

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 PROPOSED EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

Editor's Note: The following Notice of Proposed Exempt Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1769.) The Governor's Office authorized the notice to proceed through the rulemaking process on April 26, 2012.

[R12-122]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**

Article 13	New Article
R9-22-1301	New Section
R9-22-1302	New Section
R9-22-1303	New Section
R9-22-1304	New Section
R9-22-1305	New Section
R9-22-1306	New Section
R9-22-1307	New Section
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. §§ 36-2904 and 36-2903.01
Implementing statute: A.R.S. § 36-261
Statute or session law authorizing the exemption: Laws 2011, Ch. 31, § 34
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**

None
- 4. The agency's contact person who can answer questions about the rulemaking:**

Name: Mariaelena Ugarte
Address: AHCCCS
 Office of Administrative and Legal Services
 701 E. Jefferson St., Mail Drop 6200
 Phoenix, AZ 85034
Telephone: (602) 417-4693
Fax: (602) 253-9115
E-mail: AHCCCSrules@azahcccs.gov
Web site: www.azahcccs.gov
- 5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**

With the recent change in Arizona Law, AHCCCS now has direct legal responsibility for the CRS program. As part of that legislative act, the existing CRS program rules adopted by ADHS were left in effect "until superceded by rules adopted by [AHCCCS]." The legislature enacted this change as part of a larger initiative by ADHS and AHCCCS to

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better integrate the care provided to children eligible for Medicaid and CRS related services while at the same time streamlining the administration of the program. Therefore, AHCCCS is proposing rule to transition the ADHS requirements under AHCCCS.

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

None

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

Not applicable

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

No estimated impact is expected due to the transition of existing rules from ADHS to AHCCCS. The CRS expenditures for FFY 2010 were approximately \$310,974,300.

9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

Name: Mariaelena Ugarte
Address: AHCCCS
Office of Administrative and Legal Services
701 E. Jefferson St., Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4693
Fax: (602) 253-9115
E-mail: AHCCCSrules@azahcccs.gov
Web site: www.azahcccs.gov

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Please submit any comment to the contact listed above by the close of the comment period of July 30, 2012, 5:00 p.m.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of the federal law:

Not applicable

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

Not applicable

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

None

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ADMINISTRATION

ARTICLE 13. ~~REPEALED~~ CHILDREN'S REHABILITATIVE SERVICES (CRS)

Section

- R9-22-1301. ~~Repealed~~ Children's Rehabilitative Services (CRS) Related Definitions
R9-22-1302. ~~Repealed~~ Children's Rehabilitative Services (CRS) Eligibility Requirements
R9-22-1303. ~~Repealed~~ Medical Eligibility

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- R9-22-1304. ~~Repealed~~ Referral for CRS Medical Eligibility Determination
- R9-22-1305. ~~Repealed~~ CRS Redetermination
- R9-22-1306. ~~Repealed~~ Transition or Termination
- R9-22-1307. ~~Repealed~~ Covered Services

ARTICLE 13. ~~REPEALED~~ CHILDREN'S REHABILITATIVE SERVICES (CRS)

R9-22-1301. ~~Repealed~~ Children's Rehabilitative Services (CRS) related Definitions

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Article have the following meanings unless the context explicitly requires another meaning:

"Active treatment" means there is a current need for treatment or evaluation for continuing treatment of the CRS qualifying condition or it is anticipated that treatment or evaluation for continuing treatment of the CRS qualifying condition will be needed within the next 18 months.

"CRS application" means a submitted form with any additional documentation required by the Administration to determine whether an individual is medically eligible for CRS.

"Chronic" means expected to persist over an extended period of time.

"CRS condition" means any of the medical conditions in R9-22-1303.

"CRS provider" means a person who is authorized by employment or written agreement with the Administration to provide covered CRS medical services to a member or covered support services to a member or a member's family.

"Functionally limiting" means a restriction having a significant effect on an individual's ability to perform an activity of daily living as determined by a CRS provider.

"Medically eligible" means meeting the medical eligibility requirements of R9-22-1303.

"Redetermination" means a decision made by the Administration regarding whether a member continues to meet the requirements in R9-22-1302.

R9-22-1302. ~~Repealed~~ Children's Rehabilitative Services (CRS) Eligibility Requirements

Beginning October 1, 2013 an AHCCCS eligible individual who needs active treatment for one or more of the qualifying medical conditions in R9-22-1303 shall be enrolled with the CRS contractor, unless enrolled with an ALTCS EPD contractor. The CRS contractor shall provide covered services necessary to treat the CRS qualifying condition and other services described within contract. The Effective date of enrollment in CRS shall be as specified in contract.

R9-22-1303. ~~Repealed~~ Medical Eligibility

The following lists identify those medical conditions that do qualify for the CRS program as well as those that do not qualify for the CRS program. The covered conditions list is all inclusive. The list of conditions not covered by CRS is not an all-inclusive list:

1. Cardiovascular System:
 - a. CRS covered conditions:
 - i. Congenital heart defect.
 - ii. Cardiomyopathy.
 - iii. Valvular disorder.
 - iv. Arrhythmia.
 - v. Conduction defect.
 - vi. Rheumatic heart disease.
 - vii. Renal vascular hypertension.
 - viii. Arteriovenous fistula, and
 - ix. Kawasaki disease with coronary artery aneurysm;
 - b. Conditions not medically eligible for CRS:
 - i. Essential hypertension;
 - ii. Premature atrial, nodal or ventricular contractions that are of no hemodynamic significance;
 - iii. Arteriovenous fistula that is not expected to cause cardiac failure or threaten loss of function; and
 - iv. Benign heart murmur;
2. Endocrine system:
 - a. CRS covered conditions:
 - i. Hypothyroidism.
 - ii. Hyperthyroidism.
 - iii. Adrenogenital syndrome.
 - iv. Addison's disease.
 - v. Hypoparathyroidism.
 - vi. Hyperparathyroidism.

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- vii. Diabetes insipidus;
 - viii. Cystic fibrosis; and
 - ix. Panhypopituitarism;
 - b. Conditions not medically eligible for CRS:
 - i. Diabetes mellitus;
 - ii. Isolated growth hormone deficiency;
 - iii. Hypopituitarism encountered in the acute treatment of a malignancy; and
 - iv. Precocious puberty;
- 3. Genitourinary system medical conditions:
 - a. CRS covered conditions:
 - i. Vesicoureteral reflux, with at least mild or moderate dilatation and tortuosity of the ureter and mild or moderate dilatation of renal pelvis;
 - ii. Ectopic ureter;
 - iii. Ambiguous genitalia;
 - iv. Ureteral stricture;
 - v. Complex hypospadias;
 - vi. Hydronephrosis;
 - vii. Deformity and dysfunction of the genitourinary system secondary to trauma after the acute phase of the trauma has passed;
 - viii. Pyelonephritis when treatment with drugs or biologicals has failed to cure or ameliorate and surgical intervention is required;
 - ix. Multicystic dysplastic kidneys;
 - x. Nephritis associated with lupus erythematosus; and
 - xi. Hydrocele associated with a ventriculo-peritoneal shunt;
 - b. Conditions not medically eligible for CRS:
 - i. Nephritis, infectious or noninfectious;
 - ii. Nephrosis;
 - iii. Undescended testicle;
 - iv. Phimosis;
 - v. Hydrocele not associated with a ventriculo-peritoneal shunt;
 - vi. Enuresis;
 - vii. Meatal stenosis; and
 - viii. Hypospadias involving isolated glandular or coronal aberrant location of the urethral meatus without curvature of the penis;
- 4. Ear, nose, or throat medical conditions:
 - a. CRS covered conditions:
 - i. Cholesteatoma;
 - ii. Chronic mastoiditis;
 - iii. Deformity and dysfunction of the ear, nose, or throat secondary to trauma, after the acute phase of the trauma has passed;
 - iv. Neurosensory hearing loss;
 - v. Congenital malformation;
 - vi. Significant conductive hearing loss due to an anomaly in one ear or both ears equal to or greater than a pure tone average of 30 decibels, that despite medical treatment, requires a hearing aid;
 - vii. Craniofacial anomaly that requires treatment by more than one CRS provider; and
 - viii. Microtia that requires multiple surgical interventions;
 - b. Conditions not medically eligible for CRS:
 - i. Tonsillitis;
 - ii. Adenoiditis;
 - iii. Hypertrophic lingual frenum;
 - iv. Nasal polyp;
 - v. Cranial or temporal mandibular joint syndrome;
 - vi. Simple deviated nasal septum;
 - vii. Recurrent otitis media;
 - viii. Obstructive apnea;
 - ix. Acute perforation of the tympanic membrane;
 - x. Sinusitis;
 - xi. Isolated preauricular tag or pit; and
 - xii. Uncontrolled salivation;

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5. Musculoskeletal system medical conditions:
 - a. CRS covered conditions:
 - i. Achondroplasia;
 - ii. Hypochondroplasia;
 - iii. Diastrophic dysplasia;
 - iv. Chondrodysplasia;
 - v. Chondroectodermal dysplasia;
 - vi. Spondyloepiphyseal dysplasia;
 - vii. Metaphyseal and epiphyseal dysplasia;
 - viii. Larsen syndrome;
 - ix. Fibrous dysplasia;
 - x. Osteogenesis imperfecta;
 - xi. Rickets;
 - xii. Enchondromatosis;
 - xiii. Juvenile rheumatoid arthritis;
 - xiv. Seronegative spondyloarthropathy;
 - xv. Orthopedic complications of hemophilia;
 - xvi. Myopathy;
 - xvii. Muscular dystrophy;
 - xviii. Myoneural disorder;
 - xix. Arthrogryposis;
 - xx. Spinal muscle atrophy;
 - xxi. Polyneuropathy;
 - xxii. Chronic stage bone infection;
 - xxiii. Chronic stage joint infection;
 - xxiv. Upper limb amputation;
 - xxv. Syndactyly;
 - xxvi. Kyphosis;
 - xxvii. Scoliosis;
 - xxviii. Congenital spinal deformity;
 - xxix. Congenital or developmental cervical spine abnormality;
 - xxx. Hip dysplasia;
 - xxxi. Slipped capital femoral epiphysis;
 - xxxii. Femoral anteversion and tibial torsion;
 - xxxiii. Legg-Calve-Perthes disease;
 - xxxiv. Lower limb amputation, including prosthetic sequelae of cancer;
 - xxxv. Metatarsus adductus;
 - xxxvi. Leg length discrepancy of five centimeters or more;
 - xxxvii. Metatarsus primus varus;
 - xxxviii. Dorsal bunions;
 - xxxix. Collagen vascular disease;
 - xl. Benign bone tumor;
 - xli. Deformity and dysfunction secondary to musculoskeletal trauma;
 - xlii. Osgood Schlatter's disease that requires surgical intervention; and
 - xliii. Complicated flat foot, such as rigid foot, unstable subtalar joint, or significant calcaneus deformity;
 - b. Conditions not medically eligible for CRS:
 - i. Ingrown toenail;
 - ii. Back pain with no structural abnormality;
 - iii. Ganglion cyst;
 - iv. Flat foot other than complicated flat foot;
 - v. Fracture;
 - vi. Popliteal cyst;
 - vii. Simple bunion; and
 - viii. Carpal tunnel syndrome;
 - ix. Deformity and dysfunction secondary to trauma or injury if:
 - (1) Three months have not passed since the trauma or injury, and
 - (2) Leg length discrepancy of less than five centimeters at skeletal maturity;
6. Gastrointestinal system medical conditions:
 - a. CRS covered conditions:

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- i. Tracheoesophageal fistula;
 - ii. Anorectal atresia;
 - iii. Hirschsprung's disease;
 - iv. Diaphragmatic hernia;
 - v. Gastroesophageal reflux that has failed treatment with drugs or biologicals and requires surgery;
 - vi. Deformity and dysfunction of the gastrointestinal system secondary to trauma, after the acute phase of the trauma has passed;
 - vii. Biliary atresia;
 - viii. Congenital atresia, stenosis, fistula, or rotational abnormalities of the gastrointestinal tract;
 - ix. Cleft lip;
 - x. Cleft palate;
 - xi. Omphalocele; and
 - xii. Gastroschisis;
 - b. Conditions not medically eligible for CRS:
 - i. Malabsorption syndrome, also known as short bowel syndrome;
 - ii. Crohn's disease;
 - iii. Hernia other than a diaphragmatic hernia;
 - iv. Ulcer disease;
 - v. Ulcerative colitis;
 - vi. Intestinal polyp;
 - vii. Pyloric stenosis; and
 - viii. Celiac disease;
7. Nervous system medical conditions:
- a. CRS covered conditions:
 - i. Uncontrolled seizure disorder, in which there have been more than two seizures with documented adequate blood levels of one or more medications;
 - ii. Cerebral palsy;
 - iii. Muscular dystrophy or other myopathy;
 - iv. Myoneural disorder;
 - v. Neuropathy, hereditary or idiopathic;
 - vi. Central nervous system degenerative disease;
 - vii. Central nervous system malformation or structural abnormality;
 - viii. Hydrocephalus;
 - ix. Craniosynostosis of a sagittal suture, a unilateral coronal suture, or multiple sutures in a child less than 18 months of age;
 - x. Myasthenia gravis, congenital or acquired;
 - xi. Benign intracranial tumor;
 - xii. Benign intraspinal tumor;
 - xiii. Tourette's syndrome;
 - xiv. Residual dysfunction after resolution of an acute phase of vascular accident, inflammatory condition, or infection of the central nervous system;
 - xv. Myelomeningocele, also known as spina bifida;
 - xvi. Neurofibromatosis;
 - xvii. Deformity and dysfunction secondary to trauma in an individual;
 - xviii. Residual dysfunction after acute phase of near drowning; and
 - xix. Residual dysfunction after acute phase of spinal cord injury;
 - b. Conditions not medically eligible for CRS:
 - i. Headaches;
 - ii. Central apnea secondary to prematurity;
 - iii. Near sudden infant death syndrome;
 - iv. Febrile seizures;
 - v. Occipital plagiocephaly, either positional or secondary to lambdoidal synostosis;
 - vi. Trigonocephaly secondary to isolated metopic synostosis;
 - vii. Spina bifida occulta;
 - viii. Near drowning in the acute phase; and
 - ix. Spinal cord injury in the acute phase;
 - x. Chronic vegetative state;
8. Ophthalmology:
- a. CRS covered conditions:

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- i. Cataracts;
 - ii. Glaucoma;
 - iii. Disorder of the optic nerve;
 - iv. Non-malignant enucleation and post-enucleation reconstruction;
 - v. Retinopathy of prematurity; and
 - vi. Disorder of the iris, ciliary bodies, retina, lens, or cornea;
 - b. Conditions not medically eligible for CRS:
 - i. Simple refraction error,
 - ii. Astigmatism,
 - iii. Strabismus, and
 - iv. Ptosis;
- 9. Respiratory system medical conditions:
 - a. CRS covered conditions:
 - i. Anomaly of the larynx, trachea, or bronchi that requires surgery; and
 - ii. Nonmalignant obstructive lesion of the larynx, trachea, or bronchi;
 - b. Conditions not medically eligible for CRS:
 - i. Respiratory distress syndrome,
 - ii. Asthma,
 - iii. Allergies,
 - iv. Bronchopulmonary dysplasia,
 - v. Emphysema,
 - vi. Chronic obstructive pulmonary disease, and
 - vii. Acute or chronic respiratory condition requiring venting for the neuromuscularly impaired;
- 10. Integumentary system medical conditions:
 - a. CRS covered conditions:
 - i. A craniofacial anomaly that is functionally limiting,
 - ii. A burn scar that is functionally limiting,
 - iii. A hemangioma that is functionally limiting,
 - iv. Cystic hygroma, and
 - v. Complicated nevi requiring multiple procedures;
 - b. Conditions not medically eligible for CRS:
 - i. A deformity that is not functionally limiting,
 - ii. A burn other than a burn scar that is functionally limiting;
 - iii. Simple nevi,
 - iv. Skin tag,
 - v. Port wine stain,
 - vi. Sebaceous cyst,
 - vii. Isolated malocclusion that is not functionally limiting,
 - viii. Pilonidal cyst,
 - ix. Ectodermal dysplasia, and
 - x. A craniofacial anomaly that is not functionally limiting;
- 11. Metabolic CRS covered conditions:
 - a. Amino acid or organic acidopathy,
 - b. Inborn error of metabolism,
 - c. Storage disease,
 - d. Phenylketonuria,
 - e. Homocystinuria,
 - f. Maple syrup urine disease,
 - g. Biotinidase deficiency.
- 12. Hemoglobinopathies CRS covered conditions:
 - a. Sickle cell anemia,
 - b. Thalassemia;
- 13. Medical/behavioral conditions which are not medically eligible for CRS:
 - a. Allergies;
 - b. Anorexia nervosa or obesity;
 - c. Autism;
 - d. Cancer;
 - e. Depression or other mental illness;
 - f. Developmental delay;

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- g. Dyslexia or other learning disabilities;
- h. Failure to thrive;
- i. Hyperactivity;
- j. Attention deficit disorder; and
- k. Immunodeficiency, such as AIDS and HIV.

R9-22-1304. ~~Repealed~~ Referral for CRS Medical Eligibility Determination

To refer an individual for a CRS medical eligibility determination a person shall submit to the Administration the following information:

- 1. CRS application;
- 2. Documentation from a provider who evaluated the individual, stating the individual's diagnosis;
- 3. Diagnostic test results that support the individual's diagnosis; and
- 4. Documentation of a individual's need for specialized treatment of the CRS condition through medical, surgical, or therapy modalities.

R9-22-1305. ~~Repealed~~ CRS Redetermination

A. Continued eligibility for the CRS program shall be redetermined by verifying active treatment status of the CRS qualifying medical conditions as follows:

- 1. The CRS Contractor is responsible for notifying the AHCCCS Division of Member Services (DMS) of the date when a CRS member is no longer in active treatment for the CRS qualifying condition(s).
- 2. The Administration may request, at any time, that the CRS contractor submit the medical documentation requested in the CRS medical redetermination form within the specified time-frames in contract.
- 3. The Administration shall notify the CRS member or representative of the redetermination process.

B. If the Administration determines that a CRS member is no longer medically eligible for CRS, the Administration shall provide the CRS member or representative a written notice that informs the CRS member that the Administration is transitioning the CRS member's enrollment according to R9-22-1306.

C. Upon the CRS member reaching his or her 21st birthday the member will be transitioned to a contractor. A CRS member that is turning 21 years of age may request to continue in the CRS program. Upon receipt of the request from the member to continue in the CRS program, the Administration will determine the member's medical eligibility to continue in the CRS program.

R9-22-1306. ~~Repealed~~ Transition or Termination

A. The Administration shall transition a CRS member from the CRS contractor when the Administration determines the CRS member does not meet the medical eligibility requirements in R9-22-1301.

B. The Administration shall terminate a CRS member from the CRS contractor and the AHCCCS program when the Administration determines the CRS member does not meet the AHCCCS eligibility requirements.

C. If the Administration transitions a CRS member from the CRS contractor, the Administration shall provide the CRS member, or representative a written notice of transition.

R9-22-1307. ~~Repealed~~ Covered Services

The AHCCCS will cover medically necessary services as described within Article 2.

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 10. DEPARTMENT OF HEALTH SERVICES

HEALTH CARE INSTITUTIONS: LICENSING

Editor's Note: The following Notice of Exempt Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1769.) The Governor's Office authorized the notice to proceed through the rulemaking process on May 18, 2012.

[R12-123]

PREAMBLE

- 1. **Article, Part, or Section Affected (as applicable)** **Rulemaking Action**
R9-10-224 Amend
- 2. **Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific) and the statute or session law authorizing the exemption:**

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Authorizing statute: A.R.S. § 36-136(F)

Implementing statute: A.R.S. § 36-405

Statute or session law authorizing the exemption: Laws 2011, Ch. 43, § 2

3. The effective date of the rules and the agency's reason it selected the effective date:

June 30, 2012

The Department is required to complete the exempt rulemaking by July 1, 2012. The Department believes that the June 30, 2012 effective date allows the regulated community and the Department the necessary time to prepare for implementation of the changes contained in the rules.

4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:

Notice of Public Information: 17 A.A.R. 2307, November 11, 2011

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

Name: Kathryn McCanna, Bureau Chief

Address: Department of Health Services
Division of Licensing Services
Bureau of Medical Facilities Licensing
150 N. 18th Ave., Suite 405
Phoenix, AZ 85007

Telephone: (602) 364-2841

Fax: (602) 364-4764

E-mail: Kathryn.McCanna@azdhs.gov

or

Name: Thomas Salow, Manager

Address: Department of Health Services
Office of Administrative Counsel and Rules
1740 W. Adams St., Suite 203
Phoenix, AZ 85007

Telephone: (602) 542-1020

Fax: (602) 364-1150

E-mail: Thomas.Salow@azdhs.gov

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

On April 7, 2011, the Governor signed SB1248 (Laws 2011, Ch. 43), which requires the Arizona Department of Health Services (Department) to revise rules to eliminate the dual licensing requirements for hospitals that provide organized psychiatric services. Currently, a hospital providing organized psychiatric services is required to be licensed as a hospital under *Arizona Administrative Code* (A.A.C.) Title 9, Chapter 10, Article 2, and as a behavioral health service agency under 9 A.A.C. 20. This rulemaking incorporates specific requirements for providing psychiatric services in a hospital previously contained in 9 A.A.C. 20, into the hospital licensing requirements in 9 A.A.C. 10, Article 2. The Department received an exception from the Governor's rulemaking moratorium, established by Executive Order 2011-05, for this rulemaking.

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

None

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rulemaking 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, if applicable:

Not applicable

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and final rulemaking package (if applicable):

Not applicable

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11. An agency's summary of the public and stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

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. When applicable, matters shall include, but not be limited to:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of the federal law:

Not applicable

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

Not applicable

13. A list of any incorporated by reference material and its location in the rules:

None

14. Whether the rule previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

The rule was not previously made, amended, repealed or renumbered as an emergency rule.

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

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

ARTICLE 2. HOSPITALS

Section

R9-10-224. Psychiatric Services

ARTICLE 2. HOSPITALS

R9-10-224. Psychiatric Services

An administrator of a hospital that provides psychiatric organized services shall require that the hospital is in compliance with A.R.S. Title 36, Chapters 4 and 5, A.A.C. Title 9, Chapter 20, and this Chapter.

A. For purposes of this Section, the following definitions apply:

1. "Behavioral health technician" means an individual who provides hospital services in an organized psychiatric services unit or a special hospital licensed to provide psychiatric services with clinical oversight from a medical staff member or a personnel member.

2. "Clinical oversight" means:

a. Monitoring the hospital services provided by a behavioral health technician to ensure that the behavioral health technician is providing the hospital services according to hospital policies and procedures.

b. Providing on-going review of a behavioral health technician's skills and knowledge related to the provision of hospital services.

c. Providing guidance to improve a behavioral health technician's skill and knowledge related to the provision of hospital services, and

d. Recommending training for a behavioral health technician to improve the behavioral health technician's skill and knowledge related to the provision of hospital services.

3. "Informed consent" means:

a. Advising a patient of a proposed medical procedure or proposed administration of a drug, alternatives to the medical procedure or drug, associated risks, and possible complications; and

b. Obtaining authorization from the patient or the patient's representative for the medical procedure or drug.

4. "Time out" means providing a patient a voluntary opportunity to regain self-control in a designated area from which the patient is not physically prevented from leaving.

B. An administrator of a hospital that contains an organized psychiatric services unit or a special hospital licensed to provide

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psychiatric services shall require that in the organized psychiatric services unit or special hospital:

1. Psychiatric services are provided under the direction of a medical staff member;
2. A patient admitted to the organized psychiatric services unit or special hospital has a principle diagnosis of a mental disorder, a personality disorder, substance abuse, or a significant psychological or behavioral response to an identifiable stressor;
3. The hospital complies with the client rights in A.A.C. R9-20-203(C) for a patient in the organized psychiatric services unit or special hospital;
4. Except in an emergency, a patient receives a nursing assessment before treatment for the patient is initiated;
5. An individual is not admitted to an organized psychiatric services unit or special hospital and a patient in an organized psychiatric services unit or special hospital is transferred out of the organized psychiatric services unit or special hospital if the individual's or patient's medical needs cannot be met while admitted to the organized psychiatric services unit or special hospital;
6. Except for a psychotropic drug used as a chemical restraint or administered according to an order from a court of competent jurisdiction, a patient or the patient's representative signs an informed consent form for a psychotropic drug before the psychotropic drug is administered to the patient;
7. A behavioral health technician:
 - a. Is at least 21 years old, and
 - b. Meets one of the following qualifications:
 - i. Has a master's degree or bachelor's degree in a field related to behavioral health,
 - ii. Has a bachelor's degree,
 - iii. Has an associate degree, or
 - iv. Has a high school diploma or a high school equivalency diploma;
8. When a behavioral health technician provides services under the practice of marriage and family therapy as defined in A.R.S. § 32-3251, the practice of professional counseling as defined in A.R.S. § 32-3251, the practice of social work as defined in A.R.S. § 32-3251, or the practice of substance abuse counseling as defined in A.R.S. § 32-3251, ensure that the behavioral health technician is under the clinical oversight of an individual licensed pursuant to A.R.S. Title 32, Chapter 33 to provide the specific service being provided by the behavioral health technician;
9. Clinical oversight provided as required in subsection (B)(8) is documented in the personnel file of the behavioral health technician receiving the clinical oversight and includes:
 - a. The date of any clinical oversight discussion,
 - b. The name of the behavioral health technician receiving clinical oversight,
 - c. The name and signature of the medical staff member or personnel member providing clinical oversight, and
 - d. Identification of additional training that may enhance the behavioral health technician's skills or knowledge;
10. A personnel member who provides hospital services in an organized psychiatric services unit or special hospital demonstrates competency and proficiency according to criteria established in hospital policies and procedures for each type of hospital service the personnel member provides and each type of patient to which the personnel member is assigned;
11. Hospital policies and procedures for the organized psychiatric services unit or special hospital are established, documented, and implemented that:
 - a. Establish qualifications for medical staff members and personnel members who provide clinical oversight to behavioral health technicians;
 - b. Establish the process for patient assessment including identification of a patient's medical conditions and criteria for the on-going monitoring of any identified medical condition;
 - c. Establish the process for developing and implementing a patient's care plan including:
 - i. Obtaining the patient's or the patient's representative's participation in the development of the patient's care plan;
 - ii. Ensuring that the patient is informed of the modality, frequency, and duration of any treatments that are included in the patient's care plan;
 - iii. Informing the patient that the patient has the right to refuse any treatment;
 - iv. Updating the patient's care plan and informing the patient of any changes to the patient's care plan; and
 - v. Documenting the actions in subsection (B)(11)(c)(i) through (iv) in the patient's medical record;
 - d. Establish the process for warning an identified or identifiable individual, as described in A.R.S. § 36-517.02(B) and (C), if a patient communicates to a medical staff member or personnel member a threat of imminent serious physical harm or death to the individual and the patient has the apparent intent and ability to carry out the threat;
 - e. Establish the criteria for determining when a patient's absence is unauthorized, including whether the patient:
 - 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;
 - f. Identify each type of restraint and seclusion used in the organized psychiatric services unit or special hospital and

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- include for each type of restraint and seclusion used:
- i. The qualifications of a medical staff member or personnel member who can:
 - (1) Order the restraint or seclusion.
 - (2) Place a patient in the restraint or seclusion.
 - (3) Monitor a patient in the restraint or seclusion.
 - (4) Evaluate a patient's physical and psychological well-being after being placed in the restraint or seclusion and when released from the restraint or seclusion, or
 - (5) Renew the order for restraint or seclusion;
 - ii. On-going training requirements for a medical staff member or personnel member who has direct patient contact with a patient while the patient is in a restraint or in seclusion; and
 - iii. Criteria for monitoring and assessing a patient including:
 - (1) Frequencies of monitoring and assessment based on a patient's condition and risks associated with the specific restraint or seclusion;
 - (2) For the renewal of an order for restraint or seclusion, whether an assessment is required before the order is renewed and, if an assessment is required, who may conduct the assessment;
 - (3) Assessment content, which may include, depending on a patient's condition, the patient's vital signs, respiration, circulation, hydration needs, elimination needs, level of distress and agitation, mental status, cognitive functioning, neurological functioning, and skin integrity;
 - (4) If a mechanical restraint is used, how often the mechanical restraint is loosened; and
 - (5) A process for meeting a patient's nutritional needs and elimination needs;
 - g. Establish the criteria and procedures for renewing an order for restraint or seclusion;
 - h. Establish procedures for internal review of the use of restraint or seclusion;
 - i. Establish requirements for notifying the parent or guardian of a patient who is less than 18 years of age and who is restrained or secluded; and
 - j. Establish medical record and personnel file documentation requirements for restraint and seclusion;
12. For a patient admitted to the organized psychiatric services unit or special hospital who:
- a. Dies, written notification of the patient's death is submitted to the Department within one working day after the patient's death; or
 - b. Attempts suicide or inflicts a self-injury that requires medical services or immediate intervention by an emergency response team or a medical practitioner, written notification of the patient's suicide attempt or self-injury is submitted to the Department within two working days after the patient's suicide attempt or self-injury;
13. If time out is used in the organized psychiatric services unit or special hospital, a time out:
- a. Takes place in an area that is unlocked, lighted, quiet, and private;
 - b. Does not take place in the room approved for seclusion by the Department under R9-10-104;
 - c. Is time-limited and does not exceed two hours per incident or four hours per day;
 - d. Does not result in a patient's missing a meal if the patient is in time out at mealtime;
 - e. Includes monitoring of the patient by a medical staff member or personnel member at least once every 15 minutes to ensure the patient's health, safety, and welfare and to determine if the patient is ready to leave time out; and
 - f. Is documented in the patient's medical record, to include:
 - i. The date of the time out.
 - ii. The reason for the time out.
 - iii. The duration of the time out, and
 - iv. The action planned and taken to address the reason for the time out;
14. Restraint is only used in an emergency situation when needed to ensure a patient's physical safety and less restrictive interventions have not been effective;
15. Seclusion is only used for the management of a patient's violent or self-destructive behavior that jeopardizes the immediate physical safety of the patient or other individuals;
16. Restraint or seclusion is not used as a means of coercion, discipline, convenience, or retaliation;
17. Restraint or seclusion is:
- a. Only ordered by a physician or a nurse practitioner, and
 - b. Not written as a standing order or on an as-needed basis;
18. An order for restraint or seclusion includes:
- 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 specific restraint or seclusion ordered;
 - d. If a drug is ordered as a chemical restraint, the drug's name, strength, dosage, and route of administration;
 - e. The specific criteria for release from restraint or seclusion without an additional order; and
 - f. The maximum duration authorized for the restraint or seclusion;

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19. An order for restraint or seclusion is limited to the duration of the emergency situation and does not exceed:
 - a. Four continuous hours for a patient who is 18 years of age or older.
 - b. Two continuous hours for a patient who is between the ages of 9 and 17, or
 - c. One continuous hour for a patient who is younger than 9.
20. If restraint and seclusion are used on a patient simultaneously, the patient receives continuous:
 - a. Face-to-face monitoring by a medical staff member or personnel member, or
 - b. Video and audio monitoring by a medical staff member or personnel member who is in close proximity to the patient;
21. If an order for restraint or seclusion of a patient is not provided by the patient's attending physician, the patient's attending physician is notified as soon as possible;
22. A medical staff member or personnel member does not participate in restraint or seclusion, monitor a patient during restraint or seclusion, or evaluate a patient after restraint or seclusion and a physician or nurse practitioner does not order restraint or seclusion until the medical staff member, personnel member, physician, or nurse practitioner completes education and training that:
 - a. Includes:
 - i. Techniques to identify medical staff member, personnel member, and patient behaviors; events; and environmental factors that may trigger circumstances that require restraint or seclusion;
 - ii. The use of nonphysical intervention skills, such as de-escalation, mediation, conflict resolution, active listening, and verbal and observational methods;
 - iii. Techniques for identifying the least restrictive intervention based on an assessment of the patient's medical or behavioral health condition;
 - iv. The safe use of restraint and the safe use of seclusion, including training in how to recognize and respond to signs of physical and psychological distress in a patient who is restrained or secluded;
 - v. Clinical identification of specific behavioral changes that indicate that the restraint or seclusion is no longer necessary;
 - vi. Monitoring and assessing a patient while the patient is in restraint or seclusion according to hospital policies and procedures; and
 - vii. Training exercises in which medical staff members and personnel members successfully demonstrate the techniques that the medical staff members and personnel members have learned for managing emergency situations; and
 - b. Is provided by individuals qualified according the hospital policies and procedures;
23. When a patient is placed in restraint or seclusion:
 - a. The restraint or seclusion is conducted according to hospital policies and procedures;
 - b. The restraint or seclusion is proportionate and appropriate to the severity of the patient's behavior and the patient's:
 - i. Chronological and developmental age;
 - ii. Size;
 - iii. Gender;
 - iv. Physical condition;
 - v. Medical condition;
 - vi. Psychiatric condition; and
 - vii. Personal history, including any history of physical or sexual abuse;
 - c. The physician or nurse practitioner who ordered the restraint or seclusion is available for consultation throughout the duration of the restraint or seclusion;
 - d. The patient is monitored and assessed according to hospital policies and procedures;
 - e. A physician or other health professional authorized by hospital policies and procedures assesses the patient within one hour after the patient is placed in the restraint or seclusion and determines:
 - i. The patient's current behavior;
 - ii. The patient's reaction to the restraint or seclusion;
 - iii. The patient's medical and behavioral condition, and
 - iv. Whether to continue or terminate the restraint or seclusion; and
 - f. The restraint or seclusion is discontinued at the earliest possible time, regardless of the length of time identified in the order;
24. If a patient is placed in seclusion, the room used for seclusion:
 - a. Is approved for use as a seclusion room by the Department under R9-10-104;
 - b. Is not used as a patient's bedroom or a sleeping area;
 - c. Allows full view of the patient in all areas of the room;
 - d. Is free of hazards, such as unprotected light fixtures or electrical outlets;
 - e. Contains at least 60 square feet of floor space; and

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- f. Contains a non-adjustable bed that:
 - i. Consists of a mattress on a solid platform that is:
 - (1) Constructed of a durable, non-hazardous material; and
 - (2) Raised off of the floor;
 - ii. Does not have wire springs or a storage drawer, and
 - iii. Is securely anchored in place;
- 25. A medical staff member or personnel member documents the following information in a patient's medical record before the end of the shift in which the patient is placed in restraint or seclusion or, if the patient's restraint or seclusion does not end during the shift in which it began, during the shift in which the patient's restraint or seclusion ends:
 - a. The emergency situation that required the patient to be restrained or put in seclusion;
 - b. The times the patient's restraint or seclusion actually began and ended;
 - c. The time of the face-to-face assessment required in subsection (B)(23)(e);
 - d. The monitoring required in subsection (B)(20) or (B)(23)(d), as applicable; and
 - e. The names of the medical staff members and personnel members who had direct contact with the patient while the patient was in the restraint or seclusion; and
- 26. If an emergency situation continues beyond the time limit of an order for restraint or seclusion, the order is renewed according to hospital policies and procedures.

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

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

Editor's Note: The following Notice of Exempt Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1769.) The Governor's Office authorized the notice to proceed through the rulemaking process on May 18, 2012.

[R12-124]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**

R9-20-101	Amend
R9-20-102	Amend
R9-20-104	Amend
R9-20-202	Amend
R9-20-502	Repeal
R9-20-602	Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific) and the statute or session law authorizing the exemption:**

Authorizing statute: A.R.S. § 36-136(F)
Implementing statute: A.R.S. § 36-405
Statute or session law authorizing the exemption: Laws 2011, Ch. 231, § 3 and Laws 2011, Ch. 43, § 2
- 3. The effective date of the rule and the agency's reason it selected the effective date:**

June 30, 2012

The Department is required to complete the exempt rulemaking by July 1, 2012. The Department believes that the June 30, 2012 effective date allows the regulated community and the Department the necessary time to prepare for implementation of the changes contained in the rules.
- 4. A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:**

Notice of Public Information: 17 A.A.R. 2308, November 11, 2011
- 5. The agency's contact person who can answer questions about the rulemaking:**

Name: Barbara Lang, Office Chief
Address: Department of Health Services
 Division of Licensing Services

Notices of Exempt Rulemaking

Office of Behavioral Health Licensing
150 N. 18th Ave., Suite 410
Phoenix, AZ 85007

Telephone: (602) 364-2586
Fax: (602) 364-4807
E-mail: Barbara.Lang@azdhs.gov

or

Name: Thomas Salow, Manager
Address: Department of Health Services
Office of Administrative Counsel and Rules
1740 W. Adams St., Suite 203
Phoenix, AZ 85007

Telephone: (602) 542-1020
Fax: (602) 364-1150
E-mail: Thomas.Salow@azdhs.gov

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

The Governor signed SB1240 (Laws 2011, Ch. 231, § 3), which requires the Department to include behavior analysts in the list of behavioral health professionals in *Arizona Administrative Code* (A.A.C.) Title 9, Chapter 20, on April 25, 2011, and SB1248 (Laws 2011, Ch. 43), which requires the Arizona Department of Health Services (Department) to remove all references to hospital licensure from 9 A.A.C. 20, on April 7, 2011. This rulemaking adds behavior analysts to the list of behavioral health professionals in 9 A.A.C. 20 and deletes the requirements in 9 A.A.C. 20 for providing psychiatric services in a hospital as required in the above referenced session laws. The Department received an exception from the Governor's rulemaking moratorium, established by Executive Order 2011-05, for this rulemaking.

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

None

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rulemaking 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, if applicable:

Not applicable

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and final rulemaking package, (if applicable):

Not applicable

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

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. When applicable, matters shall include, but not be limited to:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of the federal law:

Not applicable

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

Not applicable

13. A list of any incorporated by reference material and its location in the rules:

None

14. Whether this rule previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

The rule was not previously made, amended, repealed or renumbered as an emergency rule.

15. The full text of the rules 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
- R9-20-104. License Renewal

ARTICLE 2. UNIVERSAL RULES

Section

- R9-20-202. Required Reports

ARTICLE 5. INPATIENT TREATMENT PROGRAM REQUIREMENTS

Section

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

ARTICLE 6. USE OF RESTRAINT OR SECLUSION

Section

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

ARTICLE 1. GENERAL

R9-20-101. Definitions

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" 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

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- 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 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~~ associate degree,
 - b. A high school diploma, or
 - c. A high school equivalency diploma.
 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~~, Baccalaureate social worker licensed according to A.R.S. Title 32, Chapter 33;
 - e. Master social worker licensed according to A.R.S. Title 32, Chapter 33;
 - f. Clinical social worker licensed according to A.R.S. Title 32, Chapter 33;
 - e-g. ~~Counselor~~, Professional counselor licensed according to A.R.S. Title 32, Chapter 33;
 - h. Associate counselor licensed according to A.R.S. Title 32, Chapter 33;
 - f-i. Marriage and family therapist; licensed according to A.R.S. Title 32, Chapter 33;
 - j. Associate marriage and family therapist licensed according to A.R.S. Title 32, Chapter 33;
 - g-k. ~~Substance abuse counselor~~, or licensed according to A.R.S. Title 32, Chapter 33;
 - l. Associate substance abuse counselor licensed according to A.R.S. Title 32, Chapter 33;
 - m. Independent substance abuse counselor licensed according to A.R.S. Title 32, Chapter 33;
 - n. Behavior analyst licensed according to A.R.S. § 32-2091; or
 - h-o. 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~~ associate 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:
 - 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 two years of full-time

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- 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 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.
 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.
 - ~~31. "Counselor" means:
 - a. Before July 1, 2004, 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 according to A.R.S. Title 32, Chapter 33;
 - e. Until October 3, 2003, an individual who is certified by the National Board of Certified Counselors; or
 - 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.~~
 - ~~32-31.~~ "Court-ordered alcohol treatment" means detoxification services or treatment provided according to A.R.S. Title 36, Chapter 18, Article 2.
 - ~~33-32.~~ "Court-ordered alcohol treatment evaluation" has the same meaning as "evaluation" in A.R.S. § 36-201.
 - ~~34-33.~~ "Court-ordered evaluation" or "evaluation" has the same meaning as "evaluation" in A.R.S. § 36-501.
 - ~~35-34.~~ "Court-ordered treatment" means treatment provided according to A.R.S. Title 36, Chapter 5.
 - ~~36-35.~~ "CPR" means cardiopulmonary resuscitation.
 - ~~37-36.~~ "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.
 - ~~38-37.~~ "Current" means up-to-date, extending to the present time.
 - ~~39-38.~~ "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.
 - ~~40-39.~~ "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.
 - ~~41-40.~~ "Danger to self" means:

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- 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.
- ~~42-41.~~ "Day" means calendar day.
- ~~43-42.~~ "Department" means the department of health services.
- ~~44-43.~~ "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.
- ~~45-44.~~ "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.~~
- ~~46-45.~~ "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.
- ~~47-46.~~ "Discharge" means the written termination of a client's affiliation with an agency, according to R9-20-210.
- ~~48-47.~~ "Discharge summary" means an analysis of the treatment provided to a client and the client's progress in treatment.
- ~~49-48.~~ "Documentation" means written or electronic supportive evidence.
- ~~50-49.~~ "Drug used as a restraint" means 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. To manage a client's behavior in a way that reduces the safety risk to the client or others, and
 - b. To temporarily restrict the client's freedom of movement.
- ~~51-50.~~ "DSM-IV" means DSM-IV: Diagnostic and Statistical Manual of Mental Disorders (4th ed. 1994), incorporated by reference in subsection (46)(a).
- ~~52-51.~~ "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.
- ~~53-52.~~ "DUI education" has the same meaning as "education" in A.R.S. § ~~28-1301(3)~~ 28-1301.
- ~~54-53.~~ "DUI screening" has the same meaning as "screening" in A.R.S. § ~~28-1301(6)~~ 28-1301.
- ~~55-54.~~ "DUI treatment" has the same meaning as "treatment" in A.R.S. § ~~28-1301(7)~~ 28-1301.
- ~~56-55.~~ "Emergency safety response" means physically holding a client to safely manage a sudden, intense, or out-of-control behavior to prevent harm to the client or another individual.
- ~~57-56.~~ "Employee" means an individual who receives compensation from an agency for work performed, but who does not provide behavioral health services.
- ~~58-57.~~ "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.
- ~~59-58.~~ "Facilities" means buildings used by a health care institution for providing any of the types of services as defined in this Chapter.
- ~~60-59.~~ "Family member" means:
- a. A client's parent, step-parent, foster parent, spouse, sibling, child, grandparent, grandchild, aunt, uncle, niece, nephew, or significant other; or
 - b. For pre-petition screening, court-ordered evaluation, or court-ordered treatment, the same as defined in A.R.S. § 36-501.
- ~~61-60.~~ "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.
- ~~62-61.~~ "Full time" means 40 hours a week or more.
- ~~63-62.~~ "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.
- ~~64-63.~~ "General client supervision" means guidance of a client by a staff member and includes:

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- a. Being aware of a client's general whereabouts;
 - b. 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
 - c. Interacting with a client to assist the client in achieving a treatment goal.
- ~~65-64.~~ "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.
- ~~66-65.~~ "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.
- ~~67-66.~~ "Grievance" means a client's documented expression of dissatisfaction to a licensee about an act, omission, or condition of the licensee's agency.
- ~~68-67.~~ "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.
- ~~69-68.~~ "Hazard" means a condition or situation from which a client may suffer physical injury or illness.
- ~~70-69.~~ "High school equivalency diploma" means:
- a. 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);
 - 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
 - c. 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.
- ~~71-70.~~ "Immediate" means without delay.
- ~~72-71.~~ "Incident" means an occurrence or event that has the potential to cause harm or has caused harm to a client.
- ~~73-72.~~ "Informed consent" has the same meaning as in A.R.S. § 36-501.
- ~~74-73.~~ "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.
- ~~75-74.~~ "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).
- ~~76-75.~~ "Inpatient treatment program" means a behavioral health service agency that:
- a. Provides medical services and continuous onsite or on-call availability of a behavioral health medical practitioner,
 - b. Provides accommodations for a client to stay overnight at the agency, and
 - c. May provide restraint or seclusion.
- ~~77-76.~~ "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.
- ~~78.~~ "Level 1 psychiatric acute hospital" means an inpatient treatment program that:
- a. ~~Is located in a general hospital, rural general hospital, or special hospital licensed according to 9 A.A.C. 10, unless:~~
 - i. ~~The agency was licensed as a Level 1 psychiatric acute care behavioral health facility before the effective date of this Chapter, and~~
 - ii. ~~The agency does not receive Medicaid funds under Title XIX of the Social Security Act;~~
 - b. ~~Has continuous onsite or on-call availability of a psychiatrist; and~~
 - e. ~~Provides continuous treatment to an individual who is experiencing a behavioral health issue that causes the individual:~~
 - i. ~~To be a danger to self, a danger to others, or gravely disabled; or~~
 - ii. ~~To suffer severe and abnormal mental, emotional, or physical harm that significantly impairs judgment, reason, behavior, or the capacity to recognize reality.~~
- ~~79-77.~~ "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.
- ~~80-78.~~ "Level 1 RTC" means a Level 1 residential treatment center.
- ~~81-79.~~ "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.
- ~~82-80.~~ "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:
- a. To have a limited or reduced ability to meet the individual's basic physical and age-appropriate needs;
 - b. To be a danger to self, a danger to others, or gravely disabled; or
 - c. To suffer severe and abnormal mental, emotional, or physical harm that impairs judgment, reason, behavior, or the capacity to recognize reality.
- ~~83-81.~~ "Level 2 behavioral health residential agency" means a residential agency that provides:

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- a. Counseling;
 - b. Continuous onsite or on-call availability of a behavioral health professional; and
 - c. 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.
- 84-82. "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.
- 85-83. "Level 4 transitional agency" means an agency that provides accommodations where a client receives:
- a. Support to assist the client in managing a crisis situation, or
 - b. An opportunity to enhance the client's independent living skills.
- 86-84. "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 4 transitional agency.
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.~~
- 88-85. "Licensee" means a person authorized by the Department to operate an agency.
- 89-86. "Manager" means the individual who has the responsibility to operate according to the requirements in this Chapter:
- a. A Level 4 transitional agency,
 - b. A shelter for victims of domestic violence,
 - c. A rural substance abuse transitional agency, or
 - d. An adult therapeutic foster home.
90. ~~"Marriage and family therapist" means:~~
- a. ~~Before July 1, 2004, 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;~~
 - b. ~~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;~~
 - c. ~~Until October 3, 2003, an individual who is a clinical member of the American Association of Marriage and Family Therapy; or~~
 - d. ~~Until July 1, 2004, 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.~~
- 91-87. "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 a device, article, or garment:
- 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.
- 92-88. "Medical emergency" means a situation that requires immediate medical intervention to prevent death, hospitalization, or serious physical harm.
- 93-89. "Medical practitioner" means a:
- a. Physician,
 - b. Physician assistant, or
 - c. Nurse practitioner.
- 94-90. "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.
- 95-91. "Medication" means a prescription medication as defined in A.R.S. § 32-1901 or nonprescription drug, as defined in A.R.S. § 32-1901.
- 96-92. "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.
- 97-93. "Medication adjustment" means a change made by a medical practitioner in the medication used to treat a client's behavioral health issue.
- 98-94. "Medication monitoring" means the determination, made by a medical practitioner or registered nurse, of whether a client's medication is achieving the desired effect.

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- ~~99-95.~~ “Medication organizer” means a container divided according to date or time increments and designated to hold medication.
- ~~100-96.~~ “Medication services” means one or more of the following:
- Medication administration,
 - Medication monitoring, or
 - Medication adjustment.
- ~~101-97.~~ “Mental disorder” has the same meaning as in:
- A.R.S. § 36-501; or
 - For an individual receiving treatment as a sexually violent person according to A.R.S. Title 36, Chapter 37, A.R.S. § 36-3701.
- ~~102-98.~~ “Mental health care power of attorney” means a written designation of an agent to make mental health care decisions that meets the requirements of A.R.S. § 36-3281.
- ~~103-99.~~ “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.
- ~~104-100.~~ “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.
- ~~105-101.~~ “NFPA” means National Fire Protection Association.
- ~~106-102.~~ “Nurse” means an individual licensed as a registered nurse or a practical nurse according to A.R.S. Title 32, Chapter 15.
- ~~107-103.~~ “Nurse practitioner” means an individual certified as a registered nurse practitioner according to A.R.S. Title 32, Chapter 15.
- ~~108-104.~~ “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.
- ~~109-105.~~ “OBHL” means the Department’s Office of Behavioral Health Licensure.
- ~~110-106.~~ “On-call” means the immediate availability of an individual in person, by telephone, or other electronic means.
- ~~111-107.~~ “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 ~~addition~~ addiction, to alleviate or eliminate an individual’s dependence upon an opioid drug.
- ~~112-108.~~ “Order” means an instruction to provide a behavioral health service or a medical service to a client.
- ~~113-109.~~ “Orientation” means familiarizing an individual with a new setting or situation.
- ~~114-110.~~ “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.
- ~~115-111.~~ “Outpatient clinic” means an agency that provides treatment to a client for less than 24 consecutive hours and is not licensed as an agency subclass in R9-20-102(A)(2) through (11).
- ~~116-112.~~ “Owner” means a person who appoints, elects, or otherwise designates a health care institution’s governing authority.
- ~~117-113.~~ “Partial care” means a day program that provides counseling or medication services at an outpatient clinic.
- ~~118-114.~~ “Person” has the same meaning as in A.R.S. § 1-215 and includes governmental agencies.
- ~~119-115.~~ “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).
- ~~120-116.~~ “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 1 RTC or a Level 1 ~~sub-acute~~ sub-acute agency, does not include:
 - Holding a client for no longer than five minutes, without undue force, 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.
- ~~121-117.~~ “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.
- ~~122-118.~~ “Pharmacist” means an individual licensed according to A.R.S. Title 32, Chapter 18.
- ~~123-119.~~ “Pharmacological abuse” means administration of medication:
- For purposes of discipline, convenience, retaliation, or coercion; and

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- b. That is not required to treat a client's medical or behavioral health issue or for restraint.
- ~~124-120.~~ "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.
- ~~125-121.~~ "Physician" means an individual licensed according to A.R.S. Title 32, Chapter 13 or 17.
- ~~126-122.~~ "Physician assistant" means an individual licensed according to A.R.S. Title 32, Chapter 25.
- ~~127-123.~~ "Premises" means a licensed facility and the facility's contiguous grounds or a branch office where behavioral health services are provided.
- ~~128-124.~~ "Prepetition screening" has the same meaning as in A.R.S. Title 36, Chapter 5.
- ~~129-125.~~ "Presenting issue" means one or more behavioral health issues that are the reason for an individual's seeking or needing behavioral health services.
- ~~130-126.~~ "PRN" means pro re nata or given as needed.
- ~~131-127.~~ "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.
- ~~132-128.~~ "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.
- ~~133-129.~~ "Psychiatrist" has the same meaning as in A.R.S. § 36-501.
- ~~134-130.~~ "Psychologist" means an individual licensed according to A.R.S. Title 32, Chapter 19.1.
- ~~135-131.~~ "Referral" means assistance or direction provided to an individual to enable the individual to obtain information, behavioral health services, medical services, or ancillary services.
- ~~136-132.~~ "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.
- ~~137-133.~~ "Registered nurse" means an individual licensed as a graduate nurse, professional nurse, or registered nurse according to A.R.S. Title 32, Chapter 15.
- ~~138-134.~~ "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.
- ~~139-135.~~ "Research" means the systematic study of a field of knowledge.
- ~~140-136.~~ "Residential agency" means a:
- Level 2 behavioral health residential agency, or
 - Level 3 behavioral health residential agency.
- ~~141-137.~~ "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.
- ~~142-138.~~ "Restraint" means personal restraint, mechanical restraint, or drug used as a restraint.
- ~~143-139.~~ "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.
- ~~144-140.~~ "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.
- ~~145-141.~~ "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.
- ~~146-142.~~ "Security officer" has the same meaning as "security guard" in A.R.S. § 32-2601(23).
- ~~147-143.~~ "Seriously mentally ill" means persons, who as a result of a mental disorder as defined in A.R.S. § 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~~ 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.
- ~~148-144.~~ "Shelter for victims of domestic violence" or "shelter" means a facility providing temporary housing or facilities

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to family or household members who are victims of domestic violence.

~~149-145.~~ "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.

~~150-146.~~ "Significant other" means an individual whose participation the client considers to be essential to the effective provision of behavioral health services to the client.

~~151.~~ "Social worker" means:

- ~~a. Before July 1, 2004, 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;~~
- ~~b. 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;~~
- ~~c. Until October 3, 2003, an individual who is certified by the National Association of Social Workers; or~~
- ~~d. Until July 1, 2004, an individual who is licensed or certified to practice social work by a government entity in another state if the individual:~~
 - ~~i. 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~~
 - ~~ii. 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.~~

~~152-147.~~ "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:

- ~~a. Behavioral health professional,~~
- ~~b. Behavioral health technician, or~~
- ~~c. Behavioral health paraprofessional.~~

~~153-148.~~ "Subclass" means a type of behavioral health service agency listed in R9-20-102(A).

~~154-149.~~ "Substance abuse" means the misuse of alcohol or another chemical or drug that:

- ~~a. Alters an individual's behavior or mental functioning;~~
- ~~b. May cause psychological or physiological dependence; and~~
- ~~c. Impairs, reduces, or destroys the individual's social or economic functioning.~~

~~155.~~ "Substance abuse counselor" means:

- ~~a. Before July 1, 2004, an individual who is certified as a substance abuse counselor according to A.R.S. Title 32, Chapter 33, Article 8;~~
- ~~b. 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~~
- ~~c. An individual who is certified by the Arizona Board of Certified Addiction Counselors.~~

~~156-150.~~ "Therapeutic diet" means one of the following ordered for an individual by a medical practitioner:

- ~~a. Food, or~~
- ~~b. The manner in which food is to be prepared.~~

~~157-151.~~ "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.

~~158-152.~~ "Transfer" means moving a client from one agency to another agency that assumes responsibility for the treatment of the client.

~~159-153.~~ "Treatment" means:

- ~~a. 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~~
- ~~b. For court-ordered alcohol treatment, the same as in A.R.S. § 36-2021.~~

~~160-154.~~ "Treatment goal" means the desired result or outcome of treatment.

~~161-155.~~ "Treatment method" means the specific approach used to achieve a treatment goal.

~~162-156.~~ "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.

~~163-157.~~ "Volunteer" means an individual who provides a behavioral health service or ancillary service at an agency without compensation.

~~164-158.~~ "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:

- 1. Outpatient clinic,
- 2. Level 2 behavioral health residential agency,
- 3. Level 3 behavioral health residential agency,
- 4. Level 1 psychiatric acute hospital,
- 5-4. Level 1 RTC,

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- ~~6-5~~ Level 1 sub-acute agency,
- ~~7-6~~ Level 1 specialized transitional agency,
- ~~8-7~~ Level 4 transitional agency,
- ~~9-8~~ Shelter for victims of domestic violence,
- ~~10-9~~ Rural substance abuse transitional agency, or
- ~~11-10~~ Adult therapeutic foster home.

B. If an agency is licensed as:

1. An outpatient clinic, the licensee of the agency:
 - a. Shall comply with:
 - i. Article 1,
 - ii. Article 2, and
 - iii. R9-20-301; and
 - b. Shall request authorization to provide one or more of the following:
 - i. Counseling according to R9-20-302,
 - ii. Medication services according to R9-20-303,
 - iii. Assistance in the self-administration of medication according to R9-20-408,
 - iv. Pre-petition screening according to R9-20-801,
 - v. Court-ordered evaluation according to R9-20-802,
 - vi. Court-ordered treatment according to R9-20-803,
 - vii. DUI screening according to R9-20-901 and R9-20-902,
 - viii. DUI education according to R9-20-901 and R9-20-903,
 - ix. DUI treatment according to R9-20-904,
 - x. Opioid treatment according to Article 10, or
 - xi. Misdemeanor domestic violence offender treatment according to Article 11;
 - c. If requesting authorization to ~~provide~~ provide 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,
 - iii. R9-20-401 through R9-20-407, and
 - 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,
 - iii. R9-20-401 through R9-20-407, and
 - 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,~~

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- ~~ii. Article 2;~~
 - ~~iii. R9-20-501, and~~
 - ~~iv. R9-20-502;~~
 - ~~b. Shall provide:~~
 - ~~i. Counseling according to R9-20-302;~~
 - ~~ii. Medication services according to R9-20-303, and~~
 - ~~e. 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. Restraint or seclusion according to Article 6;~~
- ~~5-4.~~ A Level 1 RTC, the licensee of the agency:
 - a. Shall comply with:
 - i. Article 1,
 - ii. Article 2,
 - iii. R9-20-501, and
 - iv. R9-20-505;
 - b. Shall provide:
 - i. Counseling according to R9-20-302,
 - ii. Medication services according to R9-20-303, 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,
 - v. Court-ordered treatment according to R9-20-803; or
 - vi. Restraint or seclusion according to Article 6;
- ~~6-5.~~ 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
 - 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. 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;
- ~~7-6.~~ Level 1 specialized transitional agency, the licensee of the agency:
 - a. Shall comply with:
 - i. Article 1,
 - ii. 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;

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- 8-7. 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 in the self-administration of medication according to R9-20-408~~2~~; or
 - ii. Counseling according to R9-20-302;

- 9-8. 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 in the self-administration of medication according to R9-20-408, or
 - ii. Counseling according to R9-20-302;

- 10-9. A rural substance abuse transitional agency, the licensee of the agency:
 - a. Shall comply with:
 - i. Article 1, and
 - 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

- 11-10. An adult therapeutic foster home, the licensee of the agency:
 - a. Shall comply with:
 - i. Article 1, and
 - ii. Article 15~~2~~; 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.

R9-20-104. 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 includes the items in:
 - a. R9-20-103(A)(1)(a) through ~~(A)(1)(e)(iii)~~ (e)(iii);
 - b. R9-20-103(A)(1)(f) through ~~(A)(1)(j)~~ (j);
 - c. R9-20-103(A)(1)(l) through ~~(A)(1)(s)~~ (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: one year.
 - 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~~
 - 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.~~

ARTICLE 2. UNIVERSAL RULES

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~~2~~; or

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- ii. A suicide attempt or a self-inflicted injury;
 - 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 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;
 - e. An unauthorized absence from a residential agency, 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 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.
 - 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 (A)(1)(d)(i) (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)~~ (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

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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.

ARTICLE 5. INPATIENT TREATMENT PROGRAM REQUIREMENTS

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

- ~~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 (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/efr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954;
 - 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/efr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954;
 - e. 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/efr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954;
 - 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/efr 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 (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/efr 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 (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/efr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954;
 - g. 42 CFR 456, Subpart 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/efr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954;
 - 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/efr 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 (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/efr and from U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954;~~
 - ~~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, 42 CFR 441.150 through 441.156 (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/efr and 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;~~

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- 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 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 tampers tied into the fire alarm control panel.

ARTICLE 6. USE OF RESTRAINT OR SECLUSION

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;₂ and
 - b. That identifies the qualifications of a staff member to:
 - i. Order restraint or seclusion;₂
 - ii. Place a client in restraint or seclusion;₂
 - iii. Monitor a client in restraint or seclusion;₂ 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:
 - 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;₂ 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

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- b. If a physician providing treatment to the client is not present on the premises or on-call:
 - 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 individual who orders restraint or seclusion is not present, the individual’s verbal order is obtained by a nurse at the time the restraint or seclusion is initiated;
3. 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 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
 - 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. 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~~ 9 and 17;_ or
 - c. One hour for a client who is younger than ~~nine~~ 9.
6. An individual ordering restraint or seclusion signs the order as soon as possible after the date of the order; and
7. If the individual ordering the use of restraint or seclusion is not a physician providing treatment to the client, the individual ordering restraint or seclusion:
 - a. Consults with the medical practitioner providing treatment as soon as possible and informs that 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 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:
 - ~~1. For a Level 1 psychiatric acute hospital, a 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 subsections (D) through (E), (J)(2), and (K) as applicable;
 5. Documentation of the monitoring required in subsections (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:~~

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- 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~~
 - e. ~~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;
 - d. Is free of hazards, such as unprotected light fixtures or electrical outlets;
 - 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 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. Date of the debriefing;
 - b. Names of the individuals participating in the debriefing;
 - c. 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. 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, 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

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use of restraint or seclusion that has occurred at the agency in the past month and:

1. 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;
 2. Maintains the documentation in subsection (N)(1) at the agency 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.
- 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; and
 - 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.

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ADMINISTRATION

Editor's Note: The following Notice of Exempt Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1769.) The Governor's Office authorized the notice to proceed through the rulemaking process on May 4, 2011.

[R12-121]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**
R9-22-204 Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**
Authorizing statute: A.R.S. § 36-2903.01
Implementing statute: A.R.S. § 36-2907, amended by Laws 2011, Ch. 31 ("the 2011 Act"), § 13
Statute or session law authorizing the exemption: Laws 2010, 7th Special Session, Ch. 10, § 34 and Laws 2011, Ch. 31, § 34
- 3. The effective date of the rule and the agency's reason it selected the effective date:**
October 1, 2012
- 4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**
Notice of Proposed Exempt Rulemaking: 17 A.A.R. 1290, July 15, 2011
Notice of Exempt Rulemaking: 17 A.A.R. 1707, August 29, 2011
Notice of Proposed Exempt Rulemaking: 18 A.A.R. 1310, June 8, 2012
- 5. The agency's contact person who can answer questions about the rulemaking:**
Name: Mariaelena Ugarte
Address: AHCCCS
Office of Administrative and Legal Services
701 E. Jefferson St., Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4693
Fax: (602) 253-9115
E-mail: AHCCCSrules@azahcccs.gov
Web site: www.azahcccs.gov
- 6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**

The Governor's Medicaid Reform Plan, as announced on March 15, 2011, includes proposals to reduce nonfederal expenditures for the AHCCCS program by approximately \$500 million during state fiscal year 2012. To achieve some of these reductions, the AHCCCS Administration promulgated limitations to covered inpatient days for adults and within these limitations there were exceptions, such as hospitalizations due to severe burns. This rulemaking was effective October 1, 2011. Based on comments obtained from the Center of Medicare and Medicaid Services during the State Plan approval process, the Administration is proposing a clarification to the description of the exception of hospitalizations due to severe burns.

Burn center verification, a joint program of the American Burn Association and the American College of Surgeons, is designed to ensure provision of optimal care to burn patients from the time of injury through rehabilitation. In order to receive this distinction of high quality patient care, the provider participates in a rigorous review process, including an in depth site visit followed by a written report. It is likely that burn victims requiring in excess of 25 days of inpatient treatment would be transferred to an ACS verified burn center.

Notices of Exempt Rulemaking

7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
No studies were relied upon for the implementation of this rulemaking.
8. **A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
9. **The summary of the economic, small business, and consumer impact, if applicable:**
The AHCCCS Administration does not anticipate an economic impact as a result of this clarification from what was described within the economic impact statement within the Notice of Exempt Rulemaking promulgated effective October 1, 2011. See item 3 for publication information.
10. **A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):**
No changes were made between the proposed rulemaking and the final rulemaking package.
11. **An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**
No comments were received as of the close of the comment period 5:00 p.m. on June 18, 2012.
12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**
Not applicable
 - a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
Not applicable
 - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**
Not applicable
 - c. **Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**
Not applicable
13. **A list of any incorporated by reference material and its location in the rule:**
None
14. **Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**
Not applicable
15. **The full text of the rules follows:**

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ADMINISTRATION

ARTICLE 2. SCOPE OF SERVICES

Section
R9-22-204. Inpatient General Hospital Services

ARTICLE 2. SCOPE OF SERVICES

R9-22-204. Inpatient General Hospital Services

- A. A contractor, fee-for-service provider or noncontracting provider shall render inpatient general hospital services including:
 1. Hospital accommodations and appropriate staffing, supplies, equipment, and services for:
 - a. Maternity care, including labor, delivery, and recovery room, birthing center, and newborn nursery;
 - b. Neonatal intensive care unit (NICU);
 - c. Intensive care unit (ICU);
 - d. Surgery, including surgery room and recovery room;

Notices of Exempt Rulemaking

- e. Nursery and related services;
 - f. Routine care; and
 - g. Emergency behavioral health services provided under Article 12 of this Chapter for a member eligible under A.R.S. § 36-2901(6)(a).
2. Ancillary services as specified by the Director and included in contract:
 - a. Laboratory services;
 - b. Radiological and medical imaging services;
 - c. Anesthesiology services;
 - d. Rehabilitation services;
 - e. Pharmaceutical services and prescription drugs;
 - f. Respiratory therapy;
 - g. Blood and blood derivatives; and
 - h. Central supply items, appliances, and equipment that are not ordinarily furnished to all patients and customarily reimbursed as ancillary services.
- B.** The following limitations apply to inpatient general hospital services that are provided by FFS providers.
1. Providers shall obtain prior authorization from the Administration for the following inpatient hospital services:
 - a. Nonemergency and elective admission, including psychiatric hospitalization;
 - b. Elective surgery, excluding a voluntary sterilization procedure. Voluntary sterilization procedure does not require prior authorization; and
 - c. Services or items provided to cosmetically reconstruct or improve personal appearance after an illness or injury.
 2. The Administration may perform concurrent review for hospitalizations to determine whether there is medical necessity for the hospitalization.
 - a. A provider shall notify the Administration no later than the fourth day of hospitalization after an emergency admission or no later than the second day after an intensive care unit admission so that the Administration may initiate concurrent review of the hospitalization.
 - b. Failure of the provider to obtain prior authorization is cause for denial of a claim.
- C.** Coverage of in-state and out-of-state inpatient hospital services is limited to 25 days per benefit year for members age 21 and older. The limit applies for all inpatient hospital services with dates of service during the benefit year regardless of whether the member is enrolled in Fee for Service, is enrolled with one or more contractors, or both, during the benefit year.
1. For purposes of calculating the limit:
 - a. Inpatient days are counted towards the limit if paid in whole or part by the Administration or a contractor;
 - b. Inpatient days will be counted toward the limit in the order of the adjudication date of a paid claim;
 - c. Paid inpatient days are allocated to the benefit year in which the date of service occurs;
 - d. Each 24 hours of paid observation services is counted as one inpatient day if the patient is not admitted to the same hospital directly following the observation services;
 - e. Observation services, which are directly followed by an inpatient admission to the same hospital are not counted towards the inpatient limit; and
 - f. After 25 days of inpatient hospital services have been paid as provided for in this ~~rule~~ Section:
 - i. Outpatient services that are directly followed by an inpatient admission to the same hospital, including observation services, are not covered.
 - ii. Continuous periods of observation services of less than 24 hours that are not directly followed by an inpatient admission to the same hospital are covered.
 - iii. For continuous periods of observation services of 24 hours or more that are not directly followed by an inpatient admission to the same hospital, 23 hours of observations services are covered.
 2. The following inpatient days are not included in the inpatient hospital limitation described in this ~~rule~~ Section:
 - a. Days reimbursed under specialty contracts between AHCCCS and a transplant facility that are included within the component pricing referred to in the contract;
 - b. Days related to Behavioral Health:
 - i. Inpatient days that qualify for the psychiatric tier under R9-22-712.09 and reimbursed by the Administration or its contractors, or
 - ii. Inpatient days with a primary psychiatric diagnosis code reimbursed by the Administration or its contractors, or
 - iii. Inpatient days paid by the Arizona Department of Health Services Division of Behavioral Health Services or a RBHA or TRBHA.
 - c. ~~Days related to treatment of conditions with diagnoses of burns or burn late effect at a governmentally-operated hospital located in an Arizona county with a population of more than 500,000 persons with a specialized burn unit in existence prior to 10/1/2011;~~
 - c. Days related to treatment for burns and burn late effects at an American College of Surgeons verified burn cen-

Notices of Exempt Rulemaking

- ter:
- d. Same Day Admit Discharge services are excluded from the 25 day limit; and
- e. Subject to approval by CMS, days for which the state claims 100% FFP, such as payments for days provided by IHS or 638 facilities.

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ADMINISTRATION**

Editor's Note: The following Notice of Exempt Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1769.) The Governor's Office authorized the notice to proceed through the rulemaking process on March 1, 2012.

[R12-120]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**
R9-22-2103 Amend
R9-22-2104 New Section
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**
Authorizing statute: A.R.S. § 36-2903.07
Implementing statute: A.R.S. § 36-2903.07
Statute or session law authorizing the exemption: Laws 2011, Ch. 31, § 34 and Laws 2012, Ch. 299, § 23
- 3. The effective date of the rule and the agency's reason it selected the effective date:**
July 1, 2012
- 4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**
Notice of Proposed Exempt Rulemaking: 18 A.A.R. 1313, June 8, 2012
- 5. The agency's contact person who can answer questions about the rulemaking:**
Name: Mariaelena Ugarte
Address: AHCCCS
Office of Administrative and Legal Services
701 E. Jefferson St., Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4693
Fax: (602) 253-9115
E-mail: AHCCCSrules@azahcccs.gov
Web site: www.azahcccs.gov
- 6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**
AHCCCS anticipates conducting exempt rulemaking to modify the methodology for determining uncompensated costs associated with trauma and emergency services to comply with the terms and conditions for claiming federal matching funds for supplemental payments to hospitals for the unrecovered cost of providing trauma and emergency services. Following stakeholder input, the proposed exempt rules also establish a new allocation of the federally matched tribal gaming funds between hospitals providing trauma services and urban and rural hospitals providing emergency services.

Proposition 202 established A.R.S. § 36-2903.07 which appropriates tribal gaming funds for the purpose of making supplemental payments to Arizona hospitals for the cost of unrecovered trauma and emergency services. Historically these funds have provided approximately \$20 million with 90% of the funds paid to six trauma facilities and the remaining 10% spread among dozens of hospitals for uncovered emergency department costs. To date, federal match-

Notices of Exempt Rulemaking

ing funds through the Medicaid program have not been available for these supplemental payments for trauma and emergency services because the proposed payments are intended to cover costs for care unassociated with Medicaid eligible persons. In general, under 42 U.S.C. 1396b, federal financial participation in the state’s expenditure for medical coverage under Title XIX of the Social Security Act (Medicaid) is limited to expenditures for services covered under 42 U.S.C. 1396d for persons eligible under 42 U.S.C. 1396a. However, the Secretary of the United States Department of Health and Human Services (who oversees the federal Medicaid program) has the authority under 42 U.S.C. 1315 to allow the state to claim federal financial participation for expenditures not explicitly listed in the Medicaid Act so long as the expenditure, “in the judgment of the Secretary, is likely to assist in promoting the objectives of title XIX.” On April 6, the Secretary, under the authority of 42 U.S.C. 1315, approved an amendment to the Arizona Demonstration Project that permits Arizona to claim federal financial participation for supplemental payments to hospitals for the unrecovered cost of trauma and emergency services. See, <http://www.azahcccs.gov/reporting/federal/waiver.aspx>.

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

No studies were relied upon for the implementation of this rulemaking.

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

Not applicable

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

Not applicable

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):

No changes were made between the proposed rulemaking and the final rulemaking package.

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

The following comments were received as of the close of the comment period 5:00 p.m. on June 18, 2012.

<u>Numb:</u>	<u>Date/ Commentor:</u>	<u>Comment:</u>	<u>Response:</u>
1.	06/11/12 Debbie Johnston Arizona Hospital and Healthcare Association	AzHHA would like to thank the Arizona Health Care Cost Containment System (AHCCCS) staff for the effort they put into crafting this proposal, particularly their outreach to the hospital community at the February stakeholders’ meeting. We further appreciate the AHCCCS Administration’s efforts to shepherd the proposal through the approval process with the Centers for Medicare and Medicaid Services. We support the exempt rulemaking.	The AHCCCS Administration appreciates the comments support for the rule amendment.
2.	06/11/12 Kathy Harris Health Choice	The justification section specifies that this fund is for Arizona hospitals. It does not appear that this fund is available to out of state hospitals. Because out of state hospitals might provide such services, please consider adding that limitation in the wording of the Rule.	Per the statute, A.R.S. § 36-2903.07(c), the fund can only be used for payments to hospitals in Arizona.

Notices of Exempt Rulemaking

<u>Numb:</u>	<u>Date/ Commentor:</u>	<u>Comment:</u>	<u>Response:</u>
3.	06/15/12 Pam Lemons Vanguard	The proposed distribution of these federal funds – 40% to rural hospitals, 30% to emergency departments statewide, and 30% to trauma facilities – favors rural hospitals, but we believe this funding will help hospitals across Arizona deal with these significant increases in uncompensated care. Our systems regularly treat patients from around the state, and rural hospitals send their most critically ill patients to urban hospitals and trauma centers. In conclusion, we believe it is important to support this effort and to continue to work with you on other mechanisms to address reimbursement and the uninsured. We thank you for working towards the betterment of health care in Arizona by securing these federal funds.	The AHCCCS Administration appreciates the comments support for the rule amendment.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

Laws 2011, Ch. 31, § 34 authorizes the Administration to adopt rules necessary to implement the AHCCCS program within the available appropriations and exempts the Administration from the formal rulemaking requirements of A.R.S. Title 41, Chapter 6.

Laws 2011, Ch. 31, § 34, requires public notice with an opportunity for public comment of at least 30 days. Public notice of this rulemaking will be accomplished through publication of this rulemaking on the agency web site. A supplemental notice will also appear in the *Arizona Administrative Register* in advance of the close of the comment period. In addition, notice was directed to those individuals who, prior to this proposed rulemaking have notified the agency of their desire to receive such notices directly pursuant to A.R.S. § 36-2903.01(B)(6).

Laws 2012, Ch. 299, § 23 authorizes the AHCCCS Administration to apply for and receive additional federal financial participation from CMS for trauma centers, emergency departments and rural hospitals in this state until January, 1, 2014. In addition, that section exempts the AHCCCS Administration from the rulemaking requirements of Title 41, Chapter 6, Arizona Revised Statutes, until October 1, 2012.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

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

Not applicable

13. A list of any incorporated by reference material and its location in the rule:

None

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

Not applicable

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ADMINISTRATION**

ARTICLE 21. TRAUMA AND EMERGENCY SERVICES FUND

Section

Notices of Exempt Rulemaking

- R9-22-2103. Distribution of Trauma and Emergency Services Fund: Emergency Services
R9-22-2104. Additional Trauma and Emergency Services Payments under the Section 1115 Waiver

ARTICLE 21. TRAUMA AND EMERGENCY SERVICES FUND

R9-22-2103. Distribution of Trauma and Emergency Services Fund: Emergency Services

On or after June 30 of each year, the Administration shall distribute monies available in the trauma and emergency services fund at the time of payment as follows:

1. As allocated under R9-22-2101(C),
2. To hospitals that had an emergency department from July 1 through June 30 of the prior year, and
3. On a pro rata share of each hospital's cost of uncompensated emergency care as a percentage of the total statewide cost of uncompensated emergency care provided by hospitals under subsection (2) as reported in the uniform accounting reports to the Arizona Department of Health Services under A.R.S. § 36-125.04.

R9-22-2104. Additional Trauma and Emergency Services Payments under the Section 1115 Waiver

- A.** Notwithstanding R9-22-2101(D), for the reporting years ending June 30, 2011 and June 30, 2012, the Administration shall distribute an amount equal to the balance of the Trauma and Emergency Services fund in the following manner:
1. Ninety percent of the amount shall be distributed to Level I trauma centers based upon each center's pro rata share of each center's acuity-adjusted volume as a percentage of the total acuity-adjusted volume for all centers in the state. The acuity-adjusted volume is calculated by multiplying the Injury Severity Score employed by trauma.org by the number of trauma cases at that level treated at the center during the reporting year. Hospitals shall report trauma scores and case volume on a worksheet prescribed by the Administration.
 2. Ten percent of the amount shall be distributed proportionately to hospitals that had an emergency department from July 1 through June 30 of the reporting year based the pro rata share of each hospital's cost of emergency care as a percentage of the total statewide cost of emergency care provided by hospitals as reported on the Worksheet B, column 27, line 61 of the hospital's most current Medicare Cost Report as of January 31 following the end of each reporting year.
- B.** For the reporting years ending June 30, 2011 and June 30, 2012, the Administration shall distribute an amount equal to the federal financial participation made available under the section 1115 waiver for the purpose of making payments for unrecovered trauma and emergency services as follows:
1. Thirty percent of such funds to a Level I trauma center, in amounts calculated in the same manner as described in subsection (A)(1) of this Section, for any unrecovered trauma center readiness costs not reimbursed under subsection (A) of this Section;
 2. Thirty percent of such funds to a hospital having an emergency department from July 1 through June 30 of the reporting year, in amounts calculated in the same manner as described in subsection (A)(2) of this Section, for any unrecovered emergency services costs not reimbursed under subsection (A) of this Section; and
 3. Forty percent of such funds to rural hospitals, as defined in R9-22-718 that are not Level 1 trauma centers as defined in R9-22-2101(F), having an emergency department from July 1 through June 30 of the reporting year, in amounts calculated in the same manner as described in subsection (A)(2) of this Section, for any unrecovered emergency services costs not reimbursed under subsections (A) and (B)(2) of this Section.
- C.** For the reporting years ending June 30, 2011 and June 30, 2012, payments made under this Article shall not be made in an amount that results in aggregate payments to the hospital by the Administration and contractors exceeding of the upper payment limit for the hospital services as calculated in accordance with 42 CFR 447.
- D.** For the reporting years ending June 30, 2011 and June 30, 2012, to ensure compliance with subsection (C), payments under this Article shall be reconciled to the federal fiscal year that is two years subsequent to the payment.
- E.** Any payments that are determined under subsection (D) to exceed the limit in subsection (C) shall be distributed as described in this Article to hospitals that have not received payments in excess of the limit in (C).

NOTICE OF EXEMPT RULEMAKING

TITLE 19. ALCOHOL, DOG AND HORSE RACING, LOTTERY AND GAMING

CHAPTER 2. ARIZONA RACING COMMISSION

Editor's Note: The following Notice of Exempt Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1769.) The Governor's Office authorized the notice to proceed through the rulemaking process on March 1, 2012.

[R12-119]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**
R19-2-202 Amend
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**
Authorizing statute: A.R.S. § 5-104(A)(2), Laws 2011, Ch. 35, § 10(B)
Implementing statute: A.R.S. §§ 5-104(F) and (R), 5-113.01, 5-230
Statute or session law authorizing the exemption: Laws 2011, Ch. 35, § 10
- 3. The effective date of the rule and the agency's reason it selected the effective date:**
July 1, 2012
- 4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**
None
- 5. The agency's contact person who can answer questions about the rulemaking:**
Name: William J. Walsh
Address: Arizona Department of Racing
1110 W. Washington St., Suite 260
Phoenix, AZ 85007
Telephone: (602) 364-1730
Fax: (602) 364-1703
E-mail: bwalsh@azracing.gov
Web site: www.azracing.gov
- 6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**
The Department of Racing is initiating this exempt rulemaking to comply with the requirement that the Department collect fees in an amount to support the Department's mission under the requirements of Laws 2011, Ch. 35, § 10(B).
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None
- 8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 9. The summary of the economic, small business, and consumer impact, if applicable:**
The rules, developed because of legislative action to remove the agency from the general fund over a two-year period, will cause industry stakeholders to fully fund the operations of the Department in FY 2013 and years thereafter.
- 10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):**
Not applicable

Notices of Exempt Rulemaking

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

None have been received.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

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

None submitted

13. A list of any incorporated by reference material and its location in the rule:

None

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

Not applicable

15. The full text of the rules follows:

TITLE 19. ALCOHOL, DOG AND HORSE RACING, LOTTERY AND GAMING

CHAPTER 2. ARIZONA RACING COMMISSION

ARTICLE 2. RACING REGULATION FUND

Section

R19-2-202. Licensing Fees

ARTICLE 2. RACING REGULATION FUND

R19-2-202. Licensing Fees

A. When an applicant submits a license application pursuant to R19-2-106 or R19-2-306, the applicant shall also submit the fee listed in ~~subsection~~ subsections (C) and (D). The Department shall ensure that a schedule of license and fingerprint processing fees is displayed prominently at each ~~track~~ licensing location.

B. No change

1. No change

a. No change

b. All multi-year licenses issued prior to July 1, 2011 ~~will expire~~ expired on June 30, 2012.

2. No change

3. No change

C. Annual License Fees

1. Group 1 (~~assistant starter/valet, coolout, exercise rider, groom, leadout, occupational, OTB [owner, manager], outrider, paddock employee, pari-mutuel [including OTB], pony person, security~~) - ~~\$20~~ \$15.

2. Group 2 (~~assistant starter/valet, authorized agent-partial, exercise rider, pony person, greyhound hauler, jockey agent, occupational, additional wagering facility — owners or managers, outrider, security employee, vendor employee, claiming authorization~~) - \$50.

3. Group 3 (~~owner, trainer, official, assistant trainer~~ county fair manager, county fair treasurer, official) - ~~\$200~~ \$100.

4. Group 4 (~~assistant trainer, commercial track key people: owner [10% or more], general manager, assistant general manager, chief financial officer; owner, RBO [kennel, racing or breeding operation], stable name, temporary claim to owner, trainer~~ authorized agent full, owner-trainer, jockey, apprentice jockey, farrier/plater, veterinarian, kennel name) - ~~\$250~~ \$150.

5. Group 5 (~~apprentice jockey, authorized agent — full, combination RBO [racing/breeding combination], farrier/plater, jockey, owner/trainer, veterinarian~~) - