from the program for which the client is a staff member;
 - b. Is required to be present at the Level 4 transitional agency and in charge of operations when the manager is not present and clients are on the premises; and
 - c. Has access to all areas of the premises;
7. Ensure that at the time of admission, a client receives written notice of all fees that the client is required to pay and of the Level 4 transitional agency's refund policy;
8. Notify a client at least 30 days before changing a fee that the client is required to pay by:
 - a. Conspicuously posting a notice of the fee change in the facility, or
 - b. Providing written notification to each client;
9. Develop, implement, and comply with a grievance policy and procedure that includes the steps and timeline for responding to and resolving client grievances;
10. Conspicuously post the following information in the Level 4 transitional agency:
 - a. A list of the client rights in subsection (B);
 - b. The grievance policy and procedure;
 - c. The policies for a client's use and occupancy of the Level 4 transitional agency; ~~and~~

Notices of Exempt Rulemaking

- d. The current telephone number and address for:
 - i. The OBHL;
 - ii. The Arizona Department of Economic Security Office of Adult Protective Services or Office of Child Protective Services, as applicable;
 - iii. 911 or another local emergency response team; and
 - iv. A poison control center; and
- e. The days, times, and locations in the facility for accepting visitors and making telephone calls; and
- 11. Ensure that the requirements for required reports in R9-20-202 are met.
- B.** A licensee shall ensure that a client is afforded the following rights:
 - 1. To be treated with dignity, respect, and consideration;
 - 2. To receive services at the Level 4 transitional agency without discrimination based upon race, national origin, religion, gender, sexual orientation, age, disability, marital status, diagnosis, legal status, or method of payment;
 - 3. To submit grievances without restraint or retaliation and have grievances considered in a fair, timely, and impartial manner;
 - 4. To have information and records kept confidential;
 - 5. To have privacy in correspondence, communication, visitation, and financial affairs;
 - 6. To review the client's own record;
 - 7. To be informed at the time of admission of all fees that the client is required to pay and to receive at least 30-day's notice before a change in a fee that the client is required to pay; ~~and~~
 - 8. To be free from abuse and exploitation; and
 - 9. To associate with individuals of the client's choice, receive visitors, and make telephone calls during the hours established by the licensee and posted according to subsection (A)(10)(e).
- C.** A licensee of a Level 4 transitional agency shall ensure that:
 - 1. A manager or Level 4 transitional staff member:
 - a. Is at least 21 years old;
 - b. Has current documented successful completion of first-aid and CPR training specific to adults that included a demonstration of the individual's ability to perform CPR;
 - c. Has skills and knowledge in providing a supportive intervention; and
 - d. At the starting date of employment and every 12 months after the starting date of employment, submits one of the following as evidence of freedom from infectious pulmonary tuberculosis:
 - i. A report of a negative Mantoux skin test administered within six months before submitting the report; or
 - ii. If the individual has had a positive skin test for tuberculosis, a written statement from a medical practitioner, dated within six months before submitting the statement, indicating freedom from infectious pulmonary tuberculosis;
 - 2. There are a sufficient number of Level 4 transitional staff members to meet the requirements of this Article;
 - 3. At least the manager or one Level 4 transitional staff member is present on the premises when a client is at the facility;
 - 4. The agency has a daily staffing schedule that:
 - a. Indicates the date, scheduled work hours, and name of each Level 4 transitional staff member assigned to work;
 - b. Includes documentation of the Level 4 transitional staff members who work each day and the hours worked by each; and
 - c. Is maintained on the premises or at the administrative office for at least 12 months after the last date on the documentation; and
 - 5. For the manager and each Level 4 transitional staff member, a record is maintained that:
 - a. Includes documentation of the manager's or staff member's compliance with the requirements in this Section, and
 - b. Is maintained on the premises or at the administrative office throughout the manager's or Level 4 transitional staff member's period of employment and for at least two years after the manager's or Level 4 transitional staff member's last date of employment.
- D.** A licensee shall ensure that:
 - 1. An individual is admitted into and served by the Level 4 transitional agency based upon:
 - a. The individual's presenting issue and needs, consistent with the services that the Level 4 transitional agency is authorized and able to provide;
 - b. The agency's criteria for admission contained in the agency's program description required in subsection (A)(3); and
 - c. The applicable requirements in federal and state law and this Chapter;
 - 2. An individual admitted to or served by the Level 4 transitional agency:
 - a. Is not a danger to self or a danger to others; and

Notices of Exempt Rulemaking

- b. Does not require behavioral health services, medical services, or ancillary services that the agency is not authorized or able to provide;
 3. If a client or other individual does not meet the criteria in subsection (D)(1) or (2), the client or other individual is provided with a referral to another agency or entity; and
 4. Before a client is admitted to a Level 4 transitional agency, the client signs and dates a general consent form.
- E.** A licensee shall ensure that within five days after the date of a client's admission, a written client profile is completed that includes:
1. The client's name and date of birth;
 2. The name and telephone number of:
 - a. An individual to contact in case of an emergency;
 - b. The client's parent, guardian, custodian, or agent, if applicable;
 - c. The individual who coordinates the client's behavioral health services or ancillary services, if applicable; and
 - d. The client's probation or parole officer, if applicable;
 3. The client's reason for seeking admission to the Level 4 transitional agency;
 4. The client's history of behavioral health issues and treatment;
 5. A list of medication the client is currently taking;
 6. The client's medical service needs, including allergies;
 7. The client's substance abuse history and current pattern of substance use;
 8. Whether the client has a physical or other disability;
 9. The client's past and current involvement in the criminal justice system;
 10. The client's goal or desired outcome while living at the Level 4 transitional agency;
 11. The client's intended method of achieving the client's goals while living in the Level 4 transitional agency; and
 12. The client's signature and date signed.
- F.** A licensee may provide a client with a locked area or locked container in which to secure the client's medication if the client:
1. Is independent in self-administering medication and does not require any of the following:
 - a. A reminder to take medication,
 - b. Assurance that the client is taking medication as directed by the client's medical practitioner, or
 - c. Assistance opening a medication container; and
 2. Has access to the client's medication at all times.
- G.** A licensee shall develop, implement, and comply with policies and procedures for storing a client's medication that include:
1. For a client who does not meet the requirements in R9-20-1202(F), compliance with R9-20-408;
 2. For a client who meets the requirements in R9-20-1202(F):
 - a. Providing the client with an individual locked storage area that is not accessible to other clients; or
 - b. Storing the medication in a central locked area or container that:
 - i. Is accessible only to a staff member at the agency;
 - ii. Complies with the medication manufacturer's recommendations; and
 - iii. While unlocked, is not left unattended by a staff member;
 3. If medication is stored in a central locked area or container according to subsection (G)(2)(b):
 - a. Storing medication for other than oral administration separately from medication for oral administration;
 - b. Ensuring that a client takes only medication prescribed for the client and that medication is taken as directed;
 - c. Storing the medication in an original labeled container that, for prescription medication, indicates:
 - i. The client's name;
 - ii. The name of the medication, the dosage, and directions for taking the medication;
 - iii. The name of the medical practitioner prescribing the medication; and
 - iv. The date that the medication was prescribed;
 - d. Maintaining an inventory of each medication stored; and
 - e. Inspecting the central locked storage area at least once every three months to ensure compliance with this Section, and documenting of the inspection, to include:
 - i. The name of the staff member conducting the inspection,
 - ii. The date of the inspection,
 - iii. The area or areas inspected,
 - iv. Whether medication is stored according to the requirements in this Section,
 - v. Whether medication is disposed of according to the requirements in this Section, and
 - vi. Any action taken to ensure compliance with the requirements in this Section;
 4. If a client requests, assisting the client in obtaining medication;
 5. How long the agency keeps medication after a client leaves the agency; and

Notices of Exempt Rulemaking

6. Disposal of medication:
 - a. When required by (G)(5):
 - b. If, at the time of an inspection in subsection (G)(3)(e):
 - i. The medication has expired, according to the date on the medication container label;
 - ii. The label on the medication container is missing or illegible; or
 - iii. Disposal is required by state or federal law or the agency's policy and procedure; and
 - c. That is documented, to include:
 - i. The date of the disposal.
 - ii. The method of disposal, and
 - iii. The name, signature, and professional credential or job title of the staff members disposing of the medication and the date signed.

G.H. A licensee shall ensure that a client record is maintained that:

1. Meets the requirements of R9-20-211(A); and
2. Contains:
 - a. Documentation of the client's receipt of a list of the client rights in subsection (B);
 - b. The general consent form signed by the client as required in subsection (D)(4);
 - c. The client profile required in subsection (E);
 - d. The dates the client was admitted to and, if applicable, discharged from the Level 4 transitional agency; and
 - e. Documentation of any telephone, written, or face-to-face contacts that relate to the client's health, safety, or welfare.

H.I. A licensee shall ensure that a facility used as a Level 4 transitional agency:

1. Complies with:
 - a. The fire safety requirements of the local jurisdiction,
 - b. R9-20-406, and
 - c. R9-20-214;
2. Contains a working telephone;
3. Contains a common area that is not used as a sleeping area and a dining area that is not used as a sleeping area;
4. Has a bathroom that contains:
 - a. For every six clients, at least one working toilet that flushes and has a seat and one sink with running water;
 - b. For every eight clients, at least one working bathtub or shower, with a slip resistant surface;
 - c. Lighting;
 - d. Hot and cold running water; and
 - e. An openable window or other means of ventilation;
5. Has ~~an area, capable of being locked,~~ a separate lockable storage space for each client's personal belongings; and
6. Has bedrooms that are constructed and furnished to provide unimpeded access to the door and that each provide at least two means of exit in an emergency.

J. A licensee shall ensure that:

1. If an agency uses a time out, the agency complies with R9-20-215; and
2. If an agency uses an emergency safety response, the agency complies with R9-20-216.

ARTICLE 13. SHELTER FOR VICTIMS OF DOMESTIC VIOLENCE

R9-20-1301. Standards for a Shelter for Victims of Domestic Violence

A. A licensee of a shelter for victims of domestic violence shall comply with:

1. ~~The requirements for a Level 4 transitional agency in Article 12~~ R9-20-1201;
2. R9-20-1202(A) through (G) except for R9-20-1202(A)(4)(i);
3. R9-20-1202(H)(2) through (H)(6);
4. R9-20-214;
5. R9-20-405(A) and (B);
6. R9-20-406(A) and (B); and
- ~~7.~~ The applicable requirements in A.R.S. Title 36, Chapter 30, including requirements for:
 - a. Fingerprinting of personnel according to A.R.S. § 36-3008; and
 - b. Ensuring, according to A.R.S. § 36-3009, that the location of a shelter for victims of domestic violence is not disclosed.

B. A licensee of a shelter for victims of domestic violence shall ensure that:

1. The licensee's facility meets the fire safety requirements of the local jurisdiction;
2. The licensee documents that the facility meets the fire safety requirements of the local jurisdiction;
3. If the licensee is licensed for four or more beds, the licensee's facility has, on or before July 1, 2005, an automatic sprinkler that complies with R9-20-406(C)(3)(b) or a fire alarm system, installed according to NFPA 72: National Alarm Code (1999), incorporated by reference in R9-1-412(A)(4), with a fire alarm control panel that includes:

Notices of Exempt Rulemaking

- a. A manual-pull fire alarm system,
- b. Automatic occupancy notification,
- c. A smoke or fire detection system, and
- d. Notification of a local emergency response team; and
- 4. If, before July 1, 2005, a licensee's facility does not have an automatic sprinkler or fire alarm system described in subsection (B)(3), a fire drill for staff members and clients on the premises is:
 - a. Conducted at least once every month on each shift, and
 - b. Documented at the agency.
- C. A licensee of a domestic violence shelter shall develop, implement, and comply with policies and procedures for storing a client's medication that include:
 - 1. For a client who does not meet the requirements in R9-20-1202(F), compliance with R9-20-408;
 - 2. For a client who meets the requirements in R9-20-1202(F):
 - a. Providing the client with an individual locked storage area that is not accessible to other clients; or
 - b. Storing the medication in a central locked area or container that:
 - i. Is accessible only to a staff member at the agency;
 - ii. Complies with the medication manufacturer's recommendations; and
 - iii. While unlocked, is not left unattended by a staff member;
 - 3. If medication is stored in a central locked area or container according to subsection (C)(2)(b):
 - a. Storing medication for other than oral administration separately from medication for oral administration;
 - b. Ensuring that a client takes only medication prescribed for the client and that medication is taken as directed;
 - c. Storing the medication in an original labeled container that, for prescription medication, indicates:
 - i. The client's name;
 - ii. The name of the medication, the dosage, and directions for taking the medication;
 - iii. The name of the medical practitioner prescribing the medication; and
 - iv. The date that the medication was prescribed;
 - d. Maintaining an inventory of each medication stored;
 - e. Inspecting the central locked storage area at least once every three months to ensure compliance with this Section, and documenting of the inspection, to include:
 - i. The name of the staff member conducting the inspection,
 - ii. The date of the inspection,
 - iii. The area or areas inspected,
 - iv. Whether medication is stored according to the requirements in this Section,
 - v. Whether medication is disposed of according to the requirements in this Section, and
 - vi. Any action taken to ensure compliance with the requirements in this Section;
 - 4. If a client requests, assisting the client in obtaining medication;
 - 5. How long the agency keeps medication after a client leaves the agency; and
 - 6. Disposal of medication:
 - a. When required by (C)(5);
 - b. If, at the time of an inspection in subsection (C)(3)(e):
 - i. The medication has expired, according to the date on the medication container label;
 - ii. The label on the medication container is missing or illegible; or
 - iii. Disposal is required by state or federal law or the agency's policy and procedure;
 - c. That is documented, to include:
 - i. The date of the disposal,
 - ii. The method of disposal, and
 - iii. The name, signature, and professional credential or job title of the staff members disposing of the medication and the date signed;
- D. A licensee of a domestic violence shelter shall ensure that:
 - 1. If an agency uses a time out, the agency complies with R9-20-215; and
 - 2. If an agency use an emergency safety response, the agency complies with R9-20-216.

ARTICLE 14. RURAL SUBSTANCE ABUSE TRANSITIONAL AGENCY

R9-20-1401. Standards for a Rural Substance Abuse Transitional Agency

- A. A licensee of a rural substance abuse transitional agency shall comply with the requirements for a Level 4 transitional agency in Article 12.
- B. A licensee of a rural substance abuse transitional agency shall ensure that staffing is provided as follows:
 - 1. A written memorandum of understanding is established, implemented, and complied with to ensure that immediate contact with a licensed hospital is available to ensure the need for a higher or more acute level of care is determined and transportation is obtained;

Notices of Exempt Rulemaking

2. A behavioral health professional with specific training or expertise in the diagnosis of substance abuse conditions is present at the agency or on-call at all times; and
 3. A Level 4 transitional staff member is present and awake at the agency at all times who:
 - a. Has current documented successful completion of first-aid and CPR training specific to the populations served by the agency, such as children or adults, that included a demonstration of the staff member's ability to perform CPR;
 - b. Has documented training and skills and knowledge in providing a supportive intervention and in recognizing and responding to the medical conditions and complications associated with substance abuse; and
 - c. Is an emergency medical technician.
- C. A licensee shall ensure that:
1. A rural substance abuse transitional agency:
 - a. Is open at all times;
 - b. Develops, implements and complies with criteria to determine when emergency transportation is needed; and
 - c. Provides an individual with a written referral to an agency or entity that can provide the behavioral health services or medical services that the individual needs and that the rural substance abuse transitional agency is not authorized or able to provide;
 2. Within 24 hours after a client's admission to the rural substance abuse transitional agency, a Level 4 transitional agency staff member:
 - a. Collects and documents information on the client's medical, social, and substance abuse status and history;
 - b. Consults with an agency registered nurse or behavioral health professional to determine whether the client has a substance abuse problem and, if so, the behavioral health services that will be provided to the client for the period of time that the client is expected to remain at the rural substance abuse transitional agency;
 - c. Develops a written description of the specific behavioral health services that will be provided to the client to meet the client's needs for the period of time that the client is at the agency; and
 - d. Provides a client with an assessment completed by a medical practitioner, registered nurse, or emergency medical technician within 24 hours after the client's admission; and
 3. A client receives continuous supervision, supportive intervention, and periodic monitoring of the client's vital signs to ensure the client's health, safety, and welfare.

ARTICLE 15. ADULT THERAPEUTIC FOSTER HOME

R9-20-1501. Management

- A. A licensee or sponsor manager of an adult therapeutic foster home is responsible for the organization and management of the adult therapeutic foster home and shall ensure compliance with:
1. This Article;
 2. Article 1 of this Chapter;
 - ~~2,3.~~ Applicable federal, state, and local law;
 4. R9-20-201(A)(2)(a) through (c);
 5. R9-20-201(A)(2)(e) through (l);
 6. R9-20-201(A)(2)(n)(iii);
 7. R9-20-201(A)(3);
 - ~~3,8.~~ R9-20-202;
 - ~~4,9.~~ R9-20-203;
 - ~~5.~~ R9-20-204(H)(2);
 10. R9-20-205(B) and (C);
 11. R9-20-208(B);
 - ~~6,12.~~ R9-20-210;
 13. R9-20-211(A) and (B);
 - ~~7,14.~~ R9-20-212;
 - ~~8,15.~~ R9-20-214(A) and (C) through (H) R9-20-214(A)(1) through (5);
 16. R9-20-214(A)(7) through (9);
 17. R9-20-214(C);
 18. R9-20-214(D)(1) and (2);
 19. R9-20-214(D)(3)(a), (b), (c), (d), (f), and (g);
 20. R9-20-214(E) through (I);
 21. R9-20-215;
 22. R9-20-216;
 23. R9-20-401(A)(3);
 - ~~9,24.~~ R9-20-403 R9-20-403(A) through (C);
 25. R9-20-403(D)(1) through(2);

Notices of Exempt Rulemaking

26. R9-20-403(D)(3)(a) through (d), (f), and (g);

27. R9-20-403(D)(4);

28. R9-20-403(D)(6) through (D)(13);

~~10-29.~~ R9-20-405;

~~11-30.~~ R9-20-406; and

~~12-31.~~ If the adult therapeutic foster home is authorized to provide assistance in the self-administration of medication, R9-20-408; ; and

32. R9-20-1202(D) through (F).

B. A licensee or sponsor manager of an adult therapeutic foster home shall have in place and comply with written policies and procedures for:

1. Ensuring the health, safety, and welfare of a client on the premises or participating in an agency-sponsored activity off the premises;
2. Maintaining client records and information;
3. Protecting the confidentiality of client records and information;
4. Reporting and investigating incidents listed in R9-20-202(A);
5. Ensuring the security of possessions that a client brings to the adult therapeutic foster home;
6. Smoking on the premises;
7. Ensuring communication and coordination, consistent with the release of information requirements in R9-20-211(A)(3), with:
 - a. A client's family member, guardian, custodian, designated representative, or agent;
 - b. The individual who coordinates the client's behavioral health services or ancillary services, if applicable; and
 - c. Other entities or individuals from whom the client may receive treatment, medical services, or other services;
8. Responding to a client's medical emergency or immediate need for unscheduled behavioral health services; ~~and~~
9. Responding to a client's threat of imminent serious physical harm or death to a clearly identified or identifiable individual; ~~and~~
10. Addressing how the agency will respond to a client's sudden, intense, or out of control behavior to prevent harm to the client or another individual.

C. A licensee or sponsor manager of an adult therapeutic foster home shall ensure that the following documents are maintained at the adult therapeutic foster home:

1. The policies and procedures required in subsection (B),
2. Documentation of fire drills as required in R9-20-214(H),
3. Incident reports as required in R9-20-202, and
4. A copy of each client's current assessment and treatment plan.

D. A licensee or sponsor manager of an adult therapeutic foster home shall ensure that the Department is allowed immediate access to:

1. The adult therapeutic foster home,
2. A client living in the adult therapeutic foster home, and
3. A document required by this Article.

E. A licensee or sponsor manager of an adult therapeutic foster home shall assist a client with following a regional behavioral health authority's grievance and appeal process to resolve a client's grievance.

F. A licensee or manager of an adult therapeutic foster home shall ensure that:

1. A toxic or other hazardous material on the premises other than one of the following is stored by the licensee in a labeled container in a locked area other than a food preparation or storage area, a dining area, or a medication storage area:
 - a. Medical supplies needed for a client, such as oxygen, as provided in R9-20-214(A)(7);
 - b. Hand soap;
 - c. Dish soap;
 - d. Laundry detergent; or
 - e. Window cleaner.
2. In addition to the other requirements in this Chapter, a bathroom contains:
 - a. Paper towels,
 - b. A mechanical air hand dryer, or
 - c. An individual cloth hand towel for each client.

R9-20-1502. Licensee Qualifications and Requirements

A. A licensee or sponsor manager of an adult therapeutic foster home shall:

1. Be at least 21 years old;
2. Have the authority and responsibility to operate the adult therapeutic foster home according to the requirements in this Article;

Notices of Exempt Rulemaking

- ~~2-3.~~ Have the behavioral health skills and knowledge necessary to meet the unique needs of a client living at the adult therapeutic foster home, including skills and knowledge in:
 - a. Protecting the client rights listed in R9-20-203;
 - b. Providing the behavioral health services that the adult therapeutic foster home is authorized to provide and the licensee is qualified to provide;
 - c. Protecting and maintaining the confidentiality of client records and information according to R9-20-211(A) and (B);
 - d. Recognizing and respecting cultural differences;
 - e. Recognizing, preventing, or responding to a situation in which a client:
 - i. May be a danger to self or a danger to others,
 - ii. Behaves in an aggressive or destructive manner,
 - iii. May be experiencing a crisis situation, or
 - iv. May be experiencing a medical emergency;
 - f. Reading and implementing a client's treatment plan; and
 - g. Recognizing and responding to a fire, disaster, hazard, or medical emergency;
 - ~~3-4.~~ Have the behavioral health skills and knowledge required in subsection ~~(A)(2)~~ (A)(3) verified according to R9-20-204(F)(2) and documented according to R9-20-204(G)(1) through (4);
 - ~~4-5.~~ Have current documented successful completion of first-aid and CPR training specific to adults that included a demonstration of the licensee's ability to perform CPR;
 - ~~5-6.~~ Demonstrate freedom from infectious pulmonary tuberculosis, as required in R9-20-204(H)(2);
 - ~~6-7.~~ Complete at least 24 hours of training every twelve months in the topics listed in subsection ~~(A)(2)~~ (A)(3); and
 - ~~7-8.~~ Receive at least four hours a month of guidance in developing or improving skills and knowledge in providing behavioral health services ~~from a behavioral health professional~~ according to R9-20-205(B) and (C).
- B.** A licensee or sponsor manager shall ensure that a personnel record is maintained at the adult therapeutic foster home that contains documentation of the licensee's compliance with subsection (A).

R9-20-1503. Supervision

- A.** A licensee or sponsor manager of an adult therapeutic foster home shall ensure that a client receives the supervision necessary to:
- 1. Meet the requirements of this Article;
 - 2. Ensure the health, safety, and welfare of the client at the adult therapeutic foster home and on an agency-sponsored activity off the premises; and
 - 3. Meet the client's scheduled and unscheduled needs.
- B.** A licensee or sponsor manager of an adult therapeutic foster home shall ensure that a client receives:
- 1. General client supervision; and
 - 2. Observation, assistance, or supervision in activities to maintain health, safety, personal care or hygiene, or independence in home making activities.

R9-20-1504. Admission

- A licensee or sponsor manager of an adult therapeutic foster home shall ensure that, at the time of admission to the adult therapeutic foster home, a client:
- 1. ~~Consents~~ Gives general consent to treatment admission according to ~~R9-20-208(E)~~ R9-20-208(E)(1),
 - 2. Is provided the information required in R9-20-208(G), and
 - 3. Demonstrates freedom from infectious pulmonary tuberculosis as required in ~~R9-20-204(H)(2)~~ R9-20-401(A)(3).

R9-20-1505. Assessment and Treatment Plan

- A licensee or sponsor manager of an adult therapeutic foster home shall:
- 1. ~~ensure that~~ Only admit a client who has an assessment information and a treatment plan that meets the requirements in R9-20-209-, and
 - 2. Maintain at the agency a copy of a client's current assessment information and treatment plan.

R9-20-1506. Client Records

- A licensee or sponsor manager of an adult therapeutic foster home shall ensure that a client record:
- 1. Is maintained according to R9-20-211(A);
 - 2. Contains:
 - a. The client's name and date of birth;
 - b. The name and telephone number of:
 - i. An individual to notify in case of an emergency;
 - ii. The client's medical practitioner;
 - iii. The individual who coordinates the client's behavioral health services or ancillary services; and
 - iv. The client's parent, guardian, designated representative, custodian, or agent, if applicable;

Notices of Exempt Rulemaking

- c. The date the client was admitted to the adult therapeutic foster home;
- d. The client's ~~written-general~~ consent to ~~treatment admission~~, as required in R9-20-1504(1);
- e. Documentation of receipt of the information required in R9-20-1504(2);
- f. The client's assessment and any updates to the assessment;
- g. The client's treatment plan and any updates to the treatment plan;
- h. Documentation that the client is free from infectious pulmonary tuberculosis, as required in R9-20-1504(3); and
- i. The date of the client's discharge and the name of the individual or entity to whom the client was discharged, if applicable.

R9-20-1507. Environmental Standards

- A. A licensee or ~~sponsor~~ manager of an adult therapeutic foster home shall ensure that the premises have:
 1. A working telephone that allows a client to make a private telephone call;
 2. At least one working toilet that flushes and one sink with running water;
 3. At least one working bathtub or shower, with a slip resistant surface; and
 4. An individual storage space, capable of being locked, for use by each client.
- B. A licensee or ~~sponsor~~ manager of an adult therapeutic foster home shall ensure that a client's sleeping area is in a bedroom that:
 1. Meets one of the following:
 - a. Is a private bedroom that contains at least 60 square feet of floor space, not including the closet; or
 - b. Is a shared bedroom that:
 - i. Is shared by no more than four individuals;
 - ii. Contains at least 60 square feet of floor space, not including a closet, for each individual occupying the bedroom; and
 - iii. Provides at least three feet of space between beds;
 2. Contains a door that opens into a corridor, common area, or the outside;
 3. Is constructed and furnished to provide unimpeded access to the door;
 4. Contains the following for each client:
 - a. Individual storage space, such as a dresser or chest;
 - b. A closet, wardrobe, or equivalent space for hanging clothes;
 - c. A bed that:
 - i. Consists of at least a mattress and frame;
 - ii. Is in good repair, clean, and free of odors and stains; and
 - iii. Is at least 36 inches wide and 72 inches long; and
 - d. A pillow and linens that are clean, free of odors, and in good repair and that provide sufficient warmth to meet the needs of the client; and
 5. Contains:
 - a. Lighting sufficient for a client to read;
 - b. To provide safe egress in an emergency, a working door to the outside or an openable window to the outside that is no higher than 20 feet above grade and that:
 - i. Meets the fire safety requirements of the local jurisdiction;
 - ii. Has no dimension less than 20 inches, has an area of at least 720 square inches, and has a window sill that is no more than 44 inches off the floor; or
 - iii. Is large enough, accessible to a client, and within the capability of the client to egress in an emergency; and
 - c. Adjustable window or door covers that provide client privacy.
- C. A licensee or ~~sponsor~~ manager of an adult therapeutic foster home shall ensure that:
 1. The supply of hot water is sufficient to meet:
 - a. Each client's daily personal hygiene needs; and
 - b. The laundry, cleaning, and sanitation requirements in this Article;
 2. One of the following is available to ensure that client clothing can be cleaned:
 - a. A working washing machine and dryer on the premises,
 - b. An agency-provided process for cleaning clothing, or
 - c. An agency-provided process for transporting a client to a building with washing machines and dryers that a client can use; and
 3. Soiled linen and clothing stored by the licensee are in covered containers or closed plastic bags away from a food preparation or storage area or a dining area.
- D. A licensee or ~~sponsor~~ manager shall ensure that if a client's bedroom is capable of being locked from the inside, the licensee has a key that allows access to the bedroom at all times.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

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

PREAMBLE

<u>1. Sections Affected</u>	<u>Rulemaking Action</u>
Chapter 21	Amend
R9-21-101	Amend
R9-21-102	Amend
R9-21-103	Repeal
R9-21-103	Renumber
R9-21-103	Amend
R9-21-104	Renumber
R9-21-104	Amend
R9-21-105	Renumber
R9-21-105	Amend
R9-21-106	Renumber
R9-21-107	Renumber
R9-21-201	Amend
R9-21-202	Amend
R9-21-203	Amend
R9-21-204	Amend
R9-21-205	Amend
R9-21-206	Amend
R9-21-206.01	New Section
R9-21-207	Amend
R9-21-208	Amend
R9-21-209	Amend
R9-21-210	Amend
Article 3	Amend
R9-21-301	Amend
R9-21-302	Amend
R9-21-303	Amend
R9-21-304	Amend
R9-21-305	Amend
R9-21-306	Amend
R9-21-307	Amend
R9-21-308	Amend
R9-21-309	Amend
R9-21-310	Amend
R9-21-311	Amend
R9-21-312	Amend
R9-21-313	Amend
R9-21-314	Amend
R9-21-315	Renumber
Article 4	Amend
R9-21-401	Renumber
R9-21-401	Amend
R9-21-402	Renumber
R9-21-402	Amend
R9-21-403	Renumber
R9-21-403	Amend
R9-21-404	Renumber
R9-21-404	Amend
R9-21-405	Renumber
R9-21-405	Amend
R9-21-406	Renumber
R9-21-406	Amend
R9-21-407	Renumber
R9-21-407	Amend

Notices of Exempt Rulemaking

R9-21-408	Repeal
R9-21-408	Renumber
R9-21-408	Amend
R9-21-409	Amend
R9-21-410	Amend
R9-21-501	Repeal
R9-21-501	Renumber
R9-21-501	Amend
R9-21-502	Renumber
R9-21-502	Amend
R9-21-503	Renumber
R9-21-503	Amend
R9-21-504	Renumber
R9-21-504	Amend
R9-21-505	Renumber
R9-21-505	Amend
R9-21-506	Renumber
R9-21-506	Amend
R9-21-507	Renumber
R9-21-507	Amend
R9-21-508	Renumber
R9-21-508	Amend
R9-21-509	Renumber
R9-21-509	Amend
R9-21-510	Renumber
R9-21-510	Amend
R9-21-511	Renumber
R9-21-511	Amend
R9-21-512	Renumber
R9-21-512	Amend
R9-21-513	Renumber

2. The 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), 36-132(A), and 36-136(F)

Implementing statutes: A.R.S. §§ 36-502, 36-550.01, 36-550.03, 36-550.04, 36-550.05, 36-550.06, 36-550.08, and 36-3403(A)(4)

3. The effective date of the rules:

June 30, 2003

4. A list of all previous notices appearing in the Register addressing the exempt rules:

Notice of Public Information: 9 A.A.R. 1565, May 23, 2003

Notice of Proposed Exempt Rulemaking: 9 A.A.R. 1780, June 6, 2003

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Ann Froio, Division Chief for 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, Suite 102
Phoenix, AZ 85007
Telephone: (602) 542-1264
Fax: (602) 364-1150
E-mail: kphilli@hs.state.az.us

Notices of Exempt Rulemaking

6. An explanation of the rule, including the agency's reason for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:

The proposed exempt rules incorporate changes that clarify meaning, eliminate inconsistencies with the licensing rules in 9 A.A.C. 20, and reflect statutory changes and current standards of practice. The changes will be promulgated in rule under exempt rulemaking procedures according to Laws 2001, Ch. 367 (SB 1353).

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

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:

Laws 2001, Ch. 367 (SB 1353) provides exemption from the provisions of Title 41, Chapter 6.

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

The agency made extensive changes between the proposed exempt rules and final exempt rules. Contact agency officials listed in item #5 for details.

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:

None

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

Not applicable

15. The full text of the rule follows:

TITLE 9. HEALTH SERVICES

CHAPTER 21. DEPARTMENT OF HEALTH SERVICES

~~MENTAL~~ BEHAVIORAL HEALTH SERVICES FOR PERSONS WITH SERIOUS MENTAL ILLNESS

ARTICLE 1. GENERAL PROVISIONS

Section

R9-21-101.	Definitions
R9-21-102.	Applicability
R9-21-103.	Principles
R9-21-104. R9-21-103.	Computation of Time
R9-21-105. R9-21-104.	Office of Human Rights; Human Rights Advocates
R9-21-106. R9-21-105.	Human Rights Committees
R9-21-107. R9-21-106.	State Protection and Advocacy System
R9-21-107.	Renumbered

ARTICLE 2. RIGHTS OF PERSONS WITH SERIOUS MENTAL ILLNESS

Section

R9-21-201.	Civil and Other Legal Rights
R9-21-202.	Right to Support and Treatment
R9-21-203.	Protection from Abuse, Neglect, Exploitation and Mistreatment
R9-21-204.	Restraint and Seclusion
R9-21-205.	Labor
R9-21-206.	Competency and Consent
R9-21-206.01. <u>R9-21-206.01.</u>	<u>Informed Consent</u>
R9-21-207.	Medication

Notices of Exempt Rulemaking

- R9-21-208. Property and Possessions
- R9-21-209. Records
- R9-21-210. Policies and Procedures of Service Providers

ARTICLE 3. INDIVIDUAL SERVICE PLANNING FOR ~~MENTAL BEHAVIORAL~~ HEALTH SERVICES FOR PERSONS WITH SERIOUS MENTAL ILLNESS

Section

- R9-21-301. General Provisions
- R9-21-302. Identification, Application, and Referral for Services of Persons with Serious Mental Illness
- R9-21-303. ~~Eligibility: Interview and Determination~~ Eligibility Determination and Initial Assessment
- R9-21-304. ~~Provisional~~ Interim and Emergency Services
- R9-21-305. Assessments
- R9-21-306. Identification of Potential Service Providers
- R9-21-307. The Individual Service Plan
- R9-21-308. Acceptance or Rejection of the Individual Service Plan
- R9-21-309. Selection of Service Providers
- R9-21-310. Implementation of the Individual Service Plan
- R9-21-311. ~~Interim~~ Alternative Services
- R9-21-312. Inpatient Treatment and Discharge Plan
- R9-21-313. Periodic Review of Individual Service Plans
- R9-21-314. Modification or Termination of Plans
- R9-21-315. Renumbered

ARTICLE 4. ~~APPEALS, GRIEVANCE GRIEVANCES, AND REQUESTS FOR INVESTIGATION~~ PROCEDURE FOR PERSONS WITH SERIOUS MENTAL ILLNESS

Section

- ~~R9-21-315.~~ R9-21-401. Appeals
- ~~R9-21-401.~~ R9-21-402. ~~Scope~~ General
- ~~R9-21-402.~~ R9-21-403. Initiating a Grievance or Investigation
- ~~R9-21-403.~~ R9-21-404. Persons Responsible for Resolving Grievances and Requests for Investigations
- ~~R9-21-404.~~ R9-21-405. Preliminary Disposition
- ~~R9-21-405.~~ R9-21-406. Conduct of Investigation
- ~~R9-21-406.~~ R9-21-407. Administrative Appeal
- ~~R9-21-408.~~ Judicial Review
- ~~R9-21-407.~~ R9-21-408. Further Appeal to Administrative Hearing
- R9-21-409. Notice and Records
- R9-21-410. Miscellaneous

ARTICLE 5. COURT-ORDERED EVALUATION AND TREATMENT

Section

- ~~R9-21-501.~~ Responsibilities of Regional Authority
- ~~R9-21-502.~~ R9-21-501. Court-ordered Evaluation
- ~~R9-21-503.~~ R9-21-502. Emergency Admission for Evaluation
- ~~R9-21-504.~~ R9-21-503. Voluntary Admission for Evaluation
- ~~R9-21-505.~~ R9-21-504. Court-ordered Treatment
- ~~R9-21-506.~~ R9-21-505. Coordination of Court-ordered Treatment Plans with ISPs and ITDPs
- ~~R9-21-507.~~ R9-21-506. Review of Court-ordered Individual
- ~~R9-21-508.~~ R9-21-507. Transfers of Court-ordered Persons
- ~~R9-21-509.~~ R9-21-508. Requests for Notification
- ~~R9-21-510.~~ R9-21-509. Voluntary Admission for Treatment
- ~~R9-21-511.~~ R9-21-510. Informed Consent in Voluntary Application for Admission and Treatment
- ~~R9-21-512.~~ R9-21-511. Use of Psychotropic Medication
- ~~R9-21-513.~~ R9-21-512. Seclusion and Restraint
- R9-21-513. Renumbered

ARTICLE 1. GENERAL PROVISIONS

R9-21-101. Definitions

- A. In this Chapter, unless the context otherwise requires, the terms defined in A.R.S. § 36-501 shall have the same meaning set forth as in that Section A.R.S. § 36-501.

Notices of Exempt Rulemaking

B. In this Chapter, unless the context otherwise requires:

1. "Abuse" means, with respect to a client, the infliction of, or allowing another person to inflict or cause, physical pain or injury, impairment of bodily function, disfigurement or serious emotional damage which may be evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior. Such abuse may be caused by acts or omissions of an individual having responsibility for the care, custody or control of a client receiving behavioral health services or community services under this Chapter. Abuse shall also include sexual misconduct, assault, molestation, incest, or prostitution of, or with, a client under the care of personnel of a mental health agency.
2. "Agency director" means the person primarily responsible for the management of an outpatient or inpatient mental health agency, service provider, regional authority or the deputy director of the division, or their designees.
3. "AHCCCSA" means the Arizona Health Care Cost Containment System Administration.
4. "Applicant" means an individual who:
 - a. Submits to a regional authority an application for behavioral health services under this Chapter or on whose behalf an application has been submitted; or
 - b. Is referred to a regional authority for a determination of eligibility for behavioral health services according to this Chapter.
- ~~4.5.~~ "ASH" means the Arizona State Hospital.
6. "Authorization" means written permission for a mental health agency to release or disclose a client's record or information, containing:
 - a. The name of the mental health agency releasing or disclosing the client's record or information;
 - b. The purpose of the release or disclosure;
 - c. The individual, mental health agency, or entity requesting or receiving the client's record or information;
 - d. A description of the client's record or information to be released or disclosed;
 - e. A statement:
 - i. Of permission for the mental health agency to release or disclose the client's record or information; and
 - ii. That permission may be revoked at any time;
 - f. The date when or conditions under which the permission expires;
 - g. The date the document is signed; and
 - h. The signature of the client or, if applicable, the client's guardian.
7. "Behavioral health issue" means an individual's condition related to a mental disorder, personality disorder, substance abuse, or a significant psychological or behavioral response to an identifiable stressor or stressors.
8. "Behavioral health service" means the assessment, diagnosis, or treatment of an individual's behavioral health issue.
- ~~5-9.~~ "Burden of proof" means the necessity or obligation of affirmatively proving the fact or facts in dispute.
- ~~6-10.~~ "Case manager" means the person responsible for locating, accessing and monitoring the provision of services to clients in conjunction with a clinical team.
- ~~7-11.~~ "Client" means an individual who is seriously mentally ill and is being evaluated or treated for a mental disorder by or through a regional authority.
- ~~8-12.~~ "Client record" means the written compilation of information that describes and documents the evaluation, diagnosis or treatment of a client.
- ~~9-13.~~ "Client who needs special assistance" means a client who has been:
 - a. Deemed by a qualified clinician, case manager, clinical team, or regional authority to need special assistance in participating in the ISP or ITP process, which may include, but is not limited to:
 - i. A client who requires 24-hour supervision;
 - ii. A client who is, in fact, incapable of making or communicating needs but is without a court-appointed fiduciary; or
 - iii. A client with physical disabilities or language difficulties impacting the client's ability to make or communicate decisions or to prepare or participate in meetings; or
 - b. Otherwise deemed by a program director, the deputy director of the Division, or a hearing officer to need special assistance to effectively file a written grievance, to understand the grievance and investigation procedure, or to otherwise effectively participate in the grievance process under this Chapter.
- ~~10-14.~~ "Clinical team" refers to the interdisciplinary team of persons who are responsible for providing continuous treatment and support to a client and for locating, accessing and monitoring the provision of ~~mental~~ behavioral health services or community services. A clinical team consists of a psychiatrist, case manager, vocational specialist, psychiatric nurse, and other professionals or paraprofessionals, such as a psychologist, social worker, consumer case management aide, or rehabilitation specialist, as needed, based on the client's needs. The team shall also include a team leader who is a certified behavioral health supervisor under Laws 1992, Ch. 310.
- ~~11-15.~~ "Community services" means ~~community mental health~~ services required to be provided under ~~A.R.S. § 36-550 et seq.~~ A.R.S. Title 36, Chapter 5, Article 10 and includes, but is not limited to, such as clinical case management, outreach, housing and residential services, crisis intervention and resolution services, mobile crisis teams, day treatment, vocational training and opportunities, rehabilitation services, peer support, social support, recreation services, advo-

Notices of Exempt Rulemaking

- cacy, family support services, outpatient counseling and treatment, transportation, and medication evaluation and maintenance.
- ~~12-16.~~ “Condition requiring investigation” means, within the context of the grievance and investigation procedure set forth in Article 4 of this Chapter, an incident or condition which appears to be dangerous, illegal, or inhumane, including a client death.
- ~~13-17.~~ “County Annex” means the Maricopa County Psychiatric Annex of the Maricopa Medical Center.
- ~~14-18.~~ “Court-ordered treatment” means treatment ordered by the court under A.R.S. Title 36, Chapter 5.
- ~~15-19.~~ “Court-ordered evaluation” means evaluation ordered by the court under A.R.S. Title 36, Chapter 5.
- ~~16-20.~~ “Crisis services” or “emergency services” means immediate and intensive, time-limited, crisis intervention and resolution services which are available on a 24-hour basis and may include information and referral, evaluation and counseling to stabilize the situation, triage to an inpatient setting, clinical crisis intervention services, mobile crisis services, emergency crisis shelter services, and follow-up counseling for clients who are experiencing a psychiatric emergency.
- ~~17-21.~~ “Dangerous” as used in Article 4 of this Chapter means a condition that poses or posed a danger or the potential of danger to the health or safety of any client.
- ~~18-22.~~ “Department” means the Arizona Department of Health Services.
- ~~19-23.~~ “Designated representative” means a parent, guardian, relative, advocate, friend, or other person, designated by a client or guardian who, upon the request of the client or guardian, assists the client in protecting the client’s rights and voicing the client’s service needs
- ~~20-24.~~ “Discharge plan” means a hospital or community treatment and discharge plan prepared ~~pursuant~~ according to Article 3 of these rules.
- ~~21-25.~~ “Division” means the Division of Behavioral Health Services of the Department.
- ~~26.~~ “Drug used as a restraint” means a pharmacological restraint as used in A.R.S. § 36-513 that is not standard treatment for a client’s medical condition or behavioral health issue and is administered to:
- Manage the client’s behavior in a way that reduces the safety risk to the client or others.
 - Temporarily restrict the client’s freedom of movement.
- ~~22-27.~~ “DSM” “DSM” means the latest edition of the “Diagnostic and Statistical Manual of Mental Disorders,” edited by the American Psychiatric Association.
- ~~28.~~ “Emergency safety situation” means unanticipated client behavior that creates a substantial and imminent risk that the client may inflict injury, and has the ability to inflict injury, upon:
- The client, as evidenced by threats or attempts to commit suicide or to inflict injury on the client; or
 - Another individual, as evidenced by threats or attempts to inflict injury on another individual or individuals, previous behavior that has caused injury to another individual or individuals, or behavior that places another individual or individuals in reasonable fear of sustaining injury.
- ~~23-29.~~ “Enrolled Children” means persons under the age of 18 who receive ~~mental behavioral~~ health services by or through a regional authority.
- ~~24-30.~~ “Exploitation” means the illegal or improper use of a client or a client’s resources for another’s profit or advantage.
- ~~25-31.~~ “Frivolous,” as used in this Chapter, means a grievance that is devoid of merit. Grievances are presumed not to be frivolous unless the program director has good reason to believe that the grievance:
- Involves conduct that is not within the scope of this Chapter,
 - Is impossible on its face, or
 - Is substantially similar to conduct alleged in two previous grievances within the past year that have been determined to be unsubstantiated as provided in this Chapter.
- ~~26-32.~~ “Generic services” means services other than ~~mental behavioral~~ health services or community services for which clients may have a need and includes, but is not limited to, health, dental, vision care, housing arrangements, social organizations, recreational facilities, jobs, and educational institutions.
- ~~27-33.~~ “Grievance” means a complaint regarding an act, omission or condition, as provided in this Chapter.
- ~~28-34.~~ “Guardian” means an individual appointed by court order ~~pursuant~~ according to A.R.S. Title 14, Chapter 5 ~~or Title 36, Chapter 5,~~ or similar proceedings in another state or jurisdiction where said guardianship has been properly domesticated under Arizona law.
- ~~29-35.~~ “Hearing officer” refers to an impartial person designated by the director to hear a dispute and render a written decision.
- ~~30-36.~~ “Human rights advocate” means the human rights advocates appointed by the director under R9-21-105.
- ~~31-37.~~ “Human rights committee” means the human rights committee established under R9-21-106 by the Department.
- ~~32-38.~~ “Illegal” means, within the context of the grievance and investigation procedure set forth in Article 4 of this Chapter, an incident or occurrence which is or was likely to constitute a violation of a state or federal statute, regulation, court decision or other law, including the provisions of these Articles.
- ~~33-39.~~ “Individual service plan” or “ISP” means the written plan for services to a client, prepared in accordance with Article 3 of this Chapter.

Notices of Exempt Rulemaking

- 34-40. "Inhumane" as used in Article 4 of this Chapter means an incident, condition or occurrence that is demeaning to a client, or which is inconsistent with the proper regard for the right of the client to humane treatment.
- 35-41. "Inpatient facility" means the Arizona State Hospital, the County Annex, or any other inpatient treatment facility licensed or funded by or through the Department to provide mental behavioral health services, including psychiatric health facilities, licensed psychiatric hospitals, licensed psychiatric units in general hospitals, and licensed inpatient or behavioral health facilities in jails.
- 36-42. "Inpatient treatment and discharge plan" or "ITDP" means the written plan for services to a client prepared and implemented by an inpatient facility in accordance with Article 3 of this Chapter.
37. ~~"Likelihood of serious physical harm" means either~~
- a. ~~A substantial and imminent risk that serious physical harm will be inflicted by a client upon himself, as evidenced by threats or attempts to commit suicide or to inflict physical harm on himself; or~~
 - b. ~~A substantial and imminent risk that serious physical harm will be inflicted by a client upon another as evidenced by previous behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm. Substantial and imminent risk shall be interpreted to include only those instances where there is the present ability to enact serious physical harm or where there is a realistic perception of such ability.~~
- 38-43. "Long-term view" means a planning statement that identifies, from the client's perspective, what the client would like to be doing for work, education, and leisure and where the client would like to be living for up to a three-year period. The long-term view is based on the client's unique interests, strengths, and personal desires. It includes predicted times for achievement.
- 39-44. "Mechanical restraint" means ~~the use of any article, device, article, or garment attached or adjacent to a client's body that the client cannot easily remove and that restricts a the client's freedom of movement or normal access to the client's body, and cannot be easily removed by the client, and is used for the purpose of confining the client's mobility but does not include such a device, article, or garment used for orthopedic or surgical reasons or other medical device necessary to allow a client to heal from a medical condition or to participate in a treatment program. :~~
- a. Used for orthopedic or surgical reasons, or
 - b. Necessary to allow a client to heal from a medical condition or to participate in a treatment program for a medical condition.
- 40-45. "Medical practitioner" means a:
- a. Physician, licensed according to A.R.S. Title 32, Chapter 13 or 17;
 - b. Physician assistant, licensed according to A.R.S. Title 32, Chapter 25; or
 - c. Nurse practitioner, licensed according to A.R.S. Title 32, Chapter 15.
- 40-46. "Meeting" means an encounter or assembly of individuals which may be conducted in person or by telephone or by video-conferencing.
- 41-47. "Mental health agency" includes a regional authority, service provider, inpatient facility, or an agency licensed to conduct screening, evaluation and treatment under this Chapter.
42. ~~"Mental health services" include community services and psychiatric hospitalization.~~
48. "Nurse" means an individual licensed as a registered nurse or a practical nurse according to A.R.S. Title 32, Chapter 15.
- 43-49. "Party" or "parties" as used in Articles 3 and 4 of these rules means the person filing a grievance under this Chapter, the agency director who issued any final resolution or decision of such a grievance, the person whose conduct is complained of in the grievance, any client or applicant who is the subject of the request or grievance, the legal guardian of client or applicant, and, in selected cases, the appropriate human rights committee.
50. "Personal restraint" means the application of physical force without the use of any device, for the purpose of restricting the free movement of a client's body, but for a behavioral health agency licensed as a level 1 RTC or a Level I sub-acute agency according to A.A.C. R9-20-102 does not include:
- a. Holding a client for no longer than five minutes, without undue force, in order to calm or comfort the client; or
 - b. Holding a client's hand to escort the client from one area to another.
44. ~~"Pharmacological restraint" means the use of a psychopharmacologic drug for discipline of the person or convenience of the staff and not solely required to treat medical symptoms identified by staff and recorded in the person's medical record:~~
- a. ~~In response to a likelihood of serious harm, or~~
 - b. ~~In such a manner as to unreasonably restrict a client's movement.~~
45. ~~"Physical restraint" means the use of bodily force to restrict the client's freedom of movement but does not include the firm but gentle holding of a client for less than five minutes with no more force than is necessary to protect the client or others from harm.~~
- 46-51. "PRN order" or "Pro re rata medication" means medication given as needed.
- 47-52. "Program director" means the person with the day-to-day responsibility for the operation of a programmatic component of a service provider, such as a specific residential, vocational, or case management program.

Notices of Exempt Rulemaking

~~48-53.~~ “Qualified clinician” means a behavioral health professional who is licensed or certified under A.R.S. Title 32, or a behavioral health technician who is supervised by a licensed or certified behavioral health professional.

~~49-54.~~ “Region” means the geographical region designated by the Department in its contract with the regional authority.

~~50-55.~~ “Regional authority” means the regional behavioral health authority under contract with the Department to organize and administer the delivery of ~~mental~~ behavioral health services or community services to clients and enrolled children within a defined geographic area.

~~51-56.~~ “Restraint” means ~~physical personal restraint, mechanical restraint, or pharmacological restraint drug used as a restraint.~~

~~52-57.~~ “Seclusion” means restricting a client to a room or area through the use of locked doors or any other device or method which precludes a client from freely exiting the room or area or which a client reasonably believes precludes his unrestricted exit. In the case of an inpatient facility, confining a client to the facility, the grounds of the facility, or a ward of the facility does not constitute seclusion. In the case of a community residence, restricting a client to the residential site, ~~pursuant~~ according to specific provisions of an individual service plan or court order, does not constitute seclusion.

~~53-58.~~ “Seriously mentally ill” means a person 18 years of age or older who is either seriously mentally ill or chronically mentally ill as those terms are defined in A.R.S. § 36-550.

~~54-59.~~ “Service provider” means an agency, inpatient facility or other mental health provider funded by or through, under contract or subcontract with, licensed by, certified by, approved by, registered with, or supervised by, the Department, or receiving funds under Title XIX, to provide ~~mental~~ behavioral health services or community services.

~~55-60.~~ “State Protection and Advocacy System” means the agency designated as the Protection and Advocacy System for individuals with mental illness, ~~pursuant~~ according to 42 U.S.C. 10801-51.

~~56-61.~~ “Title XIX” means Title XIX of the Social Security Act, 42 U.S.C. 1396 et seq.

~~57-62.~~ “Treatment team” means the multidisciplinary team of persons who are responsible for providing continuous treatment and support to a client who is a current resident of an inpatient facility.

R9-21-102. Applicability

With regard to the provision of ~~mental~~ behavioral health services or community services to clients under A.R.S. Title 36, Chapter 5, this Chapter shall apply to the Department and to all mental health agencies funded by or through, under contract or subcontract with, licensed by, certified by, approved by, registered with, or supervised by; the Department, or receiving funds under Title XIX, to provide ~~mental~~ behavioral health services or community services. This Chapter shall not apply to the Arizona Department of Corrections.

R9-21-103. Principles

The purpose of this Chapter is to implement Arizona’s mental health program for clients under A.R.S. Title 36, Chapter 5. These rules shall be interpreted and enforced so as to ensure that all programs for mental health services provide:

1. Human dignity;
2. Respect for the client’s individuality, abilities, needs, and aspirations without regard to the client’s psychiatric condition;
3. Self-determination, freedom of choice and participation in treatment to the client’s fullest capacity;
4. Freedom from the discomfort, distress and deprivation which arise from an unresponsive and inhumane environment;
5. Privacy, including the opportunity wherever possible to be provided clearly defined private living, sleeping and personal care spaces;
6. Humane and adequate support and treatment that is responsive to the client’s needs, that recognizes that a client’s needs may vary, and that is sufficiently flexible to adjust to a client’s changing needs;
7. The opportunity to receive services which are adequate, appropriate, consistent with the client’s individual needs, and least restrictive of the client’s freedom;
8. The opportunity to receive treatment and services which are culturally sensitive in their structure, process and content;
9. The opportunity to receive services on a voluntary basis to the maximum extent possible and entirely if possible;
10. Integration of clients into their home communities through housing and residential services which are located in residential neighborhoods, which rely as much as possible on generic support services to provide training and assistance in ordinary community experiences, and which utilize specialized mental health programs that are situated in or near generic community services;
11. The opportunity to live in one’s own home and the flexibility of a service system which responds to individual needs by increasing, decreasing and changing services as needs change;
12. The opportunity to undergo normal experiences, even though such experiences may entail an element of risk; provided, however, that a client’s safety or well-being or that of others shall not be unreasonably jeopardized;
13. The opportunity to engage in activities and styles of living, consistent with the client’s interests, which encourage and maintain the integration of the client into the community.

Notices of Exempt Rulemaking

~~R9-21-104.~~ R9-21-103. Computation of Time

In computing any period of time prescribed or allowed by this Chapter, the day of the act, event or default from which the designated period of time begins to run shall not be included. When the period of time prescribed or allowed is 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.

For any period of time prescribed or allowed by this Chapter, the time shall be calculated as follows:

1. The period of time shall not include the day of the act, event or default from which the designated period of time begins to run;
2. If the period of time is designated as calendar days, the period of time shall include each day after the day of the act, event or default from which the designated period of time begins to run;
3. If the period of time is not designated as calendar days:
 - a. If the period of time prescribed or allowed is less than 11 days, the period of time shall not include intermediate Saturdays, Sundays, and legal holidays;
 - b. If the period of time is 11 days or more, the period of time shall include intermediate Saturdays, Sundays, and legal holidays;
 - c. If the last day of the period of time is not a Saturday, Sunday, or legal holiday, the period of time shall include the last day of the period of time; and
 - d. If the last day of the period of time is a Saturday, Sunday, or legal holiday, the period of time shall extend until the end of the next day that is not a Saturday, Sunday or legal holiday.

~~R9-21-105.~~ R9-21-104. Office of Human Rights; Human Rights Advocates

- A. The director shall establish an Office of Human Rights for clients within the Department. The office shall have its own chief officer appointed by the director. The chief officer shall report directly to the director and shall be responsible for the management and control of the office, as well as the hiring, training, supervision, and coordination of all Department human rights advocates.
- B. The chief officer shall appoint at least one human rights advocate for each 2,500 clients in each region. Each region shall have at least one human rights advocate. The chief officer shall appoint at least one human rights advocate for ASH. All clients shall have the right of access to a human rights advocate in order to understand, exercise, and protect their rights. The human rights advocate shall advocate on behalf of clients and shall assist clients in understanding and protecting their rights and obtaining needed services. The human rights advocate shall also assist clients in resolving appeals and grievances under ~~Articles 3 and~~ Article 4 of this Chapter and shall coordinate and assist the human rights committees in performing their duties.
- C. The human rights advocates shall be given access to all:
 1. ~~All clients~~ Clients; and
 2. Client records from a service provider, regional authority, or the Department, except as prohibited by federal or state law A.R.S. §§ 36-445 et seq., ~~provided the advocate obtains written consent from the client and signs a written statement agreeing to adhere to all applicable laws regarding the confidentiality of such records.~~
- D. Staff of inpatient facilities, regional authorities, and service providers shall cooperate with the advocate by providing relevant information, reports, investigations, and access to meetings, staff persons, and facilities except as prohibited by A.R.S. §§ 36-445 et seq., 36-107, 36-504, 36-507, 36-509, and 36-517.01, federal or state law and the client's right to privacy.
- E. An agency director shall notify the Office of Human Rights and the applicable human rights committee of each client who needs special assistance.
- F. The Office of Human Rights shall:
 1. Maintain a list that contains the names of each client who needs special assistance and, if applicable, the name and address of the residential program providing behavioral services to the client; and
 2. Provide each human rights committee with a list of all clients who need special assistance who reside in the respective jurisdiction of the human rights committee.
- ~~E-G.~~ The Office of Human Rights shall promptly distribute to all appropriate human rights committees copies of all reports received ~~pursuant~~ according to this Chapter (e.g., reports regarding clients who need special assistance, allegations of mistreatment, denial of rights, restraint, and seclusion).

~~R9-21-106.~~ R9-21-105. Human Rights Committees

- A. Pursuant According to A.R.S. §§ 41-3803 and 41-3804, the Department shall establish human rights committees to provide independent oversight to ensure that the rights of clients and enrolled children are protected. The Department shall establish at least one human rights committee for each region and the Arizona State Hospital. Upon the establishment of a human rights committee, if more than 2500 clients reside within a region, the Department shall establish additional human rights committees until there is one human rights committee for each 2500 clients in a region.

Notices of Exempt Rulemaking

- B.** Each human rights committee shall be composed of at least seven and not more than 15 members. At least two members of the committee shall be clients or former clients, at least two members shall be relatives of clients, two members shall be parents of enrolled children and at least three members shall have expertise in one of the following areas: psychology, law, medicine, education, special education, social work or ~~mental~~ behavioral health services.
- C.** The director shall appoint the initial members to each regional committee and the human rights committee for the Arizona State Hospital. The Director shall appoint members to fill vacancies on a human rights committee, subject to the approval of the committee.
- D.** Each committee shall meet at least four times each year. Within three months of its formation, each committee shall establish written guidelines governing the committee's operations. These guidelines shall be consistent with A.R.S. §§ 41-3803 and 41-3804. The adoption and amendment of the committee's guidelines shall be by a majority vote of the committee and shall be submitted to the Director for approval.
- E.** No employee of or individual under contract with the Department, regional authority or service provider may be a voting member of a committee.
- F.** If a member of a human rights committee or the human rights committee determines that a member has a conflict of interest regarding an agenda item, the member shall refrain from:
1. Participating in a discussion regarding the agenda item, and
 2. Voting on the agenda item.
- ~~**F.G.**~~ Each committee shall, within its respective jurisdiction, provide independent oversight and review of:
1. Allegations of illegal, dangerous or inhumane treatment of clients and enrolled children;
 2. Reports filed with the committee under R9-21-203 and R9-21-204 concerning the use of seclusion, restraint, abuse, neglect, exploitation, mistreatment, accidents ~~and~~ or injuries;
 3. The provision of services to clients identified under R9-21-301 in need of special assistance
 4. Violations of rights of clients and enrolled children and conditions requiring investigation under Article 4 of this Chapter;
 5. Research in the field of mental health ~~pursuant~~ according to A.R.S. § 41-3804(E)(2); and
 6. Any other issue affecting the human rights of clients and enrolled children.
- ~~**G.**~~ ~~The agency director shall provide notice to the human rights advocates provided by the Department whenever a client is determined to need special assistance pursuant to R9-21-301:~~
- ~~1. The appropriate human rights advocate shall maintain a current list of all such clients.~~
 - ~~2. The human rights committee shall make special efforts to monitor the program's compliance with Department rules for all such clients. Such efforts shall include regular visits to the residential environment where such clients live, meetings with clients to determine their satisfaction with the program, and inspection of relevant records or other documents, except as prohibited by A.R.S. §§ 36-445 et seq., 36-107, 36-504, 36-507, 36-509, and 36-517.01, and the client's right to privacy. Committee members may inspect client records pursuant to A.R.S. §§ 36-509(A)(35) and 41-3804(I).~~
- H.** Within its jurisdiction, each human rights committee shall, for a client who needs special assistance, and may, for other clients and enrolled children:
1. Make regular site visits to residential environments;
 2. Meet with the client, including a client who needs special assistance, in residential environments to determine satisfaction of the clients with the residential environments; and
 3. Inspect client records, including client records for clients who need special assistance, except as prohibited by federal or state law and a client's right to privacy.
- ~~**H.I.**~~ A committee may request the services of a consultant or staff person to advise the committee on specific issues. The cost of the consultant or staff person shall be assumed by the Department or regional authority subject to the availability of funds specifically allocated for that purpose. A consultant or staff person may, in the sole discretion of the committee, be a member of another committee or an employee of the Department, regional authority, or service provider. No committee consultant or staff person shall vote or otherwise direct the committee's decisions.
- ~~**I.J.**~~ Committee members and committee consultants and staff persons shall have access to client records ~~pursuant~~ according to A.R.S. §§ 36-509(A)(35) ~~A.R.S. §§ 36-509(13)~~ and 41-3804(I). If a human rights committee's request for information or records is denied, the committee may request a review of the decision to deny the request ~~pursuant~~ according to A.R.S. § 41-3804(J). Nothing in this rule shall be construed to require the disclosure of records or information to the extent that such information is protected by A.R.S. § 36-445 et seq.
- ~~**J.K.**~~ On the first day of the months of January, April, July, and October of each year, each committee shall issue a quarterly report summarizing its activities for the prior quarter, including any written objections to the Director ~~pursuant~~ according to A.R.S. § 41-3804(F), and make any recommendations for changes it believes the Department or regional authorities should implement. In addition, the committee may, as it deems appropriate, issue reports on specific problems or violations of client's rights. The report of a regional committee shall be delivered to the regional authority and the Division.
- ~~**K.L.**~~ The Department shall provide training and support to human rights committees.

Notices of Exempt Rulemaking

~~L.M.~~ A human rights committee may request:

1. An investigation for a client ~~pursuant~~ according to Article 4 of this Chapter, or
2. A regional authority or the Arizona State Hospital, as applicable, to conduct an investigation for an enrolled child.

~~M.N.~~ The regional authority or the Arizona State Hospital, as applicable, when requested by a human rights committee, shall conduct an investigation concerning:

1. A client as provided in Article 4 of this Chapter, and
2. An enrolled child.

~~N.O.~~ A human rights committee shall submit an annual report of the human rights committee's activities and recommendations to the Director at the end of each calendar year ~~pursuant~~ according to A.R.S. § 41-3804(G).

~~R9-21-107. R9-21-106.~~ **State Protection and Advocacy System**

Staff of mental health agencies shall cooperate with the State Protection and Advocacy System in its investigations and advocacy for clients and shall provide the System access to clients, records and facilities to the extent permitted and required by federal law, 42 U.S.C.A. 10801-51. Nothing in this rule shall be construed to create an independent cause of action that does not already exist for the State Protection and Advocacy System either in state court or any administrative proceeding provided by these rules.

~~R9-21-107.~~ **Renumbered**

ARTICLE 2. RIGHTS OF PERSONS WITH SERIOUS MENTAL ILLNESS

R9-21-201. Civil and Other Legal Rights

A. Clients shall have all rights accorded by applicable law, including but not limited to those prescribed in A.R.S. §§ 36-504 through 36-514 and in A.A.C. Title 9, Chapter ~~10, 20~~ Articles 10 and 50. Any individual or agency providing ~~mental behavioral~~ health services or community services as defined in R9-21-101 shall not abridge these rights, including the following:

1. Those civil rights set forth in A.R.S. § 36-506;
2. The right to acquire and dispose of property, to execute instruments, to enter into contractual relationships, to hold professional or occupational or vehicle operator's licenses, unless the Client has been adjudicated incompetent or there has been a judicial order or finding that such client is unable to exercise the specific right or category of rights. In the case of a client adjudicated incompetent, these rights may be exercised by the client's guardian, in accordance with applicable law;
3. The right to be free from unlawful discrimination by the Department or by any mental health agency on the basis of race, creed, religion, sex, sexual preference, age, physical or mental handicap or degree of handicap; provided, however, classifications based on age, sex, category or degree of handicap shall not be considered discriminatory, if based on written criteria of client selection developed by a mental health agency and approved by the Department as necessary to the safe operation of the mental health agency and in the best interests of the clients involved;
4. The right to equal access to all existing behavioral health services, community services, and generic services provided by or through the state of Arizona;
5. The right to religious freedom and practice, without compulsion and according to the preference of the client;
6. The right to vote, unless under guardianship, including reasonable assistance when desired in registering and voting in a nonpartisan and noncoercive manner;
7. The right to communicate including:
 - a. The right to have reasonable access to a telephone and reasonable opportunities to make and receive confidential calls and to have assistance when desired and necessary to implement this right;
 - b. The unrestricted right to send and receive uncensored and unopened mail, to be provided with stationery and postage in reasonable amounts, and to assistance when desired and necessary to implement this right;
8. The right to be visited and visit with others, provided that reasonable restrictions may be placed on the time and place of the visit but only to protect the privacy of other clients or to avoid serious disruptions in the normal functioning of the mental health agency;
9. The right to associate with anyone of the client's choosing, to form associations, and to discuss as a group, with those responsible for the program, matters of general interest to the client, provided that these do not result in serious disruptions in the normal functioning of the mental health agency. Clients shall receive cooperation from the mental health agency if they desire to publicize and hold meetings and clients shall be entitled to invite visitors to attend and participate in such meetings, provided that they do not result in serious disruptions in the normal functioning of the mental health agency;
10. The right to privacy, including the right not to be fingerprinted and photographed without ~~consent~~ authorization, except as provided by A.R.S. § 36-507(2);
11. The right to be informed, in appropriate language and terms, of client rights;

Notices of Exempt Rulemaking

12. The right to assert grievances with respect to infringement of these rights, including the right to have such grievances considered in a fair, timely, and impartial procedure, as set forth in Article 4 of these rules, and the right not to be retaliated against for filing a grievance.;
 13. The right of access to a human rights advocate in order to understand, exercise, and protect a client's rights;
 14. The right to be assisted by an attorney or designated representative of the client's own choice, including the right to meet in a private area at the program or facility with an attorney or designated representative. Nothing in this Section shall be construed to require the Department or any mental health agency to pay for the services of an attorney who consults with or represents a client;
 15. The right to exercise all other rights, entitlements, privileges, immunities provided by law, and specifically those rights of consumers of ~~mental behavioral health services~~ or community services set forth in A.R.S. §§ 36-504 through 36-514;
 16. The same civil rights as all other citizens of Arizona, including the right to marry and to obtain a divorce, to have a family, and to live in the community of their choice without constraints upon their independence, except those constraints to which all citizens are subject.
- B.** Nothing in this Article shall be interpreted to:
1. Give the power, right, or authority to any person or mental health agency to authorize sterilization, abortion, or psychosurgery with respect to any client, except as may otherwise be provided by law; or
 2. Restrict the right of physicians, nurses, and emergency medical technicians to render emergency care or treatment in accordance with A.R.S. § 36-512; or
 3. Construe this rule to confer constitutional or statutory rights not already present.

R9-21-202. Right to Support and Treatment

- A.** ~~Clients shall have~~ A client has the following rights with respect to ~~their~~ the client's support and treatment:
1. The right to ~~mental behavioral health services or community services; under conditions that support the client's personal liberty and restrict such liberty only as provided by law or in these rules;~~
 - a. Under conditions that support the client's personal liberty and restrict personal liberty only as provided by law or in these rules this Chapter;
 - b. From a flexible service system that responds to the client's needs by increasing, decreasing and changing services as needs change;
 - c. Provided in a way that:
 - i. Preserves the client's human dignity;
 - ii. Respects the client's individuality, abilities, needs, and aspirations without regard to the client's psychiatric condition;
 - iii. Encourages the client's self-determination, freedom of choice, and participation in treatment to the client's fullest capacity;
 - iv. Ensures the client's freedom from the discomfort, distress and deprivation that arise from an unresponsive and inhumane environment;
 - v. Protects and promotes the client's privacy, including an opportunity whenever possible to be provided clearly defined private living, sleeping and personal care spaces; and
 - vi. Maximizes integration of the client into the client's community through housing and residential services which are located in residential neighborhoods, rely as much as possible on generic support services to provide training and assistance in ordinary community experiences, and utilize specialized mental health programs that are situated in or near generic community services;
 - vii. Offers the client humane and adequate support and treatment that is responsive to the client's needs, recognizes that the client's needs may vary, and is capable of adjusting to the client's changing needs; and
 - d. That provide the client with an opportunity to:
 - i. Receive services that are adequate, appropriate, consistent with the client's individual needs, and least restrictive of the client's freedom;
 - ii. Receive treatment and services that are culturally sensitive in structure, process and content;
 - iii. Receive services on a voluntary basis to the maximum extent possible and entirely if possible;
 - iv. Live in the client's own home;
 - v. Undergo normal experiences, even though the experiences may entail an element of risk, unless the client's safety or well-being or that of others is unreasonably jeopardized; and
 - vi. Engage in activities and styles of living, consistent with the client's interests, which encourage and maintain the integration of the client into the community.
 2. The right to ongoing participation in the planning of services as well as participation in the development and periodic revision of the individual service plan;
 3. The right to be provided with a reasonable explanation of all aspects of one's condition and treatment;

Notices of Exempt Rulemaking

4. The right to give informed consent to all ~~mental behavioral~~ health services and the right to refuse ~~mental behavioral~~ health services in accordance with A.R.S. §§ 36-512 and 36-513, except as provided for in A.R.S. §§ 36-520 through 36-544 and 13-3994;
5. The right not to participate in experimental treatment without ~~informed~~, voluntary, written informed consent; the right to appropriate protection associated with such participation; and the right and opportunity to revoke such consent;
6. The right to a humane treatment environment that affords protection from harm, appropriate privacy, and freedom from verbal or physical abuse;
7. The right to enjoy basic goods and services without threat of denial or delay. For residential service providers, these basic goods and services include at least the following:
 - a. A nutritionally sound diet of wholesome and tasteful food available at appropriate times and in as normal a manner as possible;
 - b. Arrangements for or provision of an adequate allowance of neat, clean, appropriate, and reasonable clothing that is individually chosen and owned;
 - c. Assistance in securing prompt and adequate medical care, including family planning services, through community medical facilities;
 - d. Opportunities for social contact in the client's home, work or schooling environments;
 - e. Opportunities for daily activities, recreation and physical exercise;
 - f. The opportunity to keep and use personal possessions; and
 - g. Access to individual storage space for personal possessions;
8. The right to be informed, in advance, of charges for services;
9. The right to a continuum of care in a unified and cohesive system of community services that is well integrated, facilitates the movement of clients among programs, and ensures continuity of care;
10. The right to a continuum of care that consists of, but is not limited to, clinical case management, outreach, housing and residential services, crisis intervention and resolution services, mobile crisis teams, vocational training and opportunities, day treatment, rehabilitation services, peer support, social support, recreation services, advocacy, family support services, outpatient counseling and treatment, transportation, and medication evaluation and maintenance;
11. The right to a continuum of care with programs that offer different levels of intensity of services in order to meet the individual needs of each client;
12. The right to appropriate mental health treatment, based on each client's individual and unique needs, and to those community services from which the client would reasonably benefit;
13. The right to community services provided in the most normal and least restrictive setting, according to the least restrictive means appropriate to the client's needs;
14. The right to clinical case management services and a case manager. The clinical team negotiates and oversees the provision of services and ensures the client's smooth transition with service providers and among agencies;
15. The right to participate in treatment decisions and in the development and implementation of the client's ISP, and the right to participate in choosing the type and location of services, consistent with the ISP;
16. The right to prompt consideration of discharge from an inpatient facility and the identification of the steps necessary to secure a client's discharge as part of an ISP;
17. The rights prescribed in Articles 3 and 4 of this Chapter, including the right to:
 - a. A written individual service plan;
 - b. Assert grievances; and
 - c. Be represented by a qualified advocate or other designated representative of the client's choosing in the development of the ISP and the inpatient treatment and discharge plan and in the grievance process, in order to understand, exercise and protect the client's rights.

B. Subsection (A) shall not be construed to confer constitutional or statutory rights not already present.

R9-21-203. Protection from Abuse, Neglect, Exploitation, and Mistreatment

- A. No mental health agency shall mistreat a client or permit the mistreatment of a client by staff subject to its direction. Mistreatment includes any intentional, reckless or negligent action or omission which exposes a client to a serious risk of physical or emotional harm. Mistreatment includes but is not limited to:
1. Abuse, neglect or exploitation;
 2. Corporal punishment;
 3. Any other unreasonable use or degree of force or threat of force not necessary to protect the client or another person from bodily harm;
 4. Infliction of mental or verbal abuse, such as screaming, ridicule, or name calling;
 5. Incitement or encouragement of clients or others to mistreat a client;
 6. Transfer or the threat of transfer of a client for punitive reasons;
 7. ~~The use of any restraint or seclusion as a punishment or primarily for the convenience of staff~~ Restraint or seclusion used as a means of coercion, discipline, convenience, or retaliation;
 8. Any act in retaliation against a client for reporting any violation of the provisions of this Chapter to the Department;

Notices of Exempt Rulemaking

or

9. Commercial exploitation.
- B.** The following special sanctions shall be available to the Department, in addition to those set forth in A.A.C. Title 9, Chapter 10, Article 10 of its rules, to protect the interests of the client involved as well as other current and former clients of the mental health agency.
1. Mistreatment of a client by staff or persons subject to the direction of a mental health agency may be grounds for suspension or revocation of the license of the mental health agency or the provision of Departmental financial assistance, and, with respect to employees of the Department, grounds for disciplinary action, which may include dismissal.
 2. Failure of an employee of the Department to report to the Department any instance of mistreatment within any mental health agency subject to this Chapter shall be grounds for disciplinary action, which may include dismissal.
 3. Failure of an agency director to report client deaths and allegations of sexual and physical abuse to the Department and to comply with the procedures described in Article 4 of this Chapter for the processing and investigation of grievances and reports shall be grounds for suspension of the license of the mental health agency or the provision of Departmental financial assistance, and, with respect to a service provider directly operated by the Department, grounds for disciplinary action, which may include dismissal.
 4. The agency director shall report all allegations of mistreatment and denial of rights to the Office of Human Rights and the regional authority for review and monitoring in accordance with R9-21-105.
- C.** An agency director shall report all incidents of abuse, neglect, or exploitation to the appropriate authorities as required by A.R.S. § 46-454 and shall document all such reports in the mental health agency's records.
- D.** Where an agency director has reasonable cause to believe that a felony relevant to the functioning of the program has been committed by staff persons subject to the agency's direction, a report shall be filed with the county attorney.
- E.** The identity of persons making reports of abuse, neglect, exploitation or mistreatment shall not be disclosed by the agency director or by the Department, except as necessary to investigate the subject matter of the report.

R9-21-204. Restraint and Seclusion

- A.** A mental health agency shall only use restraint or seclusion to the extent permitted by and in compliance with this Chapter, 9 A.A.C. 20, and other applicable federal or state law.
- ~~**A.B.**~~ A mental health agency shall only use Restraint restraint or seclusion shall only be used where a client poses a likelihood of serious physical harm as defined in R9-21-101. :
1. To ensure the safety of the client or another individual in an emergency safety situation;
 2. After other available less restrictive methods to control the client's behavior have been tried and were unsuccessful;
 3. Until the emergency safety situation ceases and the client's safety and the safety of others can be ensured, even if the restraint or seclusion order has not expired; and
 4. In a manner that:
 - a. Prevents physical injury to the client,
 - b. Minimizes the client's physical discomfort and mental distress, and
 - c. Complies with the mental health agency's policies and procedures required in subsection (E) and with this Section.
- ~~**B.C.**~~ A mental health agency shall not use Restraint restraint or seclusion shall not be used for the convenience of staff, as a method of punishment, in lieu of adequate staffing, or as a substitute for appropriate treatment as a means of coercion, discipline, convenience, or retaliation.
- ~~**C.D.**~~ Staff qualifications and staffing ratio requirements shall be adequate to safely provide restraint or seclusion as required by this rule without jeopardizing staffing of the primary program.
A service provider shall at all times have staff qualified according to 9 A.A.C. 20 on duty to provide:
1. Restraint and seclusion according to this Section, and
 2. The behavioral health services the mental health agency is authorized to provide according to 9 A.A.C. 20.
- ~~**D.E.**~~ Each A mental health agency shall develop and implement written policies and procedures training programs for the use and prevention of seclusion and restraint and seclusion that are consistent with this Section and other applicable federal or state law and include: by employees of the provider and alternatives thereto. The policies and training shall also include procedures for the immediate release of clients in seclusion or restraint during emergencies. The policies and training program shall be consistent with this rule and shall be filed with and approved by the Division. The mental health agency shall provide training on this rule, the agency's policies, and the appropriate techniques for placing a client in all types of seclusion and restraint used at the agency.
1. Methods of controlling behavior that may prevent the need for restraint or seclusion.
 2. Appropriate techniques for placing a client in each type of restraint or seclusion; used at the mental health agency, and
 3. Immediate release of a client during an emergency.
- F.** A mental health agency shall develop and implement a training program on the policies and procedures in subsection (E).
- E.** No form of restraint or seclusion shall be used with a client except:
1. When in full compliance with the policies of the mental health agency governing the use of restraint and seclusion;

Notices of Exempt Rulemaking

2. ~~After all less restrictive and reasonably available methods of control have been attempted and were unsuccessful; and~~
 3. ~~In such a manner as to afford the client the greatest possible comfort and to avoid physical injury and minimize mental distress to the greatest extent possible.~~
- F.** ~~Seclusion and restraint shall not be used by any community service provider and shall only be used by an inpatient facility or by a mental health agency but only to the extent that such seclusion or restraint is expressly permitted by and in compliance with these rules and other applicable licensing rules and statutes for that inpatient facility or provider of crisis services.~~
- G.** ~~Seclusion or restraint shall only be used when authorized by a written order from a licensed physician who has personally examined the client before authorizing the restraint or seclusion. The physician's written order shall document the date and time of the order, the date and time of personal examination, and the type of restraint authorized.~~
1. ~~If a physician is not available at the time of the emergency, a licensed registered nurse may initiate the mechanical restraint or seclusion provided that:~~
 - a. ~~Immediately thereafter, and~~
 - i. ~~No later than 15 minutes thereafter, the nurse initiates a call to obtain a telephone order from a licensed physician; and~~
 - ii. ~~No later than 30 minutes thereafter, the nurse obtains a telephone order from a licensed physician.~~
 - b. ~~The physician, in consultation with the nurse, shall determine whether it is clinically necessary for the physician to personally examine the client at that time. The determination shall be based upon the client's current and past medical, physical and psychiatric condition. The determination and the reasons therefor shall be documented in the client's record.~~
 2. ~~If a physician is not available at the time of the emergency, a licensed registered nurse may initiate pharmacological restraint by obtaining a telephone order from a physician:~~
 - a. ~~The physician, in consultation with the nurse, shall determine whether it is clinically necessary for the physician to personally examine the client at that time. The determination shall be based upon the client's current and past medical, physical and psychiatric condition. The determination and the reasons therefor shall be documented in the client's record.~~
 - b. ~~An order for pharmacological restraint shall be limited to the dosage necessary to achieve its effect. An order for pharmacological restraint shall not include the administration of time-released drugs which are designed to be effective for more than an eight-hour period.~~
 - e. ~~Any subsequent orders for pharmacological restraint shall be issued in accordance with paragraph (G)(2)(a) and (b) above, except that only one subsequent order may be made without personal examination of the client by the physician.~~
- G.** A mental health agency shall only use restraint or seclusion according to:
1. A written order given:
 - a. By a physician providing treatment to a client; or
 - b. If a physician providing treatment to a client is not present on the premises or on-call:
 - i. If the agency is licensed as a level 1 psychiatric acute hospital according to R9-20-102, by a physician or a nurse practitioner; or
 - ii. If the agency is licensed as a level 1 subacute agency or a level 1 RTC according to R9-20-102, by a medical practitioner;
 2. An oral order given to a nurse by:
 - a. A physician providing treatment to a client, or
 - b. If a physician providing treatment to a client is not present on the premises or on-call:
 - i. If the agency is licensed as a level 1 psychiatric acute hospital according to R9-20-102, by a physician or a nurse practitioner; or
 - ii. If the agency is licensed as a level 1 sub-acute agency or a level 1 RTC according to R9-20-102, by a medical practitioner;
- H.** If a restraint or seclusion is used according to subsection (G)(2), the individual giving the order shall, at the time of the oral order in consultation with the nurse, determine whether, based upon the client's current and past medical, physical and psychiatric condition, it is clinically necessary for:
1. If the agency is licensed as a level 1 psychiatric acute hospital according to R9-20-102, a physician to examine the client as soon as possible and, if applicable, the physician shall examine the client as soon as possible; or
 2. If the agency is licensed as a level 1 sub-acute agency or a level 1 RTC according to R9-20-102, a medical practitioner to examine the client as soon as possible and, if applicable, the medical practitioner shall examine the client as soon as possible.

Notices of Exempt Rulemaking

- I.** An individual who gives an order for restraint or seclusion shall:
1. Order the least restrictive restraint or seclusion that may resolve the client's behavior that is creating the emergency safety situation, based upon consultation with a staff member at the agency;
 2. Be available to the agency for consultation, at least by telephone, throughout the period of the restraint or seclusion;
 3. Include the following information on the order:
 - a. The name of the individual ordering the restraint or seclusion.
 - b. The date and time that the restraint or seclusion was ordered.
 - c. The restraint or seclusion ordered.
 - d. The criteria for release from restraint or seclusion without an additional order, and
 - e. The maximum duration for the restraint or seclusion
 4. If the order is for mechanical restraint or seclusion, limit the order to a period of time not to exceed three hours.
 5. If the order is for a drug used as a restraint, limit the:
 - a. The dosage to that necessary to achieve the desired effect, and
 - b. Drug ordered to a drug other than a time-released drug designed to be effective for more than three hours; and
 6. If the individual ordering the use of restraint or seclusion is not a physician providing treatment to the client:
 - a. After ordering the restraint or seclusion, consult with the physician providing treatment as soon as possible, and
 - b. Inform the physician providing treatment of the client's behavior that created the emergency safety situation and required the client to be restrained or placed in seclusion.
- H.I.** PRN orders shall not be used for any form of restraint or seclusion.
- K.** If an individual has not examined the client according to subsection (H), the following individual shall conduct a face-to-face assessment of a client's physical and psychological well-being within one hour after the initiation of restraint or seclusion:
1. For a behavioral health agency licensed according to R9-20-102 as a level 1 psychiatric acute hospital, a physician or nurse practitioner who is either onsite or on-call at the time the mental health agency initiates the restraint or seclusion; or
 2. For a behavioral health agency licensed according to R9-20-102 as a level 1 RTC or a level 1 sub-acute agency a medical practitioner or a registered nurse with at least one year of full-time behavioral health work experience, who is either onsite or on-call at the time the mental health agency initiates the restraint or seclusion.
- L.** A face-to-face assessment of a client according to subsection (K) shall include a determination of:
1. The client's physical and psychological status,
 2. The client's behavior,
 3. The appropriateness of the restraint or seclusion used,
 4. Whether the emergency safety situation has passed, and
 5. Any complication resulting from the restraint or seclusion used.
- I.M.** The use of any form of restraint or seclusion shall be recorded in the client's record with the following information For each restraint or seclusion of a client, a mental health agency shall include in the client's record the order and any renewal order for the restraint or seclusion, and shall document in the client's record:
1. The nature of the restraint or seclusion used;
 2. The reason for the restraint or seclusion, including the facts and behaviors justifying it;
 3. The types of less restrictive alternatives ~~which~~ that were attempted and the reasons for ~~their~~ the failure of the less restrictive alternatives;
 4. The ~~names name~~ of the persons ~~each individual~~ authorizing the use of restraint or seclusion and ~~employing each individual~~ the restraint or seclusion ~~restraining or secluding a client or monitoring a client who is in restraint or seclusion;~~
 5. The ~~physician's~~ evaluation and assessment of the need for seclusion or restraint ~~conducted by the individual who ordered the restraint or seclusion and the date and times thereof;~~
 6. The ~~physician's~~ determination and the reasons ~~therefor~~ for the determination ~~as to whether personal examination of a client is necessary pursuant~~ made according to subsection (G) (H) above;
 7. The specific and measurable criteria for client release from mechanical restraint or seclusion with documentation to support that the client was notified of the release criteria and the client's response;
 8. The date and ~~time of day~~ the restraint or seclusion was authorized and administered ~~times the restraint or seclusion actually began and ended;~~
 9. The time and results of the face-to-face assessment required in subsection (L);
 - 9.10. The date and times all periodic checks were made and by whom For the monitoring of a client in restraint or seclusion required by subsection (P); ~~and~~
 - a. The time of the monitoring,
 - b. The name of the staff member who conducted the monitoring, and
 - c. The observations made by the staff member during the monitoring; and
 10. The duration of the restraint or seclusion, and
 11. The outcome of the restraint or seclusion.

Notices of Exempt Rulemaking

~~J.N.~~ If, at any time during the ordered period of a seclusion or mechanical restraint, a licensed physician medical practitioner or licensed registered nurse determines that the emergency which justified the seclusion or restraint has subsided, or if the required documentation reflects that the criteria for release have been met, the client shall be released and the order terminated. At the end of the ordered period of seclusion or restraint, the client shall be released no later than the end of the period of time ordered for the restraint or seclusion, unless a new order is written by a physician in accordance with the order for restraint or seclusion is renewed according to subsections subsection (Q), (G) and (M), which documents that the emergency condition continues.

~~K.O.~~ For any client in mechanical restraint, the physician individual ordering the restraint shall determine whether one-to-one supervision is clinically appropriate necessary and shall document the determination and the reasons therefor for the determination in the client's record.

~~L.P.~~ Any client under restraint or seclusion shall be monitored as follows A mental health agency shall monitor a client in restraint or seclusion as follows:

1. The client shall be personally examined at least every 15 minutes for the purpose of ensuring the client's general comfort and safety and determining the client's need for food, fluid, bathing, and access to the toilet. Personal examinations shall be conducted by staff members with documented training in the appropriate use of restraint and seclusion and who are working under the supervision of a licensed physician, nurse practitioner or a licensed registered nurse.
2. A licensed registered nurse shall personally examine the client every hour to assess the status of the client's mental and physical condition and to ensure the client's continued well-being.
3. If the client has any medical condition that may be adversely affected by the restraint or seclusion, the client shall be monitored every five minutes, until the medical condition resolves, if applicable.
4. If other clients have access to a client being restrained or secluded; or, if the individual ordering the restraint or seclusion determines that one-to-one supervision is clinically necessary according to subsection (O), a staff member shall continuously supervise the client on a one-to-one basis the client being restrained or secluded shall be continuously supervised by a staff member on a one-to-one basis.
5. At least every two hours, the client shall be released from mechanical restraint or seclusion for at least ten minutes, unless a licensed physician or licensed registered nurse determines that such release is clearly contraindicated and documents the determination in the client's record If a mental health agency maintains a client in a mechanical restraint, a staff member shall loosen the mechanical restraints every 15 minutes.
6. Nutritious meals shall not be withheld from a client who is restrained or secluded, if mealtimes fall during the period of restraint. Staff shall supervise all meals provided to the client while in restraint or seclusion.
7. The results of the monitoring under this subsection shall be recorded in the client's record. At least once every two hours, a client who is restrained or secluded shall be given the opportunity to use a toilet.

~~M.Q.~~ An order for mechanical restraint or seclusion shall be effective for a maximum of three hours. If, at any time during the three hour period, a licensed registered nurse determines that the emergency which justified the restraint has subsided, the client shall be released and the order terminated. At the end of the three hour period, the client must be released unless a renewal or new order for mechanical restraint or seclusion is written by a licensed physician. All renewal or new orders for mechanical restraint or seclusion shall be issued in accordance with subsection (G) above, except that only one renewal or new order may be made without personal examination of the client by the physician.

An order for restraint or seclusion may be renewed as follows:

1. For the first renewal order, the order shall meet the requirements of subsection (G)(1) or (G)(2); and
2. For a renewal order subsequent to the first renewal order:
 - a. The individual in (G)(1) or (G)(2) shall personally examine the client before giving the renewal order, and
 - b. The order shall not permit the continuation of the restraint or seclusion for more than 12 consecutive hours unless the requirements of subsection (P) are met.

~~N.R.~~ No order for mechanical restraint or seclusion shall be renewed continue for more than 12 consecutive hours without the review and approval by the medical director or designee of the mental health agency in consultation with the client and relevant staff to discuss and evaluate the needs of the client. The review and approval, if any, and the reasons justifying any continued restraint or seclusion shall be documented in the client's record.

~~O.S.~~ If a client requires the repeated or continuous use of restraint or seclusion during a 24-hour period, a review process shall be initiated immediately and shall include the client and all relevant staff persons and clinical consultants who are available to evaluate the need for an alternative treatment setting and the needs of the client. The review and its findings and recommendations shall be documented in the client's record.

~~P.T.~~ Whenever a client is subjected to extended or repeated orders for restraint or seclusion during a 30-day period, the medical director shall require a special meeting of the client's clinical team pursuant according to R9-21-314 to determine whether other treatment interventions would be useful and whether modifications of the ISP or ~~IDTP~~ ITDP are required.

~~Q.U.~~ As part of a mental health agency's quality assurance program, an audit will be conducted and a report filed with the agency's medical director within 24 hours, or the first working day, for every episode of the use of restraint or seclusion to ensure that the agency's use of seclusion or restraint is in full compliance with the rules set forth in this Article.

~~R.V.~~ Not later than the tenth day of every month, the program director shall prepare and file with the Division and the Office of

Notices of Exempt Rulemaking

Human Rights a written report describing the use of any form of restraint or seclusion during the preceding month in the mental health agency or by any employees of the agency. In the case of an inpatient facility, the report shall also be filed with any patient or human rights committee for that facility.

~~S.W.~~The Department's human rights committee, the Office of Human Rights, and any applicable regional human rights committee shall review such reports to determine if there has been any inappropriate or unlawful use of restraint or seclusion and to determine if restraint or seclusion may be used in a more effective or appropriate fashion.

~~F.X.~~If any human rights committee or the Office of Human Rights determines that restraint or seclusion has been used in violation of any applicable law or rule, the committee or Office may take whatever action is appropriate, including investigating the matter itself or referring the matter to the Division for remedial action.

R9-21-205. Labor

A. No client shall be required to perform labor which involves the essential operation and maintenance of the service provider or the regular care, treatment or supervision of other clients, provided however, that:

1. Only a residential service provider may require clients to perform activities related to maintaining their bedrooms, other personal areas, and their clothing and personal possessions in a neat and clean manner.
2. Clients may perform labor in accordance with a planned and supervised program of vocational and rehabilitation training as set forth in an ISP or ~~IDTP~~ ITDP developed pursuant according to Article 3 of this Chapter.

B. Any client may voluntarily perform any labor available.

C. The requirements of federal and state laws relating to wages, hours of work, workers' compensation and other labor standards shall be met with respect to all labor.

R9-21-206. Competency and Consent

A. ~~No clients~~ A client shall not be deemed to be incompetent to manage ~~their~~ the client's affairs, to contract, to hold professional, occupational or vehicle operator's licenses, to make wills, to vote or to exercise any other civil or legal right solely by reason of admission to a mental health agency.

B. ~~All clients~~ An applicant or client shall be is presumed to be legally competent to conduct ~~their~~ the client's personal and financial affairs, unless otherwise determined by a court in a guardianship or conservatorship proceeding.

C. Only an applicant or client who is competent may provide informed consent, authorization, or permission as required in this Chapter. In any eligibility determination, assessment or periodic review of a client's ability to make informed decisions, rendered pursuant to Article 3 of these rules, A mental health agency shall use the following criteria to determine if an applicant or client is competent and the appropriateness of establishing or removing a guardianship, temporary guardianship, conservatorship, or guardianship ad litem for the client shall be determined as follows:

1. ~~A~~ An applicant or client shall be determined to be in need of guardianship or conservatorship only if the applicant's or client's ability to make important decisions concerning the applicant or client or the applicant's or client's property is so limited that the absence of a person with legal authority to make such decisions for the applicant or client creates a serious risk to the applicant's or client's health, welfare or safety.
2. Although the capability of the applicant or client to make important decisions is the central factor in determining the need for guardianship, the capabilities of the applicant's or client's family, the applicant's or client's living circumstances, the probability that available treatment will improve the applicant's or client's ability to make decisions on ~~one's own~~ the applicant's or client's behalf, and the availability and utility of nonjudicial alternatives to guardianships such as trusts, representative payees, citizen advocacy programs, or community support services should also be considered.
3. ~~The assessment or periodic review should identify the specific area(s) of the client's functioning which forms the basis of the recommendation for the appointment or removal of a guardian or conservator, such as an inability to respond appropriately to health problems or consent to medical care, or an inability to manage savings or routine expenses.~~
4. ~~3.~~ If the applicant or client has been determined to be incapable of making important decisions with regard to his the applicant's or client's personal or financial affairs, and if nonjudicial, less restrictive alternatives such as trusts, representative payees, cosignatory bank accounts, and citizen advocates are inadequate to protect the applicant or client from a substantial and unreasonable risk to the applicant's or client's health, safety, welfare, or property, the applicant's or client's nearest living relatives shall be notified with an accompanying recommendation that a guardian or conservator be appointed.
5. ~~4.~~ If the applicant or client is capable of making important decisions concerning his the applicant's or client's health, welfare, and property, either independently or through other less restrictive alternatives such as trusts, representative payees, cosignatory bank accounts, and citizen advocates, the applicant's or client's nearest living relative shall be notified with an accompanying recommendation that any existing guardian or conservator be removed.
6. ~~5.~~ If the client has been determined to require or no longer require assistance in the management of financial or personal affairs, and the nearest living relative cannot be found or is incapable of or not interested in caring for the client's interest, the mental health agency shall assist in the recruitment or removal of a trustee, representative payee, advocate, conservator, or guardian. Nothing in this Section shall be construed to require the Department or any regional

Notices of Exempt Rulemaking

authority or service provider to pay for the recruitment, appointment or removal of a trustee, representative payee, advocate, conservator, or guardian.

6. The assessment or periodic review shall identify the specific area or areas of the client's functioning that forms the basis of the recommendation for the appointment or removal of a guardian or conservator, such as an inability to respond appropriately to health problems or consent to medical care, or an inability to manage savings or routine expenses.

7.D. Mental health agencies shall devise and implement procedures to ensure that suspected improprieties of a guardian, conservator, trustee, representative payee, or other fiduciary are reported to the court or other appropriate authorities.

D. The informed consent of the client or guardian shall be required in at least the following circumstances:

1. Prior to medical treatment, including mental health treatment, except in the case of a true medical emergency as provided in A.R.S. § 36-512 or an emergency as provided in A.R.S. § 36-513 and R9-21-204;
2. Prior to involvement of the client in research activities approved under Department rules or policy; and
3. Prior to the client's admission to any program operated by a mental health agency, except pursuant to a court order as provided in A.R.S. Title 36, Chapter 5, Articles 4 and 5; and
4. Prior to the release of personal information to other mental health agencies or individuals, except as otherwise permitted by A.R.S. § 36-504, 36-509, or 36-517.01 or R9-21-209.

E. The authorization for medical treatment shall be given by:

1. The client if capable of making medical decisions and if not a minor or under guardianship;
2. The client's guardian, if any; or
3. A court of competent jurisdiction.

F. Consent to medical treatment shall be given voluntarily and only after the following information is provided to the client or guardian:

1. The intended outcome, nature and procedures involved in the proposed treatment;
2. The risks, including side effects if any, of the proposed treatment as well as the risks of not proceeding;
3. The alternatives to the proposed treatment, particularly alternatives offering less risk or other adverse effects; and
4. That consent may be withheld or withdrawn at any time, with no punitive action taken against the client.

G. A consent form, which indicates that the information described in subsection (F) above was provided, shall be signed by the client or the guardian.

1. Consent may be revoked at any time by the client or guardian through a reasonably clear statement in writing.
2. A client shall receive assistance in writing the revocation if necessary.
3. If consent is revoked, treatment shall be promptly discontinued, provided that a course of treatment may be phased out where necessary to avoid the harmful effects of abrupt discontinuance.

R9-21-206.01. Informed Consent

A. Except in an emergency according to A.R.S. §§ 36-512 or 36-513 or R9-21-204, or a court order according to A.R.S. Title 36, Chapter 5, Articles 4 and 5, a mental health agency shall obtain written informed consent in at least the following circumstances:

1. Before providing a client a treatment with known risks or side effects, including:
 - a. Psychotropic medication,
 - b. Electro-convulsive therapy, or
 - c. Telemedicine;
2. Before having a client participate in research activities approved under Department rules or policy; and
3. Before admitting a client to any medical detoxification, inpatient facility, or residential program operated by a mental health agency.

B. The informed consent in subsection (A) shall be voluntary and shall be obtained from:

1. If the client is determined to be competent according to R9-21-206, the client; or
2. If a court of competent jurisdiction has adjudicated the client incompetent, the client's guardian.

C. If informed consent is required according to subsection (A), a medical practitioner or a registered nurse with at least one year of behavioral health experience shall, before obtaining the informed consent, provide a client or, if applicable, the client's guardian with the following information:

1. The client's diagnosis;
2. The nature of and procedures involved with the proposed treatment, the client's participation in a research activity, or the client's admission to a program operated by a mental health agency;
3. The intended outcome of the proposed treatment, the client's participation in a research activity, or the client's admission to a program operated by a mental health agency;
4. The risks, including any side effects, of the proposed treatment, the client's participation in a research activity, or the client's admission to a program operated by a mental health agency;
5. The risks of not proceeding with the proposed treatment, the client's participation in a research activity, or the client's admission to a program operated by a mental health agency;
6. The alternatives to the proposed treatment, the client's participation in a research activity, or the client's admission to

Notices of Exempt Rulemaking

- a program operated by a mental health agency, particularly alternatives offering less risk or other adverse effects;
7. That any informed consent given may be withheld or revoked orally or in writing at any time, with no punitive action taken against the client;
 8. The potential consequences of revoking the informed consent; and
 9. A description of any clinical indications that might require suspension or termination of the proposed treatment, research activity, or program operated by a mental health agency.
- D.** A client or, if applicable, the client's guardian who gives informed consent for a treatment, participation in a research activity, or admission in a program operated by a mental health agency, shall give the informed consent by:
1. Signing and dating an acknowledgment that the client or, if applicable, the client's guardian has received the information in subsection (C) and gives informed consent to the proposed treatment, participation in a research activity, or admission of the client to the program operated by a mental health agency; or
 2. If the informed consent is for use of psychotropic medication or telemedicine and the client or, if applicable the client's guardian, refuses to sign an acknowledgement according to subsection (D)(1), giving verbal informed consent.
- E.** If a client or, if applicable, a client's guardian gives verbal informed consent according to subsection (D)(2), a medical practitioner shall document in the client's record that:
1. The information in subsection (C) was given to the client or, if applicable, the client's guardian;
 2. The client or, if applicable, the client's guardian refused to sign an acknowledgement according to subsection (D)(1); and
 3. The client or, if applicable, the client's guardian gives informed consent to the use of the psychotropic medication or telemedicine.
- F.** A client or, if applicable, the client's guardian may revoke informed consent at any time orally or by submitting a written statement revoking the informed consent.
- G.** If informed consent is revoked according to subsection (F):
1. The treatment, the client's participation in a research activity, or the applicant's or client's admission to a program operated by a mental health agency shall be immediately discontinued, or
 2. If abrupt discontinuation of a treatment poses an imminent risk to a client, the treatment shall be phased out to avoid any harmful effects.
- H.** If a client or, if applicable, the client's guardian needs assistance with revoking informed consent according to subsection (F), the client or, if applicable, the client's guardian shall receive the assistance.

R9-21-207. Medication

- A.** Medication shall only be administered with the informed consent of the client or Title 36 guardian. Information relating to common risks and side effects of the medication, the procedures to be taken to minimize such risks, and a description of any clinical indications that might require suspension or termination of the drug therapy shall be available to the client, guardian, if any, and the staff in every mental health agency. Such information shall be available to family members in accordance with A.R.S. §§ 36-504, 36-509, and 36-517.01.
- B.** All clients have a right to be free from unnecessary or excessive medication.
- C.** Medication shall not be used as punishment, for the convenience of the staff, or as a substitute for other ~~mental~~ behavioral health services and shall be given in the least amount medically necessary with particular emphasis placed on minimizing side effects which otherwise would interfere with aspects of treatment.
- D.** Medication administered by a mental health agency shall be prescribed by a licensed physician, certified physician assistant, or a licensed nurse practitioner.
1. Psychotropic medication shall be prescribed by:
 - a. A psychiatrist who is a licensed physician; or
 - b. A licensed nurse practitioner, certified physician assistant, or physician trained or experienced in the use of psychotropic medication, who has seen the client and is familiar with the client's medical history or, in an emergency, is at least familiar with the client's medical history.
 2. Each client receiving psychotropic medication shall be seen monthly or as indicated in the client's ISP by a licensed nurse practitioner, certified physician's assistant or physician prescribing the medication, who shall note in the client's record:
 - a. The appropriateness of the current dosage,
 - b. All medication being taken by the client and the appropriateness of the mixture of medications,
 - c. Any signs of tardive dyskinesia or other side effects,
 - d. The reason for the use of the medication, and
 - e. The effectiveness of the medication.
 3. When a client on psychotropic medication receives a yearly physical examination, the results of the examination shall be reviewed by the physician prescribing the medication. The physician shall note any adverse effects of the continued use of the prescribed psychotropic medication in the client's record.

Notices of Exempt Rulemaking

4. Whenever a prescription for medication is written or changed, a notation of the medication, dosage, frequency of administration, and the reason why the medication was ordered or changed shall be entered in the client's record.
- E. Self-administration of medication by clients shall be permitted unless otherwise restricted by the responsible physician or licensed nurse practitioner. Such clients shall be trained in self-administration of medication and, if necessary, shall be monitored by trained staff.
- F. Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation and security.
- G. PRN orders for medication shall not be ~~used as pharmacological restraint~~ given for a drug used as a restraint.

R9-21-208. Property and Possessions

- A. No mental health agency shall interfere with a client's right to acquire, retain and dispose of personal property, including the right to maintain an individual bank account, except where:
 1. The client is under guardianship, conservatorship, or has a representative payee;
 2. Otherwise ordered by court; or
 3. A particular object, other than money or personal funds, poses an imminent threat of serious physical harm to the client or others. Any restriction on the client's control of property deemed to pose an imminent threat of serious physical harm shall be recorded in the client's record together with the reasons ~~therefor~~ the particular object poses an imminent threat of serious physical harm to the client or others.
- B. If a mental health agency, which offers assistance to its clients in managing their funds, takes possession or control of a client's funds at the request of the client, guardian, or by court order, the mental health agency shall issue a receipt to the client or guardian for each transaction involving such funds. If deposited funds in excess of \$250 are held by the mental health agency, where the likelihood of the client's stay will exceed 30 days, an individual bank account or an amalgamated client trust account shall be maintained for the benefit of the client. All interest shall become the property of the client or the fair allocation ~~thereof of the interest~~ in the case of an amalgamated client trust account. The mental health agency shall provide a bond to cover client funds held.
 1. Unless a guardian, conservator, or representative payee has been appointed, the client shall have an unrestricted right to manage and spend deposited funds.
 2. The mental health agency shall obtain prior written ~~authorization~~ permission from the client, the guardian or conservator for any arrangement involving shared or delegated management responsibilities. The ~~authorization~~ permission shall set forth the terms and conditions of the arrangement.
 3. Where the mental health agency has shared or delegated management responsibilities, the mental health agency shall meet the following requirements:
 - a. Client funds shall not be applied to goods or services which the mental health agency is obligated by law or funded by contract to provide, except as permitted by the client fee schedule authorized by the Department;
 - b. The mental health agency and its staff shall have no direct or indirect ownership or survivorship interest in the funds;
 - c. Such arrangements shall be accompanied by a training program, documented in the ISP, to eliminate the need for such assistance;
 - d. Staff shall not participate in arrangements for shared or delegated management of the client's funds except as representatives of the mental health agency;
 - e. Any arrangements made to transfer a client from one mental health agency to another shall include provisions for transferring shared or delegated management responsibilities to the receiving mental health agency;
 - f. The client shall be informed of all proposed expenditures and any expression of preference within reason shall be honored; and
 - g. Expenditures shall be made only for purposes which directly benefit the client in accordance with the client's interests and desires.
 4. A record shall be kept of every transaction involving deposited funds, including the date and amount received or disbursed, and the name of the person to or from whom the funds are received or disbursed. The client, guardian, conservator, mental health agency or regional human rights advocate or other representative may demand an accounting at any reasonable time, including at the time of the client's transfer, discharge or death.
 5. Any funds so deposited shall be treated for the purpose of collecting charges for care the same as any other property held by or on behalf of the client. The client or guardian shall be informed of any possible charges before the onset of services.

R9-21-209. Records

- A. Records of a client who is currently receiving or has received services from a mental health agency ~~shall be~~ are private and ~~not open to inspection except~~ shall be disclosed only to those individuals authorized ~~pursuant~~ according to A.R.S. § 36-504, 36-507, 36-509, or 36-517.01 federal and state law.

Notices of Exempt Rulemaking

- B.** Inspection by the client, the client's guardian, attorney, paralegal working under the supervision of an attorney, or any other designated representative shall be permitted as follows:
1. Except as prohibited by federal and state law, the client and, if applicable, the client's guardian shall be permitted to inspect and copy the client's record upon as soon as possible after a request, and no later than 10 working days after a request except as prohibited by A.R.S. § 36-507. If an attending physician determines that client inspection is contraindicated under A.R.S. § 36-507, the determination, the reasons therefor, and those portions of the record that are contraindicated shall be noted in the client record. Only those portions of the record that are contraindicated may be withheld from the client. If any portion of the client record is withheld under federal or state law as contraindicated, the physician mental health agency shall inform provide written notice to the client or, if applicable, the client's guardian of the right to grieve under Article 4 of this Chapter, including:
 - a. The reason the mental health agency is withholding a portion of the client's record.
 - b. An explanation of the client's right to a review of the decision to withhold a portion of the client's record, and
 - c. An explanation of the client's right to file a grievance according to Article 4 of this Chapter.
 2. ~~The client's guardian shall be permitted to inspect and copy the client's record upon request, except as prohibited by A.R.S. § 36-504, 36-507, 36-509 or 36-517.01.~~
 - 3.2. An attorney, paralegal working under the supervision of an attorney, or other designated representative of the client shall be permitted to inspect and copy the record, if such attorney or representative furnishes written authorization from the client or guardian.
 - 4.3. When necessary for the understanding of the client; or guardian; and, if the client or the client's guardian provides authorization, when necessary for the understanding of an attorney, paralegal working under the supervision of an attorney, or designated representative, staff of the mental health agency possessing the records shall read or interpret the record for the client, guardian, attorney, paralegal working under the supervision of an attorney, or designated representative. Upon request, clients shall also be permitted to examine a copy of their record in accordance with paragraph (B)(1). The mental health agency may require the client to examine the record in the presence of a staff person when necessary to ensure the integrity of the record.
- C.** Inspection by specially authorized persons or entities shall be permitted as follows unless otherwise prohibited by federal or state law:
1. Records of a client may be available to those those individuals and agencies listed in A.R.S. § 36-509.
 2. Records of a client shall be open to inspection upon proper judicial order, whether or not such order is made in connection with pending judicial proceedings.
 3. Records of a client shall be made available to a physician who requests such records in the treatment of a medical emergency, provided that the client is given notice of such access as soon as possible ~~but no later than 12 hours from the request.~~
 4. Records of a client shall be made available to Division staff authorized by the Department to monitor the quality of services being provided by the mental health agency to the client.
 5. Records of a client shall be made available to guardians and family members actively participating in the client's care, treatment or supervision as provided by A.R.S. §§ 36-504; and 36-509(A)(8) and (B) and 36-517.01. Except when inspection of a client's record is required under a proper judicial order or by a physician in a medical emergency, a client, guardian or family member may challenge the decision to allow or deny inspection of the record by filing a request for administrative and judicial review in accordance with the provisions of A.R.S. § 36-517.01 or other applicable federal or state law. Once a request is filed, no further disclosure of records shall be made until the review has been completed.
- D.** Unless otherwise permitted by federal or state law, Records records shall be open to inspection by other third parties only upon the written consent authorization of the client or guardian. Before consent authorization is given, the client or guardian shall be offered an opportunity to examine the information to be disclosed and be provided with the name of the recipient and uses to be made of the information.
- E.** The fee for copying records obtained under this rule shall be no more than the actual expense of reproducing the record or the requested parts thereof and may be limited further by A.R.S. § 12-2295.
- F.** A client or guardian shall be informed of a court order or subpoena commanding production of a client's record as soon as possible and in any event prior to the date for production and of the client's or guardian's right to request the court to quash or modify the order or subpoena.
- G.** The records maintained by the mental health agency shall contain accurate, complete, timely, pertinent and relevant information.
1. If a client or guardian believes that the record contains inaccurate or misleading information, the client or guardian may prepare, with assistance if requested, a statement of disagreement which shall be entered in the record.
 2. If a client or guardian objects to the collection of the information in the record, the client or guardian may file a grievance pursuant according to Article 4 of this Chapter.

Notices of Exempt Rulemaking

H. A list shall be kept of every person or organization who inspects the client's records, other than the client's clinical team, the uses to be made of that information, and the person authorizing access. A list of such access shall be placed in the client's record and shall be made available to the client or other designated representative.

R9-21-210. Policies and Procedures of Service Providers

- A. A mental health agency may establish reasonable policies and procedures for the provision of mental behavioral health services or community services which ~~that~~ are consistent with Articles 1 through 5 of these rules and with all other requirements of Arizona law. No policy or procedure may restrict any right protected by these rules.
- B. The mental health agency shall inform all prospective clients of its policies and procedures prior to ~~their consenting the client or, if applicable, the client's guardian giving informed consent to the client's~~ admission to the program ~~pursuant according to R9-21-206(D)(3) R9-21-206.01(A)(3).~~
- C. If a client acts in a manner that is seriously in disregard of a reasonable policy, the agency director shall make all reasonable efforts to respond to the situation, including making reasonable accommodation to the program's policy if the client's failure to conform to a reasonable policy is due to the client's disability.

ARTICLE 3. INDIVIDUAL SERVICE PLANNING FOR MENTAL BEHAVIORAL HEALTH SERVICES FOR PERSONS WITH SERIOUS MENTAL ILLNESS

R9-21-301. General Provisions

- A. Responsibilities of the regional authority, clinical team, and case manager.
 - 1. The regional authority is responsible for providing, purchasing, or arranging for all services identified in individual service plans.
 - a. The regional authority shall perform all intake and case management for its region. The regional authority may contract with a mental health agency to perform intake or case management but only with the written approval of the Department, which may be given in its sole discretion.
 - b. Other services may be provided directly by programs operated by the Department or by the regional authority through contracts with service providers ~~which that~~ are licensed or approved by the Department, or through arrangements with other agencies or generic providers.
 - 2. The regional authority and the clinical team shall work diligently to ensure equal access to generic services for its clients in order to integrate the client into the mainstream of society.
 - 3. The initial clinical team shall work to meet the individual's needs from the date of application or referral for services until such time as eligibility is established and an Individual Service Plan (ISP) is developed.
 - 4. The assigned clinical team shall be primarily responsible for providing continuous treatment, outreach and support to a client, for identifying appropriate mental behavioral health services or community services, and for developing, implementing and monitoring individual service plans for clients.
 - 5. The case manager, in conjunction with the clinical team, shall:
 - a. Locate services identified in the ISP;
 - b. Confirm the selection of service providers and include the names of such providers in the ISP;
 - c. Obtain a written client service agreement from each provider;
 - d. Be responsible for ensuring that services are actually delivered in accordance with the ISP; and
 - e. Monitor the delivery of services rendered to clients. Monitoring shall consider, at a minimum, the consistency of the services with the goals and objectives of the ISP.
 - 6. The case manager shall also be responsible to:
 - a. Initiate and maintain close contact with clients and service providers;
 - b. Provide support and assistance to ~~clients~~ a client, with ~~their consent~~ the client's permission and consistent with ~~their~~ the client's individual needs;
 - c. Ensure that ~~all each~~ service ~~providers~~ provider ~~participate~~ participates in the development of ~~their clients' the ISPS~~ ISP for each client of the service provider;
 - d. Ensure that each inpatient facility, according to R9-21-312, develops an Inpatient Treatment and Discharge Plan (ITDP) ~~pursuant to R9-21-312~~ which that is integrated in and consistent with the ISP;
 - e. Assess progress toward, and identify impediments to, the achievement of the client's goals and objectives identified in the ISP;
 - f. Promote client involvement in the development, review, and implementation of the ISP;
 - g. Attempt to resolve problems and disagreements with respect to any component of the ISP;
 - h. Assist in resolving emergencies concerning the implementation of the ISP;
 - i. Attend all periodic reviews of the ISP and ITDP meetings;
 - j. Assist in the exploration of less restrictive alternatives to hospitalization or involuntary commitment; and
 - k. Otherwise coordinate services provided to the client.
 - 7. If a case manager is assigned to a client who, at any time, is admitted to an inpatient facility, the case manager shall ensure the development, modification or revision of a client's ISP and the integration of the ITDP ~~in accordance with~~ according to this Article.

Notices of Exempt Rulemaking

- a. The inpatient facility clinician responsible for coordinating the ITDP shall immediately notify the client's case manager of the time of the admission and ensure that all treatment and discharge planning includes the case manager.
 - b. The case manager shall be provided notice of all treatment and discharge meetings, shall participate as a full member of the inpatient facility treatment team in such meetings, shall receive periodic and other reports concerning the client's treatment, and shall be responsible for identifying and securing appropriate community services to facilitate the client's discharge.
 - c. If no case manager has been assigned, the inpatient facility clinician primarily responsible for the client's inpatient care shall, within three days of admission, make a referral to the appropriate regional authority for the appointment of a case manager.
 - d. Delays in the assignment of a case manager or in the development or modification of an ISP or ITDP shall not be construed to prevent the clinically appropriate discharge of a client from an inpatient facility.
 - e. Inpatient facilities shall establish a mechanism for the credentialing of case managers and other members of the clinical team in order that they may participate in ITDP meetings.
- B. ~~Consent~~ Client participation in ~~to~~ service planning.**
1. It is the responsibility of the regional authority and its service providers to engage in service planning, including the provision of assessments, case management, ISPs, ~~ITDPs~~ ITDPs, and service referrals, ~~in accordance with~~ according to the provisions of these rules for the benefit of clients requesting, receiving or referred for ~~mental behavioral health services or community services~~. Clients and ~~their~~ the clients' guardians may refuse to participate in or to receive any service planning. In the event of such refusal, service planning ~~will~~ shall not be provided unless:
 - a. There is an emergency in which a qualified clinician determines that immediate intervention is necessary to prevent serious harm ~~to~~ to the client or others; or
 - b. The client is subject to court-ordered evaluation or treatment.
 2. A client's refusal to accept a particular service, including case management services, or a particular mode or course of treatment, shall not be grounds for refusing a client's access to other services ~~which~~ that the client accepts.
 3. A physical examination shall not be conducted over a client's refusal unless the examination is consented to by the client's guardian, or the examination is otherwise required by court order.
 4. A decision to provide services, including assessment, service planning, and case management services, to a client who is refusing such services, or a decision not to provide such services to such an individual, may be appealed ~~in accordance with~~ according to the provisions of ~~R9-21-315~~ R9-21-401. This subsection does not limit the rights of a client to accept, reject, or appeal particular results of the service planning process as ~~set forth~~ identified in other applicable provisions of these rules.
- C. Clients with special needs.**
1. Whenever, ~~pursuant~~ according to an assessment or in the development or review of any plan prepared under this Article, it is determined that a client is ~~in need of or would benefit from a client who needs~~ special assistance; or a client who needs counsel or advice in making treatment decisions or in enforcing the client's rights, the case manager shall:
 - a. Notify the regional authority, the Office of Human Rights, and the appropriate human rights committee of the client's need so that the client can be provided special assistance from the human rights advocate or special review by the human rights committee; and
 - b. If the client does not have a guardian, identify a friend, relative or other person who is willing to serve as a designated representative of the client.
 2. The clinical team shall make arrangements to have qualified interpreters or other reasonable accommodations, including qualified interpreters for the deaf, present at any assessment, meeting, service delivery, notice, review, or grievance for clients who cannot converse adequately in spoken English.
 3. Clients who are incarcerated in jails shall receive ISPs in accordance with R9-21-307. If legitimate security requirements of any jail in which a client is incarcerated require a reasonable modification of a specific procedure set forth in this rule, the clinical team may modify the method for preparing the ISP only to the extent necessary to accommodate the legitimate security concerns.
 - a. No modification may unreasonably restrict the client's right to participate in the ISP process;
 - b. No modification may alter the standards for developing an ISP, the client's right to obtain services ~~set forth~~ identified in the ISP, as provided in this Article, or the client's right to appeal any aspect of treatment planning ~~pursuant~~ according to ~~R9-21-315~~ R9-21-401, including the decision to modify the process for security reasons.
- D. Notices to the individual.**
1. Any individual or mental health agency required to give notice to an individual of any documents, including eligibility determinations, assessment reports, ISPs, and ITDPs ~~pursuant~~ according to this rule shall do so by:
 - a. Providing a copy of the document to the individual;
 - b. Providing copies to any designated representative and guardian;
 - c. Personally explaining to the individual and designated representative and/or guardian any right to accept, reject, or appeal the contents of the document and the procedures for doing so under this Article.

Notices of Exempt Rulemaking

2. Individuals requesting or receiving ~~mental~~ behavioral health services or community services shall be informed:
 - a. Of the right to request an assessment;
 - b. Of the right to have a designated representative assist the client at any stage of the service planning process;
 - c. Of the right to participate in the development of any plan prepared under this Article, including the right to attend all planning meetings;
 - d. Of the right to appeal any portion of any assessment, plan, or modification ~~thereof to an assessment or plan, in accordance with~~ according to R9-21-315 R9-21-401;
 - e. Of the authority of the Department to require necessary and relevant information about the individual's needs, income, and resources;
 - f. Of the availability of assistance from the regional authority in obtaining information necessary to determine the need for ~~mental~~ behavioral health services or community services;
 - g. Of the authority of the Department or mental health agency to charge for services and assessments; and
 - h. That if ~~they decline~~ the individual declines the services of a case manager or an ISP, ~~they have~~ the individual has the right to apply for services at a subsequent time;
 - i. That if ~~they decline~~ the individual declines any particular service or treatment modality, it will not jeopardize other accepted services.
- E. Extensions of time.
 1. ~~The case manager may extend the time to initiate or complete eligibility determinations, assessments, ISPs, and other actions pursuant~~ according to this Article Chapter may be extended if:
 - a. There is substantial difficulty in scheduling a meeting at which all necessary participants can attend;
 - b. The client fails to keep an appointment for assessment, evaluation, or any other necessary meeting;
 - c. The client is capable of but temporarily refuses to cooperate in the preparation of the plan or completion of an assessment or evaluation; ~~or~~
 - d. The client or the client's guardian and/or designated representative requests an extension of time; or
 - e. Additional documentation has been requested but has not yet been received.
 2. An extension under this rule shall not exceed the number of days incurred by the delay and in no event may exceed 20 days, unless the whereabouts of the client are unknown.
 3. For an SMI eligibility determination, an extension of time shall only apply if an applicant agrees to the extension.
- F. Meeting attendance through telecommunications link. Attendance by any person at any meeting ~~which that~~ is required or recommended ~~pursuant~~ according to this Article may be accomplished through a telecommunications link ~~which that~~ is contemporaneous with the meeting.

R9-21-302. Identification, Application, and Referral for Services of Persons with Serious Mental Illness

- A. Each regional authority shall develop and implement outreach programs that identify individuals within the authority's geographic area, including persons who reside in jails, homeless shelters, or other settings, who are seriously mentally ill.
 1. Inpatient facilities shall identify individuals in their respective facilities who are seriously mentally ill.
 2. An individual identified under this subsection shall be referred in writing to the appropriate regional authority for a determination of eligibility as provided in this Article.
- B. An individual desiring ~~mental~~ behavioral health services or community services under this Article may apply to the appropriate regional authority for a determination of eligibility. Application may be made by the individual or on the individual's behalf by the person's guardian, designated representative, or other appropriate individuals such as a family member or staff of a mental health agency. Individuals may apply for behavioral health services or community ~~mental health~~ services regardless of whether they reside in the community, an inpatient facility, a county jail, a homeless shelter, or any other location within the state of Arizona.
- ~~C. Upon application or referral for services, all individuals shall be provided a client rights brochure and the notices required by R9-21-211.~~
- ~~D. Upon receipt of an application or referral for services the regional authority shall assign a case manager and clinical team to the applicant within three days.~~

R9-21-303. ~~Eligibility: Interview and Determination~~ Eligibility Determination and Initial Assessment

- A. ~~Upon receipt of a request or referral for a determination of~~ Within three days of receipt of an application or referral by the regional authority, a qualified clinician shall meet with the individual, unless the individual refuses to be interviewed or is otherwise unavailable, to determine whether the an individual is eligible for services under this Article Chapter, a regional authority shall schedule an appointment for an initial meeting with the applicant by a qualified clinician, to occur no later than seven days after the regional authority receives the request or referral.
 - ~~1. The clinician shall provide the individual all of the information required by R9-21-301(D).~~
 - ~~2. The clinician shall schedule the applicant for a mental status examination, including an evaluation of the individual's decision-making capacity, to assist in the eligibility determination.~~
- B. During the initial meeting with an applicant by a qualified clinician, the qualified clinician shall:
 1. Obtain consent to an assessment of the applicant from the applicant or, if applicable, the applicant's guardian;

Notices of Exempt Rulemaking

2. Provide to the applicant and, if applicable, the applicant's guardian, the information required in R9-21-301(D)(2), a client rights brochure, and the notice required by R9-21-401(B);
 3. Determine whether the applicant is competent, according to R9-21-206;
 4. If, during the initial meeting with an applicant by a qualified clinician, the qualified clinician is unable to obtain sufficient information to determine whether the applicant is eligible for services under this Chapter:
 - a. Obtain authorization from the applicant or, if applicable, the applicant's guardian, for release of information, if applicable;
 - b. Request the additional information the qualified clinician needs in order to make a determination of whether the applicant is eligible for services under this Chapter; and
 5. Initiate an assessment according to R9-21-305.
- ~~B.C.~~ The qualified clinician in subsection (B) shall gather other necessary obtain information necessary to make an eligibility determination, including:
1. Identifying data and residence, including a social security number if available;
 2. The reasons for the request or referral for services;
 3. The individual's psychiatric diagnosis;
 4. The individual's present level of functioning, based upon the criteria set forth in the definition of "seriously mentally ill" in R9-21-101;
 5. The individual's history of mental health treatment;
 6. The individual's abilities, needs, and preferences for services; and
 7. A preliminary determination as to the individual's need for special assistance as defined by ~~R9-21-101(B)(9)~~ R9-21-101(B)(13).
- ~~E.D.~~ If at any time during the course of the eligibility process the qualified clinician determines that the individual has a current case manager, a current assessment, or an ISP, the clinician shall notify the client's case manager and terminate the eligibility process.
- ~~D.~~ Within seven days of receipt of an application or referral by the regional authority, a qualified clinician shall determine whether an individual is eligible for mental health services under this Article. In making the determination of eligibility, the qualified clinician shall consider all of the information available, including the results of the mental health status examination.
- E. To be eligible for behavioral health services or community services pursuant according to this Article Chapter the individual must be:
1. A resident of the state of Arizona, and
 2. Seriously mentally ill as defined in R9-21-101.
- ~~F.~~ Within two days of the eligibility determination, the qualified clinician shall provide written notice of the decision to the individual shall inform any person who is deemed ineligible for mental health services that:
1. ~~The person can appeal pursuant to R9-21-315;~~
 2. ~~The person can reapply at a later time, and~~
 3. ~~The person may request assistance in obtaining other services and will be provided a referral to an appropriate agency.~~
- ~~F.~~ The qualified clinician in subsection (B) shall determine whether an applicant is eligible for services under this Chapter and provide written notice of the SMI eligibility determination to the applicant or, if applicable, the applicant's guardian according to the following time-frames:
1. If the qualified clinician obtains sufficient information during the initial meeting with the applicant to determine whether the applicant is eligible for services under this Chapter, within three days of the initial meeting with the applicant by the qualified clinician;
 2. If the qualified clinician does not obtain sufficient information during the initial meeting with the applicant to determine whether the applicant is eligible for services under this Chapter, at the earliest of:
 - a. Within three days of obtaining sufficient information to determine whether the applicant is eligible for services under this Chapter, or
 - b. The time provided according to R9-21-301(E).
- ~~G.~~ At the time a qualified clinician provides an applicant with written notice of an SMI eligibility determination according to subsection (F), the qualified clinician shall:
1. Provide written notice to the applicant:
 - a. That the applicant has the right to appeal the SMI eligibility determination according to R9-21-401, including the right to an administrative hearing according to A.R.S. § 41-1092.03; and
 - b. That, if the applicant is not eligible for services according to this Chapter, the applicant may reapply at any time; and
 2. If the applicant is eligible for services under this Chapter:
 - a. Serve as the client's case manager or arrange for the provision of case management services for the client; and

Notices of Exempt Rulemaking

- b. Initiate with the client the development of a clinical team that may include:
 - i. Behavioral health professionals,
 - ii. Professionals other than behavioral health professionals,
 - iii. Behavioral health technicians,
 - iv. Family members,
 - v. Paraprofessionals, and
 - vi. Any individual whom the qualified clinician and the client deem appropriate and necessary to ensure that the assessment is comprehensive and meets the needs of the client.

~~G.H.~~ Nothing in this rule shall be construed to require the qualified clinician to make the determination of whether the applicant is eligible for services under the Arizona Health Care Cost Containment System Administration (AHCCCSA) pursuant according to A.R.S. Title 36, Chapter 29.

R9-21-304. Provisional Interim and Emergency Services

~~A.~~ At an applicant's first visit with a qualified clinician and after the after a determination of eligibility but prior to the development and acceptance of the ISP, the case manager the qualified clinician shall, with the consent of the client, identify and provide provisional services which are consistent with the client's preferences and needs. :

- 1. Determine whether the applicant or client needs interim services prior to the development and acceptance of the ISP;
- 2. If the applicant or client needs interim services, identify the interim services that are consistent with the applicant's or client's preferences and needs and the findings in the assessment;
- 3. Arrange for the provision of the interim services identified by the qualified clinician; and
- 4. Document in the client's record the interim services that shall be provided to the applicant or client.

~~B.~~ In the case of referral for provisional services, subject to the requirements of any applicable contract with the Department, the service provider may:

- 1. Accept the client; or
- 2. In non-emergency situations, reject the client for good cause due to the inability of the service provider to safely and professionally meet the client's needs. The service provider shall inform the case manager within 24 hours of such rejection and the reasons therefor. The case manager shall refer the client to other provisional services, if appropriate and available or believed to be soon available, or shall refer the matter to the director of the agency providing case management.

~~C.B.~~ If a qualified clinician determines that an emergency exists necessitating immediate intervention, emergency or crisis services shall be provided immediately.

R9-21-305. Assessments

~~A.~~ General Provisions:

- 1. Within five days of a determination of eligibility, the case manager shall initiate an assessment of the client's strengths and needs by the clinical team. The case manager may arrange for the inclusion of other persons, including appropriate mental health or other professionals, with the client's consent and to the extent necessary to ensure that the assessment is comprehensive.
- 2. The assessment shall include:
 - a. A personal interview with the client by a qualified clinician, or case manager, if one was not conducted during the eligibility process, including a determination of the client's preferences regarding services;
 - b. An analysis of reliable written information such as the client's clinical history, records, tests and other evaluations;
 - e. The collection of additional information, as needed, in each of the areas set forth in subsection (B) below; and
 - d. A review of information from family, friends and others, as appropriate.
- 3. The assessment may be based in part on information obtained in the course of the eligibility process required by R9-21-303.

~~A.~~ The following individuals may participate in and contribute to the assessment of a client:

- 1. The client;
- 2. The qualified clinician in R9-21-303(B);
- 3. The client's case manager;
- 4. Each individual on the client's clinical team, including:
 - a. Behavioral health professionals,
 - b. Professionals other than behavioral health professionals,
 - c. Behavioral health technicians,
 - d. Family members,
 - e. Paraprofessionals, and
 - f. Any individual whom the qualified clinician and the client deem appropriate and necessary to ensure that the assessment is comprehensive and meets the needs of the client.

Notices of Exempt Rulemaking

- ~~B. The assessment shall evaluate, without regard to the availability of services, but with due regard to the client's circumstances and the availability of information to the clinical team, the following areas:~~
- ~~1. The client's mental health status, including:
 - a. Cognitive functioning, including attention, memory, information processing, and problem solving;
 - b. Affect, attitudes, self-image, emotional stability, and mood;
 - c. Interpersonal relations, social adjustment, and interests;
 - d. Behavioral symptoms;
 - e. The history of any diagnosed mental illness;
 - f. Documentation of the need for medication;
 - g. Emotional and behavioral health history; and
 - h. Substance abuse history.~~
 - ~~2. The client's legal status and/or apparent capacity, including:
 - a. The existence of a guardianship or conservatorship for the client, including the court and date of appointment of the guardian or conservator, the name and address of the guardian or conservator, and the scope of the authority of the guardian or conservator;
 - b. Whether the client appears:
 - i. Capable of making informed decisions with regard to medical care or other treatment, financial matters, or confidential information;
 - ii. Able to effectively participate in the service planning process; and
 - iii. Able to exercise other rights and privileges set forth in Articles 2 and 4 of these rules;
 - c. Consistent with the standards and procedures of R9-21-206(C), whether the client needs a guardianship, conservatorship, representative payee, or other protective services under A.R.S. § 14-5101, 14-5401 or, 36-547 et seq.; or, in the alternative, whether the client is no longer in need of such protective services;
 - d. Whether the client needs or would benefit from special assistance, counsel or advice in making treatment decisions or in enforcing the client's rights; and
 - e. The existence of any type of court-ordered treatment.~~
 - ~~3. The client's social setting, including his/her current living situation, neighborhood, community, family, and key support persons.~~
 - ~~4. The client's health, including a physical examination and other evaluations, as appropriate, of the client's medical and dental condition, with documentation of any chronic medical condition which requires regular monitoring or intervention. No physical examination shall be conducted over a client's refusal unless consent is given by the client's guardian or the examination is provided for by court order. If there is documentation of the results of a physical examination conducted within the past year, no further examination is required, unless medically indicated.~~
 - ~~5. The client's level of daily living skills in:
 - a. Personal care and grooming, nutrition and food preparation, and domestic skills;
 - b. Health maintenance, hazard recognition and avoidance, and ability to follow a prescribed treatment program, including medication;
 - c. Time and money management and the utilization of community resources;
 - d. Communication, functional reading, the use of a telephone, and the ability to independently request assistance; and
 - e. Self-preservation and the ability to promptly exit a building in the event of a fire.~~
 - ~~6. The client's criminal justice history.~~
 - ~~7. The client's vocational and employment skills and potential, including any vocational history, an evaluation of work skills, and the client's preferences and interests in employment.~~
 - ~~8. The client's education and training, including a history or evaluation, as appropriate, of the client's educational background, current education plan, or Individual Education Plan (IEP), if any.~~
 - ~~9. The client's language abilities, including an identification of the client's ability to read, hear, understand, and speak English using complex sentences, and of the client's preferred language.~~
 - ~~10. The client's resources, including the identification of public and private resources paid to or for the client or to which the client may be entitled under any local, state or federal law or regulations including:
 - a. Income maintenance programs, such as Supplemental Security Income, Social Security Disability Insurance, Workers' Compensation, Unemployment Compensation, Veterans' Administration, Food Stamps, and/or General Assistance;
 - b. If resources are available and subject to the control of a representative payee, the name and address of the representative payee and the specific agency or office with responsibility for the representative payee;
 - c. Benefits or income from any trust, including the court, if any, with responsibility for overseeing the operation of the trust, the name and address of the trustee, and the terms of the trust;
 - d. Health care benefits, such as from the AHCCCSA, Medicare, or individual, group, or family health insurance;
 - e. Housing assistance, including eligibility for public housing, rental assistance, and subsidized housing;~~

Notices of Exempt Rulemaking

- f. ~~Educational/vocational services, such as special education, vocational rehabilitation services, employment counseling and placement services, or special training and placement available to the client; and~~
- g. ~~Social services, including those under Title XIX and those administered by private, local, and state social service agencies.~~

11. ~~The client's substance abuse history.~~

B. The individuals contributing to the assessment of a client shall not consider the availability of services, but shall consider the client's circumstances and evaluate all available information including:

1. The information obtained during the initial meeting with the client by a qualified clinician according to R9-21-303(B);

2. Written information such as the client's clinical history, records, tests, and other evaluations;

3. Information from family, friends, and other individuals.

C. An assessment shall include:

1. An evaluation of the client's:

a. Presenting concerns;

b. Behavioral health treatment;

c. Medical conditions and treatment;

d. Sexual behavior and, if applicable, sexual abuse;

e. Substance abuse, if applicable;

f. Living environment;

g. Educational and vocational training;

h. Employment;

i. Interpersonal, social, and cultural skills;

j. Developmental history;

k. Criminal justice history;

l. Public and private resources;

m. Legal status and apparent capacity;

n. Need for special assistance; and

o. Language and communication capabilities;

2. A risk assessment of the client;

3. A mental status examination of the client;

4. A summary, impressions, and observations;

5. Recommendations for next steps;

6. Diagnostic impressions of the qualified clinician; and

7. Other information determined to be relevant.

~~D.~~D. Within 20 ~~45~~ days of the initiation of the assessment a request or referral for an SMI eligibility determination, the case manager a qualified clinician shall prepare the an assessment report. The report shall include based on the information obtained according to R9-21-303 and this Section, to include including:

1. The development of a long-term view by the client with assistance from the clinical team that establishes a method of integration for living, employment and social conditions that the client wishes to achieve over the next three years;

2. A summary of the information gathered during the eligibility and assessment processes;

3. An identification of the client's legal status, resources, and assessed strengths and actual needs, regardless of the availability of services to meet that need, in each area of assessment identified in subsection ~~(B)~~ (C) above;

4. An analysis of the major findings of the mental health assessment, including a description of the nature and severity of any illness and a diagnosis in terms set forth in the DSM;

5. The client's preferences regarding services to be provided;

6. A description of any ~~provisional~~ additional interim services which are required and plans for the referral of the client to ~~provisional~~ additional interim services or the continuation of ~~provisional~~ interim services already provided;

7. An identification of further evaluations which the clinical team deem necessary to determine the services appropriate to the client's needs;

8. An identification of ~~assessments which~~ information that could not be ~~completed~~ obtained due to the client's circumstances or the unavailability of information; and

9. A functional assessment of the client's current status in terms of independent living, employment (or retirement), and social integration and analysis of the support or skills, if any, necessary to achieve the client's long-term view.

~~D.E.~~D.E. The case manager qualified clinician shall arrange for any further evaluations recommended by the clinical team. If the client needs assessment in an area beyond the ability or expertise of the clinical team, such assessment shall be conducted by professionals with appropriate credentials, with the client's consent by professionals with appropriate credentials. The need for further evaluations shall not unreasonably delay the preparation of the ISP, ~~except with the client's consent.~~

Notices of Exempt Rulemaking

~~E.F.~~ If, as a result of the assessment of legal status or apparent capacity, it is determined a qualified clinician determines that the client requires special assistance in asserting or protecting rights under these rules is a client who needs special assistance, the case manager shall:

1. Notify the regional authority, the Office of Human Rights, and the appropriate human rights committees of the client's need so that the client can be provided special assistance from the human rights advocate or special review by the human rights committee; and
2. If the client does not have a guardian, identify a friend, relative or other person who is willing to serve as a designated representative of the client.

~~F.G.~~ Upon completion of the assessment report, copies shall be sent to the client, the designated representative, if any, the guardian, and all service providers who have been identified by the case manager or regional authority to serve the client.

R9-21-306. Identification of Potential Service Providers

- A. As soon as needs of the client for particular services are identified through the eligibility determination, assessment, or further evaluation processes, the clinical team in conjunction with the client shall begin considering and choosing potential service providers to participate in the development of the client's ISP.
1. Within five days of the completion of the assessment report, the clinical team and the client shall ~~have completed~~ complete the identification of ~~those~~ service providers most appropriate to meet the client's needs ~~as identified in the report~~.
 2. The case manager shall promptly contact the identified providers to determine their ability to serve the client.
 3. Within ten days of the completion of the assessment report, the case manager shall request identified providers able to serve the client to participate in the development of the client's Individual Service Plan. All identified providers shall be provided notice of the time and place of the ISP meeting.
- B. The clinical team, in conjunction with the client, shall determine which provider(s) are the most appropriate to serve the client. The determination of appropriateness shall consider:
1. The client's preferences for the type, intensity, and location of services;
 2. The capacity and experience of the provider in meeting the client's assessed needs;
 3. The proximity of the provider to the client's family and home community;
 4. The availability and quality of services offered by the provider; and
 5. Other factors deemed relevant by the case manager and clinical team.
- C. The clinical team shall provide sufficient information to the identified service providers to allow them to understand the client's long-term view, strengths, needs, and required services and to take an active role in the ISP meeting.
- D. All mental health agencies currently providing services to the client shall bring to the ISP meeting a written description of the nature, type, and frequency of services provided or to be provided by the agency.

R9-21-307. The Individual Service Plan

- A. General provisions.
1. An individual service plan (ISP) shall be developed by the clinical team and each client.
 2. The ISP shall include the most appropriate and least restrictive services, consistent with the client's needs and preferences, as identified in the assessment conducted ~~pursuant~~ according to R9-21-305, and without regard to the availability of services or resources.
 3. The ISP shall identify those services which maximize the client's strengths, independence, and integration into the community.
 4. Generic services available to the general public should be utilized, to the maximum extent possible, when adequate to meet the client's needs and if access can be arranged by the case manager or client.
 5. If all needed services are not available, a plan for ~~interim~~ alternative services shall detail those services which are, to the maximum extent possible, adequate, appropriate, consistent with the client's needs, and least restrictive of the client's freedom.
 6. The clinical team shall solicit and actively encourage the participation of the client and guardian.
 7. The clinical team shall inform the client of the right to have a designated representative throughout the ISP process and to invite family members or other persons who could contribute to the development of the ISP. The case manager shall seek to obtain a representative for clients who need special assistance or otherwise have limited capacity to articulate their own preferences and to protect their own interests in the ISP process and shall advise the relevant human rights committee that the client has been determined to need special assistance.
 8. The ISP shall contain goals and objectives which are measurable and which facilitate meaningful evaluation of the progress toward attaining those goals and objectives.
 9. The ISP shall incorporate a specific description of the client objectives, services, and interventions for each mental health agency which will provide services to the client. Each existing service provider will bring to the ISP meeting a detailed written description of the objectives and services currently in effect for the client.
 10. For residents of an inpatient facility, the facility's treatment and discharge plan shall be developed ~~pursuant~~ according to R9-21-312 and shall be incorporated in the ISP.

Notices of Exempt Rulemaking

11. Prior to the planned discharge of a new client from an inpatient facility, the clinical team shall develop an ISP which describes the community services, including alternative housing and residential supports, that will be provided when the client leaves the facility.
 12. The ISP shall be written in language which can be easily understood by a lay person.
 13. In developing the ISP, the case manager shall facilitate resolution of differences among service providers and, if resolution is not achieved, shall refer the matter to the regional authority, which shall resolve the matter in accordance with Department policy.
- B.** The individual service plan meeting.
1. Within 20 days of the completion of the assessment report, the case manager shall convene an ISP meeting at a convenient time and place for the client, guardian, clinical team, and potential service providers.
 2. The case manager shall arrange for the client's transportation, if needed, to the ISP meeting.
 3. The case manager shall notify in writing the following persons of the time, date and location of the ISP meeting at least ten days prior:
 - a. The client, any designated representative and guardian, including an invitation to submit relevant information in writing if their attendance is impossible;
 - b. Clinicians involved in the assessment or further evaluation;
 - c. All current and potential service providers;
 - d. All members of the client's clinical team;
 - e. Family members, with the client's consent permission;
 - f. Other persons familiar with the client whose presence at the meeting is requested by the client;
 - g. Any other person whose participation is not objected to by the client and who, in the judgment of the case manager, will contribute to the ISP.
 4. The case manager shall chair the ISP meeting which shall include a discussion of:
 - a. The client's supports or skills necessary to achieve the client's long-term view in each of the areas listed in R9-21-305(B);
 - b. The findings and conclusions ~~contained in the eligibility determination, assessment report~~ obtained during the assessment, and further evaluations, including a list of further evaluations to be completed, and any interim services provided;
 - c. Any existing ITDP ~~pursuant~~ according to R9-21-312;
 - d. The client's preferences regarding services;
 - e. Recommended long-term or ~~interim~~ alternative services;
 - f. Current or proposed service providers, including the need to have service providers with staff who have language and communications skills other than English if necessary to communicate with the client;
 - g. Recommended dates for commencement of each service or date each service commenced;
 - h. The methods and persons to ensure that services are provided as set forth in the ISP, adequately coordinated, and regularly monitored for effectiveness;
 - i. The procedure for completion and implementation of the ISP process, including the procedures for accepting, rejecting, or appealing the ISP; and
 - j. The procedure for clients or service providers to request changes in the ISP.
- C.** The individual service plan shall include:
1. A description of the client's long-term view and the client's preferences, strengths, and needs in all relevant areas listed in ~~R9-21-305(B)~~ R9-21-305(C), including present functioning level and medical condition, with documentation of any chronic medical condition which requires regular monitoring or intervention.
 2. A description of the most appropriate and least restrictive services consistent with the client's needs and without reference to existing resources.
 3. A statement of whether the client requires service providers with staff who are competent in any language other than English in order to communicate with the client.
 4. Target dates for commencement of each service or date each service commenced and their anticipated duration.
 5. Long range goals for each service which will assist the client in attaining the most self-fulfilling, age-appropriate, and independent style of living possible for the client, consistent with the client's preference, stated in terms which allow objective measurement of progress and which the client, to the maximum extent possible, both understands and adopts.
 6. Short-term objectives that lead to attainment of overall goals stated in terms which allow objective measurement of progress and which the client, to the maximum extent possible, both understands and accepts.
 7. Expected dates of completion for each objective;
 8. Persons and service providers responsible for each objective.
 9. Identification of each generic or service provider responsible for providing the specific service required to meet each of the client's needs, including the name and address and telephone number of the provider and the location where the service will be provided.

Notices of Exempt Rulemaking

10. A detailed description of the client objectives and services for each mental health agency which will provide services to the client.
 11. Identification of any need for alternative housing or residential setting, including the support and monitoring to be provided after any change in housing or residential setting as provided in R9-21-310(D).
 12. Based upon assessments and other available information, a determination of:
 - a. The client's capacity to:
 - i. Make competent decisions on matters such as medical and mental health treatment, finances, and releasing confidential information;
 - ii. Participate in the development of the ISP; and
 - iii. Independently exercise the client's rights under this Chapter.
 - b. The client's need for guardianship or other protective services or assistance.
 - c. The client's need for special assistance.
 13. A list of the assessments which were not completed due to the client's current mental or physical condition or due to the clinical team's inability to access records together with a statement of the causes and plans to obtain these assessments.
 14. A description of the methods and persons responsible for ensuring that services are:
 - a. Provided as set forth in the ISP;
 - b. Adequately coordinated; and
 - c. Regularly monitored for effectiveness.
 15. A statement of the right of the client, designated representative, or guardian to accept or reject the ISP, request other services, or appeal the ISP or any aspect ~~thereof~~ of the ISP.
 16. A statement that the client's acceptance of the ISP constitutes consent to the services enumerated ~~therein~~ in the ISP.
- D.** Preparation and distribution of the individual service plan.
1. Within seven days of the ISP meeting, but no later than 90 days from the date of a referral or request for an SMI eligibility determination, the case manager shall prepare and distribute the ISP as provided herein.
 2. The case manager or other clinical team member shall personally deliver to and review the ISP with the client.
 3. The ISP shall be mailed or otherwise distributed to the following persons:
 - a. The client's designated representative and/or guardian;
 - b. The members of the clinical team; and
 - c. All existing or potential service providers.

R9-21-308. Acceptance or Rejection of the Individual Service Plan

- A.** Within seven days of the distribution of the ISP, the case manager shall contact the client concerning acceptance or rejection of all or any portion of the ISP, or request for other services, if there has not been acceptance, rejection or a request prior to that date.
- B.** If the client or guardian does not object to the ISP within 30 days of receipt of the plan, the client shall be deemed to have accepted the ISP.
- C.** If the client or guardian rejects some or all of the services identified in the ISP, or requests other services, the case manager shall provide written notice to the client or guardian of the right to immediately appeal the ISP ~~pursuant~~ according to R9-21-315 R9-21-401 or to meet with the clinical team within seven days of the rejection to discuss the plan and suggest modifications. The case manager shall arrange the meeting at a convenient time and place for the client, any designated representative and/or guardian, and the clinical team.
- D.** If the client's proposed modifications are adopted by the clinical team, the case manager shall arrange for approval of the modifications by all service providers.
- E.** If the matter is not resolved to the client's or guardian's satisfaction, the case manager shall again inform the client or guardian of the right to appeal the ISP.
- F.** A client or guardian who rejects the ISP may accept some or all of the identified services pending the outcome of the meeting with the clinical team or an appeal.

R9-21-309. Selection of Service Providers

- A.** Within seven days of the distribution of the ISP to the service providers identified in the ISP, the case manager, after consultation with the clinical team and the provider, shall determine whether each of these providers are capable of serving the client.
 1. A service provider shall not refuse to serve a client except for good cause related to the inability of the service provider to safely and professionally meet the client's needs as ~~set forth~~ identified in the ISP, or except for Department contractual limitations.
 2. If a service provider believes it is incapable of meeting the client's needs or of implementing the ISP, the provider shall ~~so~~ inform the case manager in writing within five days of receipt of the ISP. A service provider ~~must~~ shall specify the reasons for its conclusion.

Notices of Exempt Rulemaking

- B. If it is ~~determined~~ by the clinical team determines that a housing, residential or vocational service provider identified in the ISP is not capable of serving the client, the case manager shall, with the approval of the clinical team, identify another provider who is qualified to provide the services ~~set forth~~ identified in the client's ISP, introduce the client to the new service provider, and modify the ISP as needed.
- C. If the clinical team determines that an identified provider, other than a housing, residential or vocational service provider, is not capable of serving a client, the case manager shall, with the approval of the clinical team, identify another provider ~~which that~~ is qualified to provide the services ~~set forth~~ identified in the client's ISP. The case manager shall promptly distribute the ISP to ~~such the~~ the alternative service provider.
- D. All selected service providers shall sign the ISP and implement the identified services.

R9-21-310. Implementation of the Individual Service Plan

- A. Upon acceptance of the ISP by the client or as defined in a court order, services shall be initiated in accordance with the timetable ~~set forth~~ identified in the ISP.
- B. If all or a portion of the ISP is rejected by the client or guardian, the plan ~~will~~ shall not be implemented ~~nor and~~ services shall not be provided unless the client or guardian consents to specific services.
- C. For each client who is identified as needing alternative housing, a new residential setting, or a residential support service, the case manager shall inform the client of the need for an alternative living arrangement and shall use ~~his or her~~ the case manager's best efforts to obtain appropriate housing or residential supports. These efforts may include showing the client the house or apartment in which the client could reside, introducing the client to other residents of the residential setting, as appropriate, and permitting the client to live in the alternative setting on a trial basis. All clients shall be informed that they may elect to move at any time in the future subject to the terms of any lease, mortgage, contract, or other legal agreement between the client and the housing provider.
- D. For at least the first two months after ~~an~~ a client moves to a new residential setting, the case manager shall coordinate and monitor support services, as ~~set forth~~ identified in the client's ISP, in order to foster the maintenance of the client's key relationships with others, to provide necessary orientation, and to ensure a smooth and successful transition into the new setting.
- E. All contracts with service providers shall include:
 - 1. A provision that the service provider ~~will~~ shall abide by the rules contained in this Chapter and ~~will~~ shall not alter, terminate, or otherwise interrupt services required under the ISP except ~~where parts of~~ the parts of the ISP ~~has~~ that have been modified ~~pursuant~~ according to R9-21-314;
 - 2. A provision that the service provider ~~will~~ shall cooperate with the Department in collecting data necessary to determine if the Department is meeting its obligations under this Chapter and ~~A.R.S. § 36-550 et seq.~~ A.R.S. Title 36, Chapter 5, Article 10; and
 - 3. A provision that the service provider agrees to maintain current client records ~~which that~~ which document progress toward achievement of ISP goals and objectives and ~~which that~~ which meet applicable requirements of law, contract, and professional standards.

R9-21-311. Interim Alternative Services

- A. If the services identified in the ISP are not currently available, the clinical team shall develop an alternative plan for ~~interim alternative~~ interim alternative services, based upon the client's strengths, needs, and preferences as set forth in the assessment conducted ~~pursuant~~ according to R9-21-305. The plan for ~~interim alternative~~ interim alternative services shall be developed after the preparation of the ISP.
- B. The plan for ~~interim alternative~~ interim alternative services shall be developed ~~pursuant~~ according to the same procedures for the preparation of an ISP and may be developed at the same meeting with the ISP if the clinical team is aware that appropriate services are not currently available. If at an ISP meeting the clinical team does not know whether the appropriate services are available, the clinical team shall use diligent efforts to locate the identified services. If appropriate services are determined to be unavailable, the ISP meeting shall be reconvened to develop an ~~interim~~ interim ISP for alternative services.
- C. The plan for ~~interim alternative~~ interim alternative services shall identify those available mental health and generic services which are, to the maximum extent possible, adequate, appropriate, consistent with the client's needs and least restrictive of the client's freedom.
- D. The plan for ~~interim alternative~~ interim alternative services shall contain a list of appropriate but unavailable services and the projected date for the initiation of each service.
- E. If the clinical team determines that a recommended service is unavailable or does not exist, it shall forward a description of that service to the director of the regional authority. The director shall:
 - 1. Use best efforts to locate the needed service through existing services or reallocated resources;
 - 2. Forward a description of the unmet service need to the deputy director of the Division, if the appropriate service cannot be located or developed through existing services or reallocated resources; and
 - 3. maintain a list of unmet service needs.
- F. The Division shall use information concerning unmet service needs to provide the appropriate service through existing services or reallocated resources or, if necessary, to plan for the development of the needed services.

Notices of Exempt Rulemaking

- G. Nothing in this rule shall effect or modify any provision of Arizona law with respect to a client's right to appropriate services.

R9-21-312. Inpatient Treatment and Discharge Plan

A. General provisions.

1. Every client of an inpatient facility shall have ~~a~~ an Inpatient Treatment and Discharge Plan (ITDP).
2. An ITDP shall be developed by the inpatient facility's treatment team, the case manager and other members of the clinical team, as appropriate.
3. The ITDP shall include the most appropriate and least restrictive services available at the inpatient facility, as well as a plan for the client's discharge to the community.
4. The ITDP shall identify those treatment interventions and services which maximize the client's strengths, independence, and integration into the community.
5. The ITDP shall be developed with the fullest possible participation of the client and any designated representative and/or guardian.
6. The ITDP shall contain goals and objectives which are measurable and which facilitate meaningful evaluation of the progress toward attaining those goals and objectives.
7. The ITDP shall be written in language which can be easily understood by a lay person.
8. Delays in the assignment of a case manager or in the development or modification of an ISP or ITDP shall not be construed to prevent the appropriate discharge of a client from an inpatient facility.

B. The individual treatment and discharge plan meeting.

1. The case manager shall encourage the client to have a designated representative assist the client at the meeting and to have other persons, including family members, attend the meeting. The case manager shall ensure that the human rights advocate is notified of the time and date of the ITDP for clients who need special assistance.
2. The following persons shall be invited to attend the ITDP meeting:
 - a. The client;
 - b. Any designated representative and/or guardian;
 - c. Family members, with the client's ~~consent~~ permission;
 - d. Members of the client's inpatient facility treatment team;
 - e. The case manager and other members of the clinical team, as appropriate;
 - f. Other persons familiar with the client whose presence at the meeting is requested by the client; and
 - g. Any other person whose participation is not objected to by the client and who will, in the judgment of the case manager, contribute to the ITDP meeting.
3. The ITDP meeting shall include a discussion of:
 - a. A review of the ISP's long-term view;
 - b. If necessary, a new functional assessment of the supports or skills necessary to achieve the client's long-term view;
 - c. The client's needs in terms of assessed strengths and needs;
 - d. The client's preferences regarding services;
 - e. Existing services if any;
 - f. The procedure for completion and implementation of the ITDP process, including the procedures for accepting, rejecting, or appealing the ITDP;
 - g. The procedure for clients or the inpatient facility to request changes in the ITDP; and
 - h. The methods to ensure that services are provided as set forth in the ITDP and regularly monitored for effectiveness.

C. Inpatient treatment and discharge plan.

1. The facility treatment team, the case manager, and other representatives of the clinical team, as appropriate, shall develop a preliminary ITDP within three days, and a full ITDP within seven days thereafter, of the client's admission. Where a client's anticipated stay is less than seven days, an acute inpatient facility shall develop a preliminary ITDP within one day and a full ITDP within three days of a client's admission.
2. The ITDP shall be consistent with the goals, objectives, and services set forth in the client's ISP and shall be incorporated into the ISP.
3. The ITDP shall include:
 - a. The client's preferences, strengths, and needs;
 - b. A description of appropriate services to meet the client's needs;
 - c. For non-acute facilities, long-range goals which will assist the client in attaining the most self-fulfilling, age-appropriate, and independent style of living possible, stated in terms which allow objective measurement of progress and which the client, to the maximum extent possible, both understands and accepts;
 - d. Short-term objectives that lead to attainment of overall goals stated in terms which allow objective measurement of progress and which the client, to the maximum extent possible, both understands and accepts;
 - e. Expected dates of completion for each objective;

Notices of Exempt Rulemaking

- f. Persons responsible for each objective;
 - g. The person responsible for ensuring that services are actually provided and are regularly monitored; and
 - h. The right of the client or guardian to accept or reject the ITDP, request other services, or appeal the ITDP or any aspect thereof of the ITDP.
- D. Preparation and distribution of the ITDP.**
- 1. Within three days of the ITDP meeting, the treatment team coordinator shall prepare and distribute the ITDP.
 - 2. The ITDP shall be personally presented and explained to the client by the case manager.
 - 3. The ITDP shall be mailed or otherwise distributed to the following persons:
 - a. The client's designated representative and guardian, if any;
 - b. The case manager and members of the clinical team; and
 - c. The members of the inpatient facility's treatment team.
- E. Acceptance or rejection of the ITDP.**
- 1. Within two days of the date when the ITDP was distributed, the client shall be contacted by the case manager concerning acceptance or rejection of the ITDP, if there has not been acceptance or rejection prior to that date.
 - 2. If the client or guardian does not object to the ITDP within ten days of the date when the ITDP was distributed, the client shall be deemed to have accepted the ITDP.
 - 3. If the client or guardian rejects some or all of the treatment interventions or services identified in the ITDP or requests other services, the case manager shall provide written notice to the client of the right to meet with the treatment team coordinator within five days of the rejection to discuss the plan and to suggest modifications, or to immediately appeal the plan pursuant according to ~~R9-21-315~~ R9-21-401.
 - 4. If modifications are agreed to by the treatment team coordinator and the client or guardian, the treatment team coordinator shall arrange for approval of the modifications by all members of the inpatient facility's treatment team, the case manager, and members of the clinical team, as appropriate.
 - 5. If the matter is not resolved to the client's or guardian's satisfaction, the case manager shall again inform the client and guardian of the right to appeal pursuant according to ~~R9-21-315~~ R9-21-401. The client or guardian may appeal findings or recommendations in the ITDP within 30 days of receipt of the plan.
 - 6. A client or guardian who rejects the ITDP may accept some or all of the identified treatment interventions or services pending the outcome of the meeting with the treatment team coordinator or an appeal.
- F. The updated ITDP.** The facility treatment team, the case manager, and other representatives of the clinical team, as appropriate, shall review the ITDP as frequently as necessary, but at least once within the first 30 days of completing the plan, every 60 days thereafter during the first year, and every 90 days thereafter during any subsequent years that the client remains a resident of the facility.
- G. Incorporation into the individual service plan.**
- 1. If the clinical team determines that the ITDP is appropriate to meet the client's needs, least restrictive of the client's freedom, and consistent with the ISP, it shall approve the ITDP by incorporating it into the ISP. If the clinical team disapproves the ITDP, it shall convene an ISP meeting, which includes the inpatient facility treatment team, to prepare a revised ITDP.
 - 2. The clinical team, with the assistance of the inpatient facility's treatment team, shall be responsible for implementing the plan for the client's discharge.
 - 3. The case manager will provide notice to those providers identified in the client's ISP three days prior to the client's actual discharge, except that the failure to provide such notice shall not delay discharge.
 - 4. The case manager shall meet with the client within five days of the client's discharge to ensure that the ISP is being implemented.
 - 5. The case manager shall review the ISP with the clinical team within 30 days of the discharge to determine whether any modifications are appropriate, consistent with the standards and requirements set forth in R9-21-314.

R9-21-313. Periodic Review of Individual Service Plans

- A. General provisions.**
- 1. Where an ISP includes residential, vocational, or other primary service providers that do not currently serve the client, the first ISP review shall be held within 30 days from the date on which all such providers have initiated services to client. Each service provider shall bring to the review a detailed description of the objectives and services currently in effect for the client.
 - 2. Where the ISP includes only primary service providers that currently serve the client, the first ISP review shall be held within six months of the date the ISP is accepted by the client or the date on which any appeal is concluded.
 - 3. Thereafter, ISP reviews shall be conducted at least every six months and more frequently as needed. The ISP review shall be chaired by the case manager.
 - 4. The purpose of the ISP review is to ensure that services continue to be, to the maximum extent possible, appropriate to the client's needs and least restrictive of the client's freedom.
 - 5. The review shall be conducted with the fullest possible participation of the client and any designated representative and/or guardian.

Notices of Exempt Rulemaking

B. The ISP review.

1. At least ten days prior to the ISP review meeting, the case manager shall invite, in writing, the following persons to attend the meeting:
 - a. The client and any designated representative and/or guardian;
 - b. Family members, with the ~~consent~~ permission of the client;
 - c. Members of the client's clinical team;
 - d. Representatives of each of the client's service providers;
 - e. Any other person familiar with the client whose participation is requested by the client; and
 - f. Any other person whose participation is not refused by the client and who, in the judgment of the case manager, will contribute to the ISP review.
2. The ISP review shall, to the extent possible given the circumstances of the client and the availability of information, consider:
 - a. Whether there has been any change in the clinical, social, training, medical, vocational, educational and personal needs of the client;
 - b. Whether the client needs any further assessment or evaluations;
 - c. Whether the services being provided to the client continue to be appropriate to meet the client's needs, least restrictive of the client's freedom, consistent with the client's preferences, and as integrated as possible in the client's home community;
 - d. Whether there has been progress towards attainment of the long-term view, and each of the goals and objectives stated in the ISP;
 - e. Whether to reaffirm, modify or delete each goal and objective, together with the reasons for these actions;
 - f. Whether there has been any change in the legal status of the client, in the necessity or advisability of having a guardian or conservator appointed or removed, or in the client's need for special assistance;
 - g. Whether any change in the client's circumstances should result in a modification of the client's priority of need for services not currently provided; and
 - h. Whether there has been any change in the availability of services formerly determined to be needed but not then available.
3. The client, any designated representative and/or guardian, and clinical team will review each service provider's detailed description of current objectives and services to determine whether it is consistent with client's needs, least restrictive of the client's freedom, and designed to maximize the client's independence and integration into the community.
 - a. If the detailed description is approved and accepted by the client, any designated representative and/or guardian, and the clinical team, it shall be incorporated into the updated ISP.
 - b. If the description of services is rejected, it shall be revised with the assistance of the service provider and, as revised, incorporated into the updated ISP.

C. The updated ISP.

1. Within seven days of the ISP review meeting, the case manager shall prepare an updated ISP which includes all of the elements set forth in R9-21-307(C).
2. The case manager shall personally meet with the client or guardian to explain the updated ISP. The updated ISP shall be mailed or otherwise distributed to the other participants of the review meeting.
3. The updated ISP is subject to the client acceptance, rejection, and requests for other service provisions of R9-21-308 and the appeal provisions of ~~R9-21-315~~ R9-21-401.
4. The updated ISP shall be implemented consistent with the provisions of R9-21-310.

R9-21-314. Modification or Termination of Plans

- A.** Requests for modifications or termination of an ISP or any portion ~~thereof~~ of an ISP may be initiated at the ISP review or at any other time by:
1. The client;
 2. Any designated representative and/or guardian;
 3. A service provider; or
 4. Any member of the clinical team.
- B.** A request for modification or termination of an ISP shall be directed to the case manager.
- C.** The case manager shall give the client, the client's guardian and designated representative, appropriate service providers, and the client's clinical team written notice of any request for modification or termination of the ISP.
- D.** An ISP may be modified in order to more appropriately meet the client's needs, goals, and objectives. An ISP shall be modified where:
1. The client withdraws consent to the ISP or any portion ~~thereof~~ of the ISP;
 2. The client consents to services recommended as more suitable but previously refused by the client;
 3. The needs of the client have changed due to progress or lack of progress in meeting the client's goals and objectives;

Notices of Exempt Rulemaking

4. The proposed change will permit the client to receive services which are more consistent with the client's needs, less restrictive of the client's freedom, more integrated in the community, or more likely to maximize the client's ability to live independently;
 5. The client wants to change the long-term view and the focus of the ISP or no longer needs a service or services; or
 6. The client is no longer eligible for services ~~puruant~~ according to R9-21-303.
- E. The clinical team shall:
1. Be notified by a service provider of any proposed termination or modification of services in the ISP as soon as possible and always prior to its implementation;
 2. Promptly inform the client and any designated representative and/or guardian of the requested modification and seek the client's consent to implement such modification or termination; and
 3. Within 20 days of any request for modification or termination of an ISP, approve the request only if the request meets the requirements of subsection (D).
 4. Provide written notice of the right to appeal to the client and any designated representative and guardian in accordance with ~~R9-21-315(B)~~ R9-21-401(B) whenever service to the client is to be terminated, suspended or reduced.
- F. The case manager shall:
1. Incorporate the approved modification in the current ISP or prepare a revised ISP, as appropriate.
 2. Within five days of any approval by the clinical team, distribute the modified or revised ISP to the client, any designated representative and/or guardian, the members of the clinical team, and all service providers.
 3. Meet with the client or guardian to explain the modification or revision and the client's right to appeal ~~puruant~~ according to ~~R9-21-315~~ R9-21-401.
- G. If the client or any designated representative and/or guardian does not reject or appeal the termination or modification within 30 days of the date the modified ISP is distributed, the client shall be deemed to have accepted the termination or modification.
- H. The client for whom a modification or termination is proposed or any designated representative and/or guardian may appeal a modification or termination ~~puruant~~ according to ~~R9-21-315~~ R9-21-401.
- I. If the clinical team denies the client's or guardian's request to modify or terminate an ISP, the client or the designated representative and/or guardian may appeal the denial ~~puruant~~ according to ~~R9-21-315~~ R9-21-401.
- J. No modification or termination of an ISP shall be made without the acceptance of the client or any designated representative and/or guardian, unless a qualified clinician determines that the modification or termination is required to avoid a serious or immediate threat to the health or safety of the client or others.
1. Except in an emergency, no requested termination of a client from a particular service or provider may be considered unless the standards and procedures set forth in R9-21-210 and the provisions of this rule are satisfied.
 2. The client may not be transferred from one program or location to another while an appeal is pending.
- K. ~~If the case manager~~ a qualified clinician determines that the client is no longer eligible for services ~~puruant~~ according to R9-21-303, ~~the case manager~~ qualified clinician shall make a determination of non-eligibility, move to terminate services under the ISP and this rule, and notify in writing the client of the non-eligibility determination and of the right to appeal such determination, in accordance with ~~R9-21-315~~ R9-21-401. When appropriate, referral and provision for further treatment shall be made by the case manager or clinical team.

R9-21-315. Renumbered

**ARTICLE 4. APPEALS, GRIEVANCE GRIEVANCES, AND REQUESTS FOR INVESTIGATION
PROCEDURE FOR PERSONS WITH SERIOUS MENTAL ILLNESS**

~~R9-21-315. R9-21-401. Appeals~~

- A. A client or an applicant may file an appeal concerning decisions regarding eligibility for ~~mental~~ behavioral health services, including Title XIX services, fees and waivers; assessments and further evaluations; service and treatment plans and planning decisions; and the implementation of those decisions. Appeals regarding a determination of categorical ineligibility for Title XIX shall be directed to the agency ~~which that~~ made that the determination.
1. Disagreements among employees of the Department, the regional authority, clinical teams, and service providers concerning services, placement, or other issues are to be resolved using Departmental guidelines, rather than this ~~rule~~ Article.
 2. The case manager shall attempt to resolve disagreements prior to utilizing this appeal procedure; however, the client's right to file an appeal shall not be interfered with by any mental health agency or the Department.
 3. The Office of Human Rights shall assist clients in resolving appeals ~~puruant~~ according to ~~R9-21-105~~ R9-21-104.
 4. If a client or, if applicable, an individual on behalf of the client, files an appeal of a modification to or termination of a behavioral health service according to this Section, the client's service shall continue while the appeal is pending unless:
 - a. A qualified clinician determines that the modification or termination is necessary to avoid a serious or immediate threat to the health or safety of the client or another individual; or
 - b. The client or, if applicable, the client's guardian agrees in writing to the modification or termination.

Notices of Exempt Rulemaking

- B. Applicants and clients shall be informed of their right to appeal at the time an application for services is made, when an eligibility determination is made, when a decision regarding fees or the waiver ~~thereof of fees~~ is made, upon receipt of the assessment report, during the ISP, ITDP, and review meetings, at the time an ISP, ITDP, and any modification ~~thereto to~~ the ISP or ITDP is distributed, when any service is suspended or terminated, and at ~~such other times set forth in this Article~~ any other time provided by this Chapter. The notice shall be in writing in English and Spanish and shall include:
1. The client's right to appeal and to ~~a fair hearing pursuant to R9-21-315~~ an administrative hearing according to A.R.S. § 41-1092.03;
 2. The method by which an appeal and ~~fair~~ an administrative hearing may be obtained;
 3. That the client may represent himself or use legal counsel or other appropriate representative;
 4. The services available to assist the client from the Office of Human Rights, Human Rights Committees, State Protection and Advocacy System, and other peer support and advocacy services;
 5. What action the mental health agency or Department intends to take;
 6. The reasons for the intended action;
 7. The specific rules or laws that support such action; and
 8. An explanation of the circumstances under which services will continue if an appeal or ~~fair~~ an administrative hearing is requested.
- C. The right to appeal ~~created herein in this Section~~ does not include the right to appeal a court order entered ~~pursuant according to~~ A.R.S. Title 36, Chapter 5, Articles 4 and 5. The following issues may be appealed:
1. Decisions regarding the individual's eligibility for ~~mental~~ behavioral health services;
 2. The sufficiency or appropriateness of the assessment or any further evaluation;
 3. The long-term view, service goals, objectives, or timelines stated in the ISP or ITDP;
 4. The recommended services identified in the assessment report, ISP, or ITDP;
 5. The actual services to be provided, as described in the ISP, plan for interim services, or ITDP;
 6. The access to or prompt provision of services provided under Title XIX;
 7. The findings of the clinical team with regard to the client's competency, capacity to make decisions, need for guardianship or other protective services, or need for special assistance;
 8. ~~The review, modification, or~~ A denial of a request for a review of, the outcome of a review of, a modification to or failure to modify, or a termination of an ISP, ITDP, or portion ~~thereof of an ISP or ITDP~~;
 9. The application of the procedures and timetables as set forth in this ~~Article~~ Chapter for developing the ISP or ITDP;
 10. The implementation of the ISP or ITDP;
 11. The decision to provide service planning, including the provision of assessment or case management services, to a client who is refusing such services, or a decision not to provide such services to such ~~an~~ a client; or
 12. Decisions regarding a client's fee assessment or the denial of a request for a waiver ~~thereof of fees~~;
 13. Denial of payment for a client; and
 14. Failure of the regional authority or the Division to act within the time-frames for appeal established in this Chapter.
- D. Initiation of the appeal.
1. An appeal may be initiated by ~~any of the following persons~~ the client or by any of the following persons on behalf of a client or applicant requesting behavioral health services or community services:
 - a. ~~The client or applicant requesting mental health services,~~
 - ~~b. a.~~ The client's or applicant's guardian; ~~or~~
 - ~~e. b.~~ The client's or applicant's designated representative; or
 - c. A service provider of the client, if the client or, if applicable, the client's guardian gives permission to the service provider;
 2. An appeal is initiated by notifying the director of the regional authority or the director's designee orally or in writing of the decision, report, plan or action being appealed, including a brief statement of the reasons for the appeal and the current address and telephone number, if available, of the applicant or client and designated representative.
 3. An appeal ~~must~~ shall be initiated within ~~35~~ 60 days of the decision, report, plan, or action being appealed. However, the director of the regional authority or the director's designee shall accept a late appeal for good cause. If the regional authority director or the director's designee refuses to accept a late appeal, the director or director's designee shall notify the individual or client in writing, with a statement of reasons for the decision. Within ten days of the notification, the client or applicant may request review of that decision by the deputy director of the division, who shall act within 15 days of receipt of the request for review. The decision of the deputy director shall be final.
 4. Within five days of receipt of an appeal, the director of the regional authority shall inform the client in writing in English and Spanish that the appeal has been received and of the procedures ~~which that will~~ shall be followed during the appeal.
- E. Informal conference with the regional authority.
1. Within seven days of receipt of the notice of appeal, the director of the regional authority or the director's designee shall hold an informal conference with the client, any designated representative and/or guardian, the case manager and representatives of the clinical team, and a representative of the service provider, if appropriate.

Notices of Exempt Rulemaking

- a. The regional authority director or the director's designee shall schedule the conference at a convenient time and place and shall inform all participants in writing of the time, date, and location two days ~~prior to~~ before the conference.
 - b. Individuals may participate in the conference by telephone.
 2. The director of the regional authority or the director's designee shall chair the informal conference and shall seek to mediate and resolve the issues in dispute. To the extent that resolution satisfactory to the client or guardian is not achieved, the regional authority director or director's designee shall clarify issues for further appeal and shall determine the agreement, if any, of the participants as to the material facts of the case.
 3. Except to the extent that statements of the participants are reduced to an agreed statement of facts, all statements made during the informal conference shall be considered as offers in compromise and shall be inadmissible in any subsequent hearing or court proceedings under this rule.
 4. If the informal conference with the director of the regional authority or the director's designee does not resolve the issues in dispute to the satisfaction of the client or if applicable, the client's guardian, and the issues in dispute are not related to the client's eligibility for behavioral health services, the client or, if applicable, the client's guardian shall be informed that the matter ~~will~~ shall be further appealed to the Division, and of the procedure for requesting a waiver of the informal conference with the Division.
 5. If a client or, if applicable, the client's guardian waives the right to an informal conference with the Division according to subsection (E)(4) or, if the informal conference with the director of the regional authority or the director's designee does not resolve the issues in dispute to the satisfaction of the client or, if applicable, the client's guardian, and the issues in dispute are related to the client's eligibility for behavioral health services, the regional authority shall, at the informal conference:
 - a. Provide written notice to the client or, if applicable, the client's guardian according to A.R.S. § 41-1092.03, and
 - b. Ask the client or, if applicable, the client's guardian whether the client or, if applicable, the client's guardian would like the regional authority to request an administrative hearing according to A.R.S. § 41-1092.03 on behalf of the client.
 - c. For a client who needs special assistance, send a copy of the notice in subsection (5)(a) to the appropriate human rights committee.
 6. If, at the informal conference, a client or, if applicable, the client's guardian requests that the regional authority file a request for an administrative hearing according to A.R.S. § 41-1092.03 on behalf of the client, the regional authority shall file the request within three days of the informal conference.
 - ~~5-7.~~ If resolution satisfactory to the client or guardian is achieved, the director of the regional authority or the director's designee shall issue a dated written notice to all parties which shall include a statement of the nature of the appeal, the issues involved, the resolution achieved and the date by which the resolution will be implemented.
- F. Informal conference with the Division.
1. Within three days of the conclusion of an informal conference with the regional authority according to subsection (E)(4), the director of the regional authority or the director's designee shall notify the deputy director of the Division ~~if the informal conference failed to resolve the appeal~~ and shall immediately forward the client's notice of appeal, all documents relevant to the resolution of the appeal and any agreed statements of fact.
 2. Within 15 days of the notification from the regional authority director or the director's designee, the deputy director of the Division shall hold an informal conference with the client, any designated representative and/or guardian, the case manager, and representatives of the clinical team, the service provider, if appropriate, for the purpose of mediating and resolving the issues being appealed.
 - a. The deputy director of the Division shall schedule the conference at a convenient time and place and shall inform the participants in writing of the time, date, and location five days prior to the conference.
 - b. Individuals may participate in the conference by telephone.
 - c. If a client is unrepresented at the conference but needs assistance, or if for any other reason the deputy director of the Division determines the appointment of a representative to be in the client's best interest, the deputy director may designate a human rights advocate or other person to assist the client in the appeal.
 3. To the extent that resolution satisfactory to the client or guardian is not achieved, the deputy director shall clarify issues for further appeal and shall determine the agreement, if any, of the participants as to the material facts of the case.
 4. If resolution satisfactory to the client or guardian is achieved, the deputy director shall issue a dated written notice to all parties which shall include a statement of the nature of the appeal, the issues involved, the resolution achieved, and the date by which the resolution will be implemented.
 5. Except to the extent that statements of the participants are reduced to an agreed statement of facts, all statements made during the informal conference shall be considered as offers in compromise and shall be inadmissible in any subsequent hearing or court proceedings under this rule.

Notices of Exempt Rulemaking

6. ~~The client or guardian may waive the informal conference with the Division. If the conference is waived or if~~ If issues in dispute are not resolved to the satisfaction of the client or guardian at the informal conference with the Division, ~~the appeal shall proceed to a fair hearing under the provisions of subsection (G).~~ the Division shall, at the informal conference:
 - a. Provide written notice to the client or, if applicable, the client's guardian according to A.R.S. § 41-1092.03, and
 - b. Ask the client or, if applicable, the client's guardian whether the client or, if applicable, the client's guardian would like the Division to file a request for an administrative hearing according to A.R.S. § 41-1092.03 on behalf of the client.
 - c. For all clients including clients who needs special assistance, send a copy of the notice in subsection (6)(a) to the Office of Human Rights and the appropriate human rights committee.
7. If, at the informal conference, a client or, if applicable, the client's guardian requests that the Division file a request for an administrative hearing according to A.R.S. § 41-1092.03 on behalf of the client, the Division shall file the request within three days of the informal conference according to subsection (G).

G. The fair hearing.

1. Within three days of the informal conference with the Division, if the conference failed to resolve the appeal, or within five days of the date the conference was waived, the deputy director of the Division shall notify the director to schedule a fair hearing.
2. Within five days of the notification, the director shall send a written notice of fair hearing to all parties, informing them of the time and place of the hearing, the name, address, and telephone number of the hearing officer, and the issues to be resolved. The notice shall also be sent to the appropriate human rights committee and the Office of Human Rights for all clients, including if the client clients is in who need of special assistance.
3. Not less than 20 nor more than 30 days from such notice, the Department shall hold a fair hearing on the appeal in a manner consistent with A.R.S. §§ 36-111 and 36-112, and 41-1061 et seq. (the Administrative Procedure Act), and those portions of R9-1-101 through R9-1-126 which are not inconsistent with this Article. The client or any designated representative and/or guardian may request that the hearing be scheduled in a shorter or longer time. The Department shall make reasonable efforts to accommodate such request.
4. During the pendency of the appeal, the client, any designated representative and/ or guardian, the clinical team, and representatives of any service providers may agree to implement any part of the ISP or ITDP or other matter under appeal without prejudice to the appeal.
5. The hearing shall be conducted by an impartial hearing officer appointed by the Department. The hearing officer may not be an employee of the Department, a regional authority or of a service provider under contract or subcontract with the Department. The Department may contract with a qualified individual to serve as a hearing officer under this rule.
6. The client or applicant shall have the right to be represented at the hearing by a person chosen by the client or applicant at the client's or applicant's own expense, in accordance with Rule 31(a)(3), Rules of the Supreme Court.
7. The client, any designated representative and/or guardian, and the opposing party shall have the right to present any evidence relevant to the issues under appeal and to call and examine witnesses. The Division shall have the right to appear to present legal argument.
8. The client and any designated representative and/or guardian shall have the right to examine and copy at a reasonable time prior to the hearing all records held by the Department, regional authority, or service provider pertaining to the client and the issues under appeal, including all records upon which the ISP or ITDP decisions were based.
9. Any portion of the hearing may be closed to the public if the client requests or if the hearing officer determines that it is necessary to prevent the unwarranted invasion of a client's privacy or that public disclosure would pose a substantial risk of harm to a client.
10. Within five days of the conclusion of the hearing, the hearing officer shall prepare and send a written, proposed decision to the director of the Department, together with the appeal record. The proposed decision shall be based exclusively on the evidence introduced at the hearing, shall designate these issues which relate to Title XIX services, and shall include findings of fact, conclusions, and a recommendation for appropriate action.
11. Within 15 days of the conclusion of the hearing, the director shall render a final written decision, based upon the findings, conclusions, and recommendations of the hearing officer.
 - a. The decision shall include a concise statement of the facts found, a summary of the evidence relied upon, the decision and the reasons for so deciding and a notice of the right to seek rehearing under R9-1-120 and judicial review under A.R.S. § 36-113.
 - b. The decision shall also include a notice to the parties of their right to appeal to AHCCCSA for review of decisions related to Title XIX services.
 - c. The decision shall be mailed by certified mail to the parties to the hearing, their designated representatives, and the Division.
 - d. The Department shall arrange to have the director's decision explained to the client, together with the right to seek rehearing, judicial review, or appeal to AHCCCSA, in a manner that is understandable to the client or the client's designated representative.

Notices of Exempt Rulemaking

H. Expedited appeal.

1. At the time an appeal is initiated, the applicant, client, or mental health agency may request orally or in writing an expedited appeal on issues related to crisis or emergency services or for good cause. Any appeal from a decision denying admission to or continued stay at an inpatient psychiatric facility due to lack of medical necessity shall be accompanied by all medical information necessary to resolution of the appeal and shall be expedited.
2. An expedited appeal shall be conducted in accordance with the provisions of this ~~rule~~ Section, except as provided for in this subsection.
3. Within one day of receipt of an expedited appeal, the director of the regional authority shall inform the client in writing in English and Spanish that the appeal has been received.
4. The director of the regional authority shall accept an expedited appeal on issues related to crisis or emergency services. The regional authority director shall also accept an expedited appeal for good cause. If the regional authority director refuses to expedite the appeal based on a determination that good cause does not exist, the director shall notify the applicant or client in writing within one day of the initiation of the appeal, with a statement of reasons for the decision, and shall proceed with the appeal in accordance with the provisions of this ~~rule~~ Section. Within three days of the notification of refusal to expedite the appeal for good cause, the client or applicant may request review of the decision by the deputy director of the Division, who shall act within one day. The decision of the deputy director shall be final.
5. If the regional authority director accepts the appeal for expedited consideration, the director shall hold the informal conference ~~pursuant to R9-21-315(E)~~ according to subsection (E) within two days of the initiation of the appeal. The regional director shall schedule the conference at a convenient time and place and shall inform all participants of the time, date and location prior to the conference.
6. If the informal conference with the director of the regional authority or the director's designee does not resolve the issues in dispute to the satisfaction of the client or, if applicable, the client's guardian, and the issues in dispute are not related to the client's eligibility for behavioral health services, the client or, if applicable, the client's guardian shall be informed that the matter shall be further appealed to the Division, and of the procedure for requesting waiver of the informal conference with the Division.
7. If a client or, if applicable, the client's guardian waives the right to an informal conference with the Division or, if the informal conference with the director of the regional authority or the director's designee does not resolve the issues in dispute to the satisfaction of the client or, if applicable, the client's guardian, and the issues in dispute are related to the client's eligibility for behavioral health services, the regional authority shall, at the informal conference:
 - a. Provide written notice to the client or, if applicable, the client's guardian according to A.R.S. § 41-1092.03, and
 - b. Ask the client or, if applicable, the client's guardian whether the client or, if applicable, the client's guardian would like the regional authority to request an administrative hearing according to A.R.S. § 41-1092.03 on behalf of the client.
 - c. Send a copy of the notice in subsection (7)(a) to the Office of Human Rights and the appropriate human rights committee.
8. If, at the informal conference, a client or, if applicable, the client's guardian requests that the regional authority file a request for an administrative hearing according to A.R.S. § 41-1092.03 on behalf of the client, the Division shall file the request within one day of the informal conference.
- 6-9. Within one day of the conclusion of an informal conference with the regional authority, the director of the regional authority shall notify the deputy director of the Division if the informal conference failed to resolve the appeal and shall immediately forward the client's notice of appeal and any agreed statements of fact unless the client or, if applicable, the client's guardian waived the client's right to an informal conference with the Division or the issues in dispute are related to the client's eligibility for behavioral health services.
- 7-10. Within two days of the notification from the regional authority director, the deputy director of the Division shall hold the informal conference pursuant to ~~R9-21-315(F)~~ subsection (F).
11. If all issues in dispute are not resolved to the satisfaction of the client or if applicable, the client's guardian at the informal conference with the Division, the Division shall, at the informal conference:
 - a. Provide written notice to the client or, if applicable, the client's guardian according to A.R.S. § 41-1092.03, and
 - b. Ask the client or, if applicable, the client's guardian whether the client or, if applicable, the client's guardian would like the Division to file a request for an administrative hearing according to A.R.S. § 41-1092.03 on behalf of the client.
 - c. For a client who needs special assistance, send a copy of the notice in subsection (11)(a) to the Office of Human Rights and the appropriate human rights committee.
12. If, at the informal conference, a client or, if applicable, the client's guardian requests that the Division file a request for an administrative hearing according to A.R.S. § 41-1092.03 on behalf of the client, the Division shall file the request within one day of the informal conference.

Notices of Exempt Rulemaking

~~8-13.~~ Within one day of the informal conference with the Division, if the conference failed to resolve the appeal, or within two days of the date the conference was waived, the deputy director shall notify the director to schedule a fair hearing.

~~9-14.~~ Within one day of notification, the director shall send a written notice of fair hearing in accordance with ~~R9-21-315(G)(2)~~ subsection (G)(2).

~~10-15.~~ Within five days of such notice, the Department shall hold a fair hearing on the appeal in accordance with ~~R9-21-315(G)(3)~~ (G)(3).

~~11-16.~~ Within one day of the conclusion of the hearing, the hearing officer shall prepare and send a written, proposed decision to the director of the Department in accordance with ~~R9-21-315(G)(10)~~ (G)(10).

~~12-17.~~ Within two days of the conclusion of the hearing, the director shall render a final written decision in accordance with ~~R9-21-315(G)(11)~~ (G)(11). The decision of the director is the final decision of the Department on all issues and there shall be no right to a rehearing before the director.

I. Appeal of Title XIX services.

1. Within 15 days of the decision of the director, the client may appeal the decisions relating to Title XIX services to AHCCCSA by filing a written notice of appeal with the Department. The client may request a de novo hearing or a record review with oral argument before AHCCCSA.

2. An appeal to AHCCCSA does not preclude a client or individual from also seeking rehearing and judicial review pursuant to ~~R9-21-315(J)~~ where subsection (J), if appropriate.

J. Rehearing or review of decision. A client or applicant aggrieved by the director's decision on issues not related to Title XIX services must file for rehearing within ~~45~~ 30 days of service of the decision. The decision of the director on rehearing is the final decision of the Department on all decisions not related to Title XIX services.

~~**K.** Judicial review. A client or applicant aggrieved by a final decision of the Department may, within 35 days of receipt of the decision of the director after a rehearing, seek judicial review, in accordance with the standards and procedures contained in A.R.S. §§ 12-901 et seq.~~

~~**L-K.** Standard and burden of proof.~~

1. The standard of proof on all issues shall be by a preponderance of the evidence.

2. The burden of proof on the issue of the need for or appropriateness of ~~mental~~ behavioral health services or community services shall be on the person appealing.

3. The burden of proof on the issue of the sufficiency of the assessment and further evaluation, and the need for guardianship, conservatorship, or special assistance shall be on the agency which made the decision.

4. The burden of proof on issues relating to services or placements shall be on the party advocating the more restrictive alternative.

~~**M-L.** Implementation of final decision. Within five days after a satisfactory resolution is achieved at an informal conference or after the expiration of an appeal period when no appeal is taken, or after the exhaustion of all appeals and subject to the final decision thereon, the director shall implement the final decision and shall notify the client, any designated representative and/or guardian, and Division of such action.~~

~~**N-M.** Appeal log.~~

1. The Department shall maintain a public log of all appeals filed under this rule. The director of the regional authority shall forward to the Department all information necessary for the accurate and timely maintenance of the public log.

2. The public log shall not include personally identifiable information but shall be a public record, available for inspection and copying by any person.

3. With respect to each entry, the Department's public logs shall contain:

a. A unique docket number assigned by the Department;

b. A substantive but concise description of the appeal including whether the appeal related to the provision of Title XIX services;

c. The date of the filing of appeal;

d. The date of the initial decision appealed from;

e. The date, nature and outcome of all subsequent decisions, appeals, or other relevant events; and

f. A substantive but concise description of the final decision and the action taken by the agency director and deputy director of the Division and the date the action was taken.

R9-21-401. R9-21-402. Scope General

A. It is the policy of the Division to conduct investigations and bring matters to a resolution in four circumstances: first, in the event of a death of a client; second, whenever there is alleged to have occurred a rights violation; third, whenever there is alleged to exist a condition requiring investigation because it is dangerous, illegal or inhumane; and fourth, in any other case where an investigation would be in the public interest, as determined by the director of the Department or the deputy director of the Division. The purpose of ~~this Article R9-21-402 through R9-21-410~~ is to implement that policy. All investigations ~~pursuant according to this Article R9-21-402 through R9-21-410~~ shall be carried out in a prompt and equitable manner and with due regard for the dignity and rights of all persons involved. ~~This Article does R9-21-402 through R9-21-410 do~~ not obviate the need for systematically reporting, where appropriate, accidents and injuries involving clients.

Notices of Exempt Rulemaking

- B.** This grievance and investigation procedure applies to any allegation that a rights violation or a condition requiring investigation, as defined in R9-21-101, has occurred or currently exists.
1. A grievance may be filed by a client, guardian, human rights advocate, human rights committee, State Protection and Advocacy System, designated representative, or any other concerned person when a violation of the client's rights or of the rights of several clients has occurred.
 2. A request for an investigation may be filed by any person whenever a condition requiring investigation occurs or has occurred.
 3. Allegations about the need for or appropriateness of ~~mental~~ behavioral health services or community services should generally ~~not be considered a grievance under this Article but instead~~ should be addressed pursuant according to the Individual Service Planning ~~rules Sections~~; R9-21-301 ~~et seq.~~, through R9-21-314 and according to R9-21-401, where as applicable.

~~R9-21-402; R9-21-403.~~ Initiating a Grievance or Investigation

- A.** Any individual may file a grievance regarding an abridgement by a mental health agency of one or more of a client's rights in Article 2 of this Chapter.
- B.** Any individual may request an investigation regarding a condition requiring investigation.
- C.** An employee of or individual under contract with one of the following shall file a grievance if the employee has reason to believe that a mental health agency has abridged one or more of a client's rights in Article 2 of this Chapter or that a condition requiring investigation exists, and shall receive disciplinary action for failure to comply with this subsection:
1. A service provider.
 2. A regional authority.
 3. An inpatient facility, or
 4. The Division.
- D.** The director of a service provider or the director of a regional authority shall file a grievance if:
1. The director receives a non-frivolous allegation that:
 - a. A mental health agency has abridged one or more of a client's rights in Article 2 of this Chapter, or
 - b. A condition requiring investigation exists; or
 2. The director has reason to believe that there exists or has occurred a condition requiring investigation in a mental health agency or program.
- E.** The director or deputy director of the Department shall request an investigation if:
1. The director or deputy director determines that it would be in the best interests of a client, the Department, or the public; or
 2. The director or deputy director receives a non-frivolous allegation or has reason to believe that:
 - a. A mental health agency has abridged one or more of a client's rights in Article 2 of this Chapter, or
 - b. A condition requiring investigation exists.
- ~~A.F.~~** ~~Any person may make an oral or written grievance or request for investigation to the~~ To file a grievance, an individual shall communicate the grievance orally or submit the grievance in writing to the director ~~of or any employee of a mental health agency, who shall, if the grievance or request contains a non-frivolous allegation that there has occurred a rights violation or condition requiring investigation, forward the grievance to the appropriate person as set forth identified in R9-21-403 R9-21-404.~~ If asked to do so by a client, an employee shall assist the client in making an oral or written grievance or shall direct the client to the available supervisory or managerial staff who shall assist the client in making an oral or written grievance.
- ~~B.~~** ~~Any employee of a service provider, regional authority, inpatient facility, or the Division who has reason to believe that a rights violation or condition requiring investigation has occurred shall forthwith file a grievance or a request for investigation. Failure of an employee to file a grievance or request for investigation, to assist a client in filing a grievance, or to otherwise fail to forward a grievance submitted by a client shall be grounds for appropriate disciplinary action.~~
- ~~C.~~** ~~The director of a service provider, the director of a regional authority, or the deputy director of the Division shall initiate a grievance under this Article whenever there is a non-frivolous allegation that there has occurred a rights violation in an agency or program.~~
- ~~D.~~** ~~The director of a service provider, the director of a regional authority, or the deputy director of the Division shall initiate an investigation under this rule whenever there is a non-frivolous allegation or whenever there is reason to believe that there exists or has occurred a condition requiring investigation in an agency or program.~~
- ~~E.~~** ~~The director of the Department or the deputy director of the Division may initiate an investigation under this rule whenever the director or deputy director determines that an investigation would be in the best interests of the client, the Department, or the public.~~
- ~~F.G.~~** Any grievance or request for investigation shall be accurately and completely reduced to writing on a Department-provided grievance or request for investigation form ~~provided by the Department by:~~
1. The individual filing the grievance or request for investigation, or
 2. The mental health agency to whom the grievance or request for investigation is made.

~~R9-21-403.~~ **R9-21-404. Persons Responsible for Resolving Grievances and Requests for Investigations**

A. Rights violations:

1. ~~Allegations involving rights violations other than physical or sexual abuse which occurred in an agency which is operated by, or as a result of an action of a person employed by, a mental health agency, except a mental health agency operated by a governmental entity, shall be addressed to and initially decided by the director of the appropriate regional authority.~~
2. ~~Allegations involving rights violations other than physical or sexual abuse which occurred in an agency operated exclusively by, or as a result of an action of a person employed by, a governmental entity shall be addressed to and initially decided by the director of the agency.~~
3. ~~Allegations involving physical or sexual abuse which occurred in an agency which is operated by, or as a result of an action of a person employed by, a mental health agency shall be addressed to the deputy director of the Division and shall be decided by the deputy director.~~

A. Allegations involving rights violations:

1. Of other than physical abuse, sexual abuse, or sexual misconduct that occurred in a mental health agency, or as a result of an action of a person employed by a mental health agency, shall be addressed to and initially decided by:
 - a. The director of the appropriate regional authority, if applicable; or
 - b. If the mental health agency is operated exclusively by a governmental entity, the director of the agency; or
2. Of physical abuse, sexual abuse, or sexual misconduct that occurred in a mental health agency, or as a result of an action of a person employed by a mental health agency, shall be addressed to and decided by the deputy director of the Division.

B. Conditions requiring investigation:

1. ~~Allegations involving conditions requiring investigation other than a client death which occurred in an agency which is operated by, or as a result of an action of a person employed by, a mental health agency shall be addressed to and initially decided by the director of the appropriate regional authority.~~
2. ~~Allegations involving conditions requiring investigation other than a client death which occurred in an agency operated exclusively by, or as a result of an action of a person employed by, a governmental entity shall be addressed to and initially decided by the director of the agency.~~
3. ~~Allegations involving a client death which occurred in an agency which is operated by, or as a result of an action of a person employed by, a mental health agency shall be addressed to the deputy director of the Division and shall be decided by the deputy director.~~

B. Allegations involving conditions requiring investigation:

1. Of other than a client death, which occurred in a mental health agency, or as a result of a person employed by a mental health agency, shall be addressed to and initially decided by:
 - a. The director of the appropriate regional authority, if applicable; or
 - b. If the mental health agency is operated exclusively by a governmental entity, the director of the agency; or
2. Of a client death, which occurred in a mental health agency, or as a result of an action of a person employed by a mental health agency, shall be addressed to and decided by the deputy director of the Division.

C. Notice of receipt of grievance or request for investigation:

1. ~~Within five days of receipt of a grievance or request for investigation, the director of the agency shall inform the person filing the grievance or request in writing that the grievance or request has been received.~~
2. ~~Within five days of receipt of a grievance or request for investigation, the director of an agency operated exclusively by a governmental entity shall provide a copy of the grievance or request to the appropriate regional authority.~~

C. Within five days of receipt by a mental health agency of a grievance or request for investigation:

1. The director of the mental health agency shall inform the person filing the grievance or request, in writing, that the grievance or request has been received;
2. If the mental health agency is operated exclusively by a governmental entity, the director of the mental health agency shall provide a copy of the grievance to the appropriate regional authority; and
3. If the client is in need of special assistance, the agency director or deputy director shall immediately send a copy of the grievance or request to the Office of Human Rights and the human rights committee with jurisdiction over the agency.

D. ~~However the matter is initially resolved, where the client is in need of special assistance, as defined in R9-21-101, the agency director or deputy director shall immediately send a copy of the grievance or request and appointment to the Office of Human Rights and the committee with jurisdiction over the agency.~~

R9-21-404. R9-21-405. Preliminary Disposition

A. The agency director or any other official before whom a grievance or request for investigation has been initiated shall immediately take whatever action may be reasonable to protect the health, safety and security of any client, witness, individual filing the grievance or request for investigation, or individual on whose behalf the grievance or request for investigation is filed.

Notices of Exempt Rulemaking

~~A.B.~~ Summary disposition.

1. The agency director or deputy director of the Division may summarily dispose of any grievance or a request for an investigation where the alleged rights violation or condition occurred more than one year immediately prior to the date on which the grievance or request is made.
2. An agency director or deputy director of the Division who receives a grievance or request which is primarily directed to the level or type of mental health treatment provided to a client, which can be fairly and efficiently addressed within the procedures set forth in Article 3 and in R9-21-401, and which do not directly or indirectly involve any rights set forth in A.R.S. Title 36 or Article 2, may refer the grievance ~~to the case manager~~ for resolution through the Individual Service Plan process or the appeal process in R9-21-401.

~~B.C.~~ Disposition without investigation.

1. Within ~~five~~ seven days of receipt of a grievance or request for an investigation, an agency director or deputy director of the Division may promptly resolve a grievance or request without conducting a full investigation, where the matter:
 - a. Involves no dispute as to the facts;
 - b. Is patently frivolous; or
 - c. ~~May be~~ is resolved fairly and efficiently within ~~five~~ seven days without a formal investigation.
2. Within ~~five~~ seven days of receipt of the grievance or request described in subsection (C)(1), the agency director or deputy director of the Division shall prepare a written, dated decision.
 - a. The decision shall explain the essential facts, why the agency director or deputy director believes that the matter ~~may be~~ is appropriately resolved without the appointment of an investigator, and the resolution of the matter.
 - b. The agency director or deputy director of the Division shall send copies of the decision to the parties, together with a notice of appeal rights according to A.R.S. § 41-1092.03, and to anyone else having a direct interest in the matter.
3. After the expiration of the appeal period without appeal by any party, or after the exhaustion of all appeals and subject to the final decision ~~hereof~~ on the appeal, the agency director or deputy director shall promptly take appropriate action and prepare and add to the case record a written, dated report of the action taken to resolve the grievance or request.

~~C.D.~~ Matters requiring investigation.

1. If the matter complained of cannot be resolved without a formal investigation ~~pursuant~~ according to the criteria set forth in subsection ~~(B)(1)-(C)(1)~~, within ~~five~~ seven days of receipt of the grievance or request the agency director or deputy director shall prepare a written, dated appointment of an impartial investigator who, in the judgment of the agency director or deputy director, is capable of proceeding with the investigation in an objective manner but who shall not be:
 - a. Any of the persons directly involved in the rights violation or condition requiring investigation; or
 - b. A staff person who works in the same administrative unit as, except a person with direct line authority over, any person alleged to have been involved in the rights violation or condition requiring investigation.
2. Immediately upon the appointment of an investigator, the agency director or deputy director shall notify the person filing the grievance or request for investigation in writing of the appointment. The notice shall contain the name of the investigator, the procedure by which the investigation will be conducted and the method by which the person may obtain assistance or representation.

~~D.E.~~ ~~However the matter is initially resolved, where~~ If the a client is a client is in need of who needs special assistance ~~as defined in R9-21-401~~, the agency director or deputy director shall immediately send a copy of the grievance or request ~~and appointment~~ to the Office of Human Rights and the human rights committee with jurisdiction over the agency and shall send a copy of all decisions required by this Chapter made by the agency director or the deputy director regarding the grievance or request to the Office of Human Rights and the human rights committee with jurisdiction over the agency.

~~R9-21-405.~~ R9-21-406, Conduct of Investigation

- A. Within ten days of the appointment, the investigator shall hold a private, face-to-face conference with the person who filed the grievance or request for investigation to learn the relevant facts ~~which that~~ form the grounds for the grievance or request, ~~except where~~ unless the grievance or request has been initiated by the agency director or deputy director of the Division ~~pursuant according to R9-21-402(C)-(E) R9-21-403(E).~~
1. In scheduling such conference, and again at the conference, if the client appears without a designated representative, the investigator shall advise the client that:
 - a. The client may be represented by a designated representative of the client's own choice. The investigator shall also advise the client of the availability of assistance from the State Protection and Advocacy System, the Office of Human Rights, and the relevant human rights committee.
 - b. The client may ~~tape record~~ make an audio tape of the conference and all future conferences, meetings or hearings to which the client may be a party during the investigation, provided that the client notify all other parties not later than the beginning of the meeting or hearing that the client intends to do so.

Notices of Exempt Rulemaking

- c. In any case where the person initiating the grievance or request, or the person(s) who is alleged to have been responsible for the rights violation or condition, is a client and is in need of special assistance and is unrepresented, the investigator shall give the Office of Human Rights notice of the need for representation.
 2. Where the grievance has been initiated by the agency director or deputy director of the Division, the investigator shall promptly determine which persons have relevant information concerning the occurrence of the alleged rights violation or condition requiring investigation and proceed to interview such individuals.
- B.** Within 15 days of the appointment, but only after the conference with the person initiating the grievance or request for investigation, the investigator shall hold a private, face-to-face conference with the person(s) complained of or thought to be responsible for the rights violation or condition requiring investigation to discuss the matter ~~and~~.
- ~~1.~~ In scheduling the conference with such person(s) or with any other witness, the investigator shall advise the person(s) or any other witness that:
 - ~~a.1.~~ The individual may ~~tape record~~ make an audio tape recording of the conference and all future conferences, meetings or hearings during the course of the investigation, provided that the individual must notify all other parties to such meetings or hearings not later than the beginning of the meeting or hearing if the individual intends to so record.
 - ~~b.2.~~ An employee of an inpatient facility, service provider, regional authority or the Division has an obligation to cooperate in the investigation.
 - ~~e.3.~~ Failure of an employee to cooperate may result in appropriate disciplinary action.
- C.** The investigator shall gather whatever further information may seem relevant and appropriate, including interviewing additional witnesses, requesting and reviewing documents, and examining other evidence or locations.
- D.** Within ten days of completing all interviews with the parties but not later than 30 days from the date of the appointment, the investigator shall prepare a written, dated report briefly describing the investigation and containing findings of fact, conclusions, and recommendations
- E.** Within five days of receiving the investigator's report, the agency director or deputy director of the Division shall review the report and the case record and prepare a written, dated decision which shall either:
1. Accept the investigator's report in whole or in part, at least with respect to the facts as found, and state a summary of findings and conclusions and the intended action of the agency director or deputy director of the Division including disciplinary action against the person(s) responsible for the rights violation or condition requiring investigation, if appropriate; and send:
 - a. ~~The agency director or deputy director shall send copies~~ A copy of the decision to: ~~the investigator, the parties, the Office of Human Rights, and the human rights committee for persons deemed in need of special assistance.~~
 - i. The investigator;
 - ii. The individual who filed the grievance or request for investigation;
 - iii. The individual who is the subject of the grievance or request for investigation, if applicable;
 - iv. The Office of Human Rights; and
 - v. The appropriate human rights committee; and
 - b. ~~The decision sent to the grievant and the client who is the subject of the grievance shall include a notice of appeal rights. A notice to the individual who filed the grievance or request for investigation and, if applicable, the client who is the subject of the grievance or request for investigation or, if applicable, the client's guardian, of:~~
 - i. If the decision is from an agency director, the client's right to appeal to the Division according to R9-21-406 and to an administrative hearing according to A.R.S. § 41-1092.03; and
 - ii. If the decision is from the deputy director of the Division, the client's right to an administrative hearing according to A.R.S. § 41-1092.03; or
 2. Reject the report for insufficiency of facts and return the matter for further investigation. In such event, the investigator shall complete the further investigation and deliver a revised report to the agency director or deputy director of the Division or designee within ten days. Upon receipt of the report, the agency director or deputy director shall proceed as provided in subsection (E)(1).
- F.** Actions that an agency director or the deputy director of the Division may take according to subsection (E)(1) include:
1. Identifying training or supervision for or disciplinary action against an individual responsible for a rights violation or condition requiring investigation identified during the course of investigating a grievance or request for investigation.
 2. Developing or modifying a mental health agency's policies and procedures;
 3. Notifying the regulatory entity that licensed or certified an individual according to A.R.S. Title 32, Chapter 33 of the findings from the investigation; or
 4. Imposing sanctions, including monetary penalties, according to terms of a contract, if applicable.
- F.G.** After the expiration of the appeal period set forth in ~~R9-21-406~~ R9-21-407, or after the exhaustion of all appeals and subject to the final decision ~~thereof~~ on the appeal, the agency director or deputy director of the Division shall promptly take the action set forth in the decision and add to the case record a written, dated report of the action taken. A copy of the report shall be sent to the Office of Human Rights and the human rights committee if the client is in need of special assistance.

Notices of Exempt Rulemaking

~~R9-21-406.~~ **R9-21-407. Administrative Appeal**

- A. Any grievant or the client who is the subject of the grievance who is dissatisfied with the final decision of the agency director may, within 30 days of receipt of the decision, file a notice of appeal with the deputy director of the Division. The appealing party shall send copies of the notice to the other parties and their representatives and to the agency director, who shall forward the full case record to the deputy director of the Division.
- B. The deputy director of the Division shall review the notice of appeal and the case record, and may discuss the matter with any of the persons involved or convene an informal conference. Within 15 days of the filing of the appeal, the deputy director of the Division shall prepare a written, dated decision which shall either:
1. Accept the investigator's report, in whole or in part, at least with respect to the facts as found, and affirm, modify or reject the decision of the agency director with a statement of reasons; or
 2. Reject the investigator's report for insufficiency of facts and return the matter with instructions to the agency director for further investigation and decision. In such event, the further investigation shall be completed and a revised report and decision shall be delivered to the deputy director of the Division within ten days. Upon receipt of the report and decision, the deputy director of the Division shall render a final decision, consistent with the procedures set forth in subsection (B)(1).
 3. A designated representative shall be afforded the opportunity to be present at any meeting or conference convened by the deputy director of the Division to which the represented party is invited.
 4. The deputy director of the Division shall send copies of the decision to:
 - a. The parties, together with a notice of appeal rights according to A.R.S. § 41-1092.03;
 - b. The agency director; and
 - c. The Office of Human Rights and the applicable human rights committee for all clients, including clients who are in need of special assistance.

~~R9-21-408.~~ **Judicial Review**

~~A client aggrieved by a final decision of the Department may, within 30 days of receipt of a decision after a rehearing, seek judicial review of the decision, in accordance with the standards and procedures contained in A.R.S. § 12-901 et seq.~~

~~R9-21-407.~~ **R9-21-408. Further Appeal to Administrative Hearing**

- A. Any grievant or the client who is the subject of the grievance who is dissatisfied with the decision of the deputy director of the Division may request a fair hearing before an administrative hearing officer.
1. Within 30 days of the date of the decision, the appealing party shall file with director of the Department a notice requesting a fair hearing.
 2. Upon receipt of the notice, the director shall send a copy to the parties, to the deputy director of the Division, and to the Office of Human Rights and the human rights committee for clients who are in need of special assistance.
 3. Within five days of the receipt of the notice of further appeal, the director of the Department shall appoint an impartial hearing officer. The hearing officer may not be an employee of the Department, a regional authority, or of a service provider under contract or subcontract with the Department. However, the Department may contract with a qualified individual to serve as the hearing officer under this rule. The director shall send copies of the appointment to the hearing officer together with the case record and to the parties including the Division.
 4. Within five days of the appointment, the hearing officer shall inform the parties, the Office of Human Rights, and the human rights committee if the client is in need of special assistance, of the time and place of the hearing. The hearing shall be scheduled not less than 20 nor more than 30 days from the receipt of the request for fair hearing at a location convenient to all parties.
- B. The hearing shall be conducted consistent with A.R.S. §§ 36-111 and 36-112 and 41-1061 et seq. (the Administrative Procedure Act), and those portions of R9-1-101 through R9-1-126 which are consistent with this Article.
1. The client shall have the right to be represented at the hearing by an individual chosen by the client at the client's own expense, in accordance with Rule 31(a)(3), Rules of the Supreme Court.
 - a. If the client has not designated a representative to assist the client at the hearing and is in need of special assistance, the human rights committee, through one of its members or the human rights advocate unless refused by the client, shall make all reasonable efforts to represent the client.
 - b. If the client is unrepresented and the deputy director of the Division determines the appointment of a representative to be in the client's best interest, the deputy director shall designate a representative to assist the client in the appeal.
 2. The client or other appealing party shall have the right to present any evidence relevant to the issues under appeal and shall have the right to call and examine witnesses.
 3. The client or other party appealing on behalf of the client shall have the right to examine all records held by the Department pertaining to the client.
 4. Any portion of the hearing may be closed to the public if the client requests or if the hearing officer determines that it is necessary to prevent an unwarranted invasion of the client's privacy or that public disclosure would pose a substantial risk of harm to the client.

Notices of Exempt Rulemaking

5. The standard of proof on all issues shall be a preponderance of the evidence.
 6. The burden of proof on all issues shall be on the appealing party.
 7. Within ten days of the conclusion of the hearing, the hearing officer shall prepare, date, sign, and send a written recommended decision to director of the Department, together with the case record. The recommended decision shall include findings of fact, which shall be binding on the Department for administrative purposes, and conclusions and recommendations for action as appropriate.
- C. Within 20 days of the conclusion of the hearing, the director of the Department shall render a final written decision, based upon the recommendation of the hearing officer.
1. The decision shall include a concise statement of the facts found, a summary of the evidence relied upon, the decision and the reasons for so deciding, and a notice of the client's right to petition the director of the Department for a rehearing under R9-1-113 and to seek judicial review under A.R.S. § 36-113.
 2. The decision shall be mailed promptly to the client, the other parties, and their designated representatives.
 3. The Division shall arrange to have the decision explained to the client, together with the right to seek rehearing and judicial review.
 4. Except to the extent that the decision is subject to an order for rehearing, the decision of the director is the final decision of the Department on all issues.
- D. Within ~~15~~ 30 days of the date of service of the decision of the director, the client or party appealing on behalf of the client may petition the director for a rehearing or review pursuant to R9-1-120.

R9-21-409. Notice and Records

- A. Notice to clients. All clients shall be informed of their right to file a grievance or request for investigation under these rules.
1. Notice of this grievance and investigation process shall be included in the information posted or otherwise provided to every current and new client and employee. Special efforts shall be made to inform current and new residents of mental health facilities of this process and of the right to file a grievance or request for investigation;
 2. A copy of a brief memorandum explaining these rules shall be given to every current and new resident of an inpatient facility;
 3. Such memorandum and blank copies of the forms for filing a grievance, request for investigation, and appeal shall be posted in a prominent place in plain sight on every unit of an inpatient facility or in a program operated by a service provider; and
 4. Such memoranda, forms and copies of these rules shall be available at each inpatient facility, regional authority and service provider upon request by any person at any time.
- B. Notice and oversight by the Office of Human Rights and human rights committees.
1. Upon receipt of any grievance or request for investigation involving a client, including a client who is in need of special assistance, the agency director or deputy director of the Division shall immediately forward a copy of such grievance or request to the Office of Human Rights and the appropriate regional human rights committee.
 2. Upon receipt of such a grievance from the agency director or the deputy director of the Division, at the request of a client, or on its own initiative, the Office of Human Rights and/or the appropriate human rights committee shall assist a client in filing a grievance or request, if necessary. The Office and/or committee shall use its best efforts to see that such client is represented by an attorney, human rights advocate, committee member, or other person to protect the individual's interests and present information on the client's behalf. The Office and/or committee shall maintain a list of attorneys and other representatives, including the state protection and advocacy system, available to assist clients.
 3. Whenever the human rights committee has reason to believe that a rights violation involving abuse or a dangerous condition requiring investigation, including a client death, has occurred or currently exists, or that any rights violation or condition requiring investigation occurred or exists which involves a client who is in need of special assistance, it may, upon written notice to the official before whom the matter is pending, become a party to the grievance or request. As a party it shall receive copies of all reports, plans, appeals, notices and other significant documents relevant to the resolution of the grievance or request and be able to appeal any finding or decision.
 4. The Office of Human Rights shall assist clients in resolving grievances ~~pursuant~~ according to R9-21-105 R9-21-104.
- C. Notification of other persons.
1. Whenever any rule, regulation, statute, or other law requires notification of a law enforcement officer, public official, medical examiner, or other person that an incident involving the death, abuse, neglect, or threat to a client has occurred, or that there exists a dangerous condition or event, such notice shall be given as required by law.
 2. An agency director shall immediately notify the deputy director of the Division when:
 - a. A client brings criminal charges against an employee;
 - b. An employee brings criminal charges against a client;
 - c. An employee or client is indicted or convicted because of any action required to be investigated by this Article; or
 - d. A client of an inpatient facility, mental health agency, or service provider dies. The agency director shall report such death ~~pursuant~~ according to the Department's policy on the reporting and investigation of deaths.

Notices of Exempt Rulemaking

- e. A client of an inpatient facility, agency, or service provider allegedly is physically or sexually abused.
- 3. The investigation by the Department provided for by this Article is independent of any investigation conducted by police, the county attorney, or other authority.

D. Case records.

- 1. A file, known as the case record, shall be kept for each grievance or request for investigation which is received by the Division including ASH, regional authority or service provider under contract or subcontract with the Department. The record shall include the grievance or request, the docket number assigned by the Department, the names of all persons interviewed and the dates of those interviews, either a taped or written summary of those interviews, a summary of documents reviewed, copies of memoranda generated by the investigation, the investigator's report, the agency director's decision, and all documents relating to any appeal.
- 2. The investigator shall maintain possession of the case record until the investigation report is submitted. Thereafter, the agency director shall maintain control over the case record, except when the matter is on appeal. During any appeal, the record will be in the custody of the official hearing or deciding the appeal.

E. Public logs.

- 1. The Department shall maintain a public log of all deaths and non-frivolous grievances or requests for investigation for all inpatient facilities, agencies, and service providers which it operates, funds, or supervises. The agency director of each facility or mental health agency shall forward to the Department all information necessary for the accurate and timely maintenance of the public log.
- 2. The public log shall not include personal identities but shall be a public record, available for inspection and copying by any person.
- 3. With respect to each grievance or request for investigation, the Department's public log shall contain:
 - a. A docket number, consisting of a symbol for the agency, the last two digits of the year and a serial number assigned by the Department;
 - b. A substantive but concise description of the grievance or request for investigation;
 - c. The date of the filing of grievance;
 - d. The date of the initial decision or appointment of investigator;
 - e. The date of the filing of the investigator's final report;
 - f. A substantive but concise description of the investigator's final report;
 - g. The dates of all subsequent decisions, appeals, or other relevant events; and
 - h. A substantive but concise description of the final decision and the action taken by the agency director or deputy director of the Division.

R9-21-410. Miscellaneous

~~**A.** Client protection. The agency director or any other official before whom a grievance or request for investigation is pending shall immediately take whatever action may be reasonable to protect the health, safety and security of any client, complainant or witness.~~

~~**B.A.** Disqualification of official. The agency director, deputy director of the Division, investigator, or any other official with authority to act on a grievance or request for investigation shall disqualify themselves from acting, if such official cannot act on the matter impartially and objectively, in fact or in appearance. In the event of such disqualification, the official shall forthwith prepare and forward a written, dated memorandum explaining the reasons for the decision to the deputy director of the Division or designee or director of the Department or designee, as appropriate, who shall, within ten days of receipt thereof of the memorandum, take such steps as are necessary to resolve the grievance in an impartial, objective manner.~~

~~**C.B.** Request for extension of time.~~

- 1. The investigator or any other official of a mental health agency acting pursuant according to this Article may secure an extension of any time limit provided in this Article with the permission of the director of the regional authority.
- 2. The investigator or any other official of an inpatient facility acting pursuant according to this Article may secure an extension of any time limit provided in this Article with the permission of the deputy director of the Division.
- 3. The investigator or any other official of the office of the deputy director of the Division acting pursuant according to this Article may secure an extension of any time limit provided in this Article with the permission of the director of the Department.
- 4. An extension of time may only be granted upon a showing of necessity and a showing that the delay will not pose a threat to the safety or security of the client.
- 5. A request for such extension shall be in writing, with copies to all parties. The request shall explain why an extension is needed and propose a new time limit which does not unreasonably postpone a final resolution of the matter.
- 6. Such request shall be submitted to and acted upon by the director of the regional authority, deputy director of the Division, or director of the Department, as appropriate, prior to the expiration of the original time limit. Failure of the relevant official to act within the time allowed shall constitute a denial of the request for an extension.

Notices of Exempt Rulemaking

~~D.C.~~ Procedural irregularities.

1. Any party may protest the failure or refusal of any official with responsibility to take action in accord with the procedural requirements of this Article, including the time limits, by filing with the deputy director of the Division a written protest. A protest concerning the failure or refusal to take action by the deputy director of the Division or designee should be filed with the director of the Department.
2. Within ten days of the filing of such a protest, the official with whom it is filed shall take appropriate action to ensure that if there is or was a violation of a procedure or timeline, it is promptly corrected, including, if appropriate, disciplinary action against the official responsible for the violation or by removal of an investigator or hearing officer and the appointment of a substitute.

~~E.D.~~ Deputy director's or director's investigation.

1. The deputy director of the Division or director of the Department may at any time order that a special investigator review and report directly to the director or deputy director as to the facts of a grievance or condition requiring investigation, including a death or other matter.
2. The special investigator, deputy director and director shall comply with the time limits and other procedures for an investigation set forth in this Article.
3. Any final decision issued by the deputy director of the Division or the director of the Department based on such an investigation under this rule is appealable as provided in ~~R9-21-407 et seq~~ R9-21-408.
4. Nothing in this Article shall prevent the Department or the Division from conducting an investigation independent of these rules.

ARTICLE 5. COURT-ORDERED EVALUATION AND TREATMENT

~~R9-21-501.~~ **Responsibilities of Regional Authority**

- ~~A. The regional authority shall perform, either directly or by contract, all pre-petition screening, evaluation and treatment, required by A.R.S. Title 36, Chapter 5, Articles 4 and 5, and this Article. In order to perform these functions, the regional authority or its contractor must be licensed by the Department.~~
- ~~B. A mental health agency may provide court-ordered treatment pursuant to A.R.S. Title 36, Chapter 5, Article 5, other than through contract with the regional authority, provided that:~~
 - ~~1. The mental health agency is licensed by the Department to provide the court-ordered treatment;~~
 - ~~2. The mental health agency complies with all applicable requirements under A.R.S. Title 36, Chapter 5, Article 5; and~~
 - ~~3. The individual ordered to undergo treatment is not a client of the regional authority.~~

~~R9-21-502.~~ R9-21-501. **Court-ordered Evaluation**

- ~~A. An application for court-ordered evaluation shall, according to A.R.S. § 36-521, be made to the appropriate regional authority on Department form MH-100, Titled "Application for Involuntary Evaluation", set forth in Exhibit A.~~
- ~~B. If authorized under A.R.S. § 36-521, the regional authority shall prepare and file with the court a petition for court-ordered evaluation on Department form MH-105, titled "Petition for Court-ordered Evaluation", set forth in Exhibit B. With respect to clients, the regional authority shall prepare a petition for court-ordered evaluation (form MH-105) in consultation with the client's clinical team.~~
- ~~C. Any mental health agency or service provider, which is not a regional authority under R9-21-501, that receives an application for court-ordered evaluation shall immediately refer the applicant to the appropriate regional authority for pre-petition screening and petitioning for court-ordered evaluation, as provided under for in A.R.S. Title 36, Chapter 5, Article 4-
.to:
1. A regional authority; or
2. If a county has not contracted with a regional authority for pre-petition screening and petitioning for court-ordered evaluation, the county.~~
- ~~D. Whenever possible, the regional authority shall conduct pre-petition screening.~~
- ~~E. The regional authority shall recommend to the court that court-ordered evaluations be conducted on an outpatient basis whenever possible and when consistent with the medical needs of the individual.~~

~~R9-21-503.~~ R9-21-502. **Emergency Admission for Evaluation**

- ~~A. An application for emergency evaluation pursuant to A.R.S. § 36-524 may be made to any evaluation agency licensed and approved by the Department to provide such services on Department form MH-104, Titled "Application for Emergency Admission for Evaluation", set forth in Exhibit C.~~
- ~~B. Prior to admission of an individual under this rule, the evaluation agency shall notify the appropriate regional authority of the potential admission so that the regional authority may first:~~
 - ~~1. Provide services or treatment to the individual as an alternative to admission; or~~
 - ~~2. Authorize admission of the individual.~~
- ~~C. If the evaluation agency does not provide notice pursuant to subsection (B) of this rule, the regional authority shall not be obligated to pay for the services provided.~~

Notices of Exempt Rulemaking

- D. Only a mental health agency licensed ~~and approved~~ by the Department to ~~accept~~ provide emergency ~~admissions~~ services according to A.R.S. Title 36, Chapter 4 pursuant to A.R.S. §§ 36-524 and 36-526 may provide court-ordered emergency admission services under A.R.S. Title 36, Chapter 5, Article 4.

~~R9-21-504.~~ **R9-21-503. Voluntary Admission for Evaluation**

- A. An application for voluntary evaluation pursuant to A.R.S. § 36-522 shall be ~~made to the appropriate regional authority~~ submitted on Department form MH-103, Titled "Application for Voluntary Evaluation", set forth in Exhibit D to a mental health agency.
- B. If a regional authority receives an application according to subsection (A), ~~The~~ the regional authority shall provide for such evaluation under A.R.S. § 36-522 for any individual who:
1. Voluntarily makes application as provided in subsection (A);
 2. Gives informed consent; and
 3. Has not been adjudicated as an incapacitated person pursuant to A.R.S. Title 14, Chapter 5, or Title 36, Chapter 5.
- C. Any mental health agency, which is not a regional authority under R9-21-501, that receives an application for voluntary evaluation shall immediately refer the individual to ~~the appropriate regional authority for evaluation as provided under this rule, except as permitted by R9-21-503.~~ :
1. The county responsible for voluntary evaluations; or
 2. If the county has contracted with a regional authority for voluntary evaluations, the appropriate regional authority.
- D. Any mental health agency providing voluntary evaluation services pursuant to this Article shall place in the medical record of the individual to be evaluated the following:
1. A completed copy of the application for voluntary treatment;
 2. A completed informed consent form pursuant to R9-21-511; and
 3. A written statement of the individual's present mental condition.
- E. Voluntary evaluation shall proceed only after the individual to be evaluated has given ~~written~~ informed consent on Department form MH-103 and received information that the patient-physician privilege does not apply and that the evaluation may result in a petition for the individual to undergo court-ordered treatment or for guardianship in the method prescribed by A.R.S. § 36-522.

~~R9-21-505.~~ **R9-21-504. Court-ordered Treatment**

- ~~A.~~ The regional authority shall perform, either directly or by contract, all treatment required by A.R.S. Title 36, Chapter 5, Article 5 and this Article. In order to perform these functions, the regional authority or its contractor must be licensed by the Department.
- ~~B.~~ A mental health agency may provide court-ordered treatment pursuant to A.R.S. Title 36, Chapter 5, Article 5, other than through contract with the regional authority, provided that:
1. The mental health agency is licensed by the Department to provide the court-ordered treatment;
 2. The mental health agency complies with all applicable requirements under A.R.S. Title 36, Chapter 5, Article 5; and
 3. The individual ordered to undergo treatment is not a client of the regional authority.
- ~~A.C.~~ Upon a determination that an individual is a danger to self or others, gravely disabled, or persistently or acutely disabled, and if no alternatives to court-ordered treatment exist, the medical director of the agency that provided the court-ordered evaluation shall file the appropriate affidavits on Department form MH-112, set forth in Exhibit E, with the court, together with one of the following petitions:
1. A petition for court-ordered treatment for an individual alleged to be gravely disabled, which shall be filed on Department form MH-110, set forth in Exhibit F.
 2. A petition for court-ordered treatment for an individual alleged to be a danger to self or others, which shall be filed on Department form MH-110, set forth in Exhibit F.
 3. A petition for court-ordered treatment for an individual alleged to be persistently or acutely disabled, which shall be filed on Department form MH-110, set forth in Exhibit F.
- ~~B.D.~~ Any mental health agency filing a petition for court-ordered treatment of a client pursuant to subsection (A) above shall do so in consultation with the client's clinical team prior to filing the petition.
- ~~C.E.~~ With respect to inpatient and outpatient treatment, the petition filed with the court shall request that the individual be committed to the care and supervision of the regional authority, if the individual is a client, or to an appropriate mental health treatment agency, if the individual is not a client.

~~R9-21-506.~~ **R9-21-505. Coordination of Court-ordered Treatment Plans with ISPs and ITDPs**

- A. All inpatient and outpatient treatment plans prepared for clients ~~pursuant~~ according to A.R.S. §§ 36-533, 36-540 and 36-540.01, and any modifications ~~thereto to the treatment plans,~~ shall be developed and implemented pursuant ~~according~~ to the individual service planning procedures ~~set forth~~ in Article 3 of this Chapter, including the right of the client to request different services and to appeal ~~such~~ the treatment plan.
- B. If a client's ISP or ITDP is inconsistent with an inpatient or outpatient treatment plan ordered by the court, the mental health agency or regional authority, whichever is appropriate, shall recommend to the court that the court-ordered plan be amended so that it is consistent with the client's ISP or ITDP.

Notices of Exempt Rulemaking

- C. If, during the period a client is on outpatient status, an emergency occurs that satisfies the standards for emergency admission under A.R.S. §§ 36-524 and 36-526, and that requires immediate revocation or modification of an outpatient order, a modification may be submitted to the court in consultation with the client's clinical team without complying with the individual service planning procedures, provided that the client and clinical team subsequently review any such modification pursuant according to the individual service planning procedures set forth in Article 3 of this Chapter.

~~R9-21-507.~~ **R9-21-506. Review of Court-ordered Individual**

- A. The mental health treatment agency that provides care for an individual ordered by a court to undergo treatment shall:
1. Assure that an examination and review of a court-ordered individual is accomplished in an effective and timely fashion, but not less than 30 days prior to expiration of any treatment portion of the order.
 2. Require written documentation of the examination and review.
 3. Maintain a special record that shall include:
 - a. The expiration date of any treatment portion of the court-ordered treatment; and
 - b. The date by which the review and examination must be initiated.
 4. Establish specific dates by which the review and examination will be accomplished.
 5. Conduct the review and examination by the specified dates.
- B. In addition to subsection (A), the examination and review process for court-ordered clients shall, at a minimum, include the following:
1. The client's clinical team shall hold an ISP meeting pursuant to R9-21-307, not less than 30 days prior to the expiration of any treatment portion of the court order, which shall include the treatment team of the treatment agency providing mental behavioral health services under the court order. The ISP meeting shall include a determination by the clinical team of:
 - a. Whether the client continues to be a danger to others, a danger to self, gravely disabled, or persistently or acutely disabled;
 - b. That no alternatives to court-ordered treatment are appropriate; and
 - c. Whether court-ordered treatment should continue.
 2. If, upon conclusion of the ISP meeting, the clinical team determines that the client:
 - a. Continues to be a danger to others, a danger to self, gravely disabled, or persistently or acutely disabled;
 - b. That no alternatives to court-ordered treatment are appropriate; and
 - c. That court-ordered treatment should continue, the medical director of the mental health treatment agency providing care for the client committed by court order shall appoint two physicians (one of whom must be a psychiatrist) and the mental health worker assigned to the case to conduct an examination to determine whether the client continues to be a danger to others, a danger to self, gravely disabled, or persistently or acutely disabled.
 3. After such examination, the examining physicians shall enter a note in the progress sheet of the medical record stating the findings, decision, and the basis for that decision.
 4. If the medical finding is that the client continues to be a danger to self, a danger to others, gravely disabled, or persistently or acutely disabled, and if no alternatives to court-ordered treatment exist, the mental health treatment agency shall file a petition and affidavit(s) as provided in R9-21-505.
- C. In addition to subsection (A), the examination and review process for non-clients shall, at a minimum, include the following:
1. A person designated by the mental health agency providing treatment shall notify the medical director of the agency in writing of the expiration date 30 days prior to expiration of the court-ordered treatment.
 2. The medical director shall within five days notify one or more physicians (at least one of whom must be a psychiatrist) and the mental health worker assigned to the case of the expiration date of the court-ordered treatment and appoint them to determine whether the non-client continues to be a danger to others, a danger to self, gravely disabled, or persistently or acutely disabled.
 3. After such examination, the examining physician(s) shall enter a note in the progress sheet of the medical record stating the findings, decision, and the basis for that decision.
 4. If the medical finding is that the non-client continues to be a danger to self, a danger to others, gravely disabled, or persistently or acutely disabled, and if no alternatives to court-ordered treatment exist, the mental health treatment agency shall file a petition and affidavits as provided in R9-21-505.

~~R9-21-508.~~ **R9-21-507. Transfers of 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.
- B. An individual ordered by the court to undergo treatment and without a guardian may be transferred from a mental health agency to another mental health agency, provided that the medical director of the mental health 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

Notices of Exempt Rulemaking

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).
- C. The medical director of the mental health agency initiating the transfer 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.
- D. All clients shall be transferred ~~pursuant~~ according 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 the mental health agency to provide those services.
- E. The medical director of the mental health 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~~ according to R9-21-314, when applicable.
 4. Documentation of the court's consent, when applicable.
- F. The medical director of the transferring mental health agency 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 shall accept and approve it before an individual can be transferred ~~pursuant~~ according to subsection (B).
- 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 the transportation defined elsewhere.

~~R9-21-509. R9-21-508. Requests for Notification~~

- A. At any time during a specified period of court-ordered treatment in which an individual has been found to be a danger to others, a relative or victim wishing to be notified in the event of an individual being released prior to the expiration of the period of court-ordered treatment shall file a demand, ~~pursuant~~ according to A.R.S. § 36-541.01(D), on Department form MH-127 ~~set forth~~ in Exhibit G.
- B. At any time during a specified period of court-ordered treatment in which an individual has been found to be a danger to others, a person other than a relative or victim wishing to be notified in the event of an individual being released prior to the expiration of the period of court-ordered treatment shall file a petition and form of order, ~~pursuant~~ to A.R.S. § 36-541.01(D) on Department form MH-128 ~~set forth~~ in Exhibit H.

~~R9-21-510. R9-21-509. Voluntary Admission for Treatment~~

- A. Application for admission for voluntary treatment ~~pursuant~~ according to A.R.S. § 36-518 shall be made to a mental health agency on Department form MH-210, Titled "Application for Voluntary Treatment", ~~set forth~~ in Exhibit I, by any individual who:
 1. Voluntarily makes application as provided in subsection (A);
 2. Gives informed consent;
 3. Has not been adjudicated as an incapacitated person ~~pursuant~~ according to A.R.S. Title 14, Chapter 5, or Title 36, Chapter 5; and
 4. If a minor, is appropriately admitted ~~pursuant~~ according to A.R.S. § 36-518.
- B. Any mental health agency that is not a regional authority under R9-21-501 and that receives an application for voluntary treatment by a client shall immediately refer the client to the appropriate regional authority for treatment as provided under this rule, except that in the case of an emergency, a mental health treatment agency licensed by the Department to provide treatment under A.R.S. § 36-518 may accept an application for voluntary treatment and admit the client for treatment as follows:
 1. Prior to admission of a client under this rule, the agency shall notify the appropriate regional authority of the potential admission and treatment so that the regional authority may first:
 - a. Provide other services or treatment to the client as an alternative; or
 - b. Authorize treatment of the client.
 2. If the agency does not provide notice ~~pursuant~~ according to subsection (B)(1) above, the regional authority shall not be obligated to pay for the treatment provided.
- C. Any mental health agency providing treatment ~~pursuant~~ according to A.R.S. § 36-518 shall place in the medical record of the individual to be treated the following:
 1. A completed copy of the application for voluntary treatment;
 2. A completed informed consent form ~~pursuant~~ according to R9-21-511; and

Notices of Exempt Rulemaking

3. A written statement of the individual's present mental condition.
- D. If the client admitted under this rule does not have an ISP, the regional authority shall prepare one in accordance with Article 3 of this Chapter. If the client already has an ISP, the regional authority shall commence a review of the ISP as provided in R9-21-313 and, if necessary, take steps to modify the ISP in accordance with R9-21-314.

~~R9-21-511.~~ R9-21-510. Informed Consent in Voluntary Application for Admission and Treatment

- A. Prior to beginning any course of medication or other treatment for an individual who is subject to voluntary admission under A.R.S. §§ 36-518 and 36-522, a mental health agency shall obtain an informed consent to treatment and enter it in the medical record. For all clients, the informed consent shall be obtained ~~pursuant~~ according to R9-21-206.01.
- B. For clients, the mental health agency shall make reasonable inquiry into an individual's capacity to give informed consent, record these findings, and enter these findings in the client's ISP or record pursuant to Articles 2 and 3 of this Chapter. For non-clients, the agency shall adopt admission procedures that shall include the following:
 1. The medical director or the medical director's designee shall make reasonable inquiry into an individual's capacity to give informed consent.
 2. The medical director or the medical director's designee shall record his findings regarding the individual's capacity to give and of having given informed consent.
 3. That the findings of the medical director or the medical director's designee shall be entered into the individual's record.
- C. ~~Informed Consent~~ consent to ~~permit~~ treatment may be revoked at any time by a reasonably clear statement in writing.
 1. An individual shall receive assistance in writing the revocation as necessary.
 2. If informed consent to ~~permit~~ treatment is revoked, treatment shall be promptly discontinued, provided that a course of treatment may be concluded or phased out where necessary to avoid the harmful effects of abrupt withdrawal.
- D. An informed consent form shall be signed by the individual and shall state that the following information was presented to the individual:
 1. A fair explanation of the treatments and their purposes.
 2. A description of any material and substantive risk reasonably to be expected.
 3. An offer to answer any inquiries concerning the treatments.
 4. Notice that the individual is free to revoke informed consent to treatment; and
 5. For clients, all information required by R9-21-206.

~~R9-21-512.~~ R9-21-511. Use of Psychotropic Medication

- A. Psychotropic medications may only be ordered for individuals undergoing court-ordered evaluation ~~pursuant~~ according to R9-21-204 or R9-21-207.
- B. Psychotropic medications may not be ordered for and administered to individuals undergoing court-ordered treatment, except as follows:
 1. In an emergency involving the safety of the individual or another, as documented in the individual's medical record;
 2. If the individual or guardian gives an informed consent to use the medication;
 3. If provision for use of the medications shall be contained in the individual's treatment plan or ISP. At a minimum, the plan shall specify:
 - a. A description of the circumstances under which the medication may be used.
 - b. A description of the objectives that are expected to be achieved by use of the medication. This description must indicate how the individual's condition would be improved by using the medication and indicate what result would be expected if the medication were not used; or
 4. ~~Pursuant~~ According to R9-21-204 or R9-21-207.
- C. The agency shall have the capability to detect drug side effects or toxic reactions that may result from the medications used.
- D. The agency shall have written policies and procedures governing the use of psychotropic medication. These policies and procedures shall specify:
 1. Protective measures that will ensure the individual's safety and promote the avoidance or mitigation of short and long-term deleterious effects on the individual.
 2. Periodic individual care monitoring, i.e., evaluating and updating the treatment plan and reviewing problem areas such as failure of the individual to achieve treatment plan objectives.
 3. Recordkeeping requirements.

~~R9-21-513.~~ R9-21-512. Seclusion and Restraint

Individuals undergoing court-ordered evaluation or court-ordered treatment ~~may~~ shall not be placed in seclusion or restraint except as permitted by Article 2 of this Chapter, and specifically R9-21-204.

R9-21-513. Renumbered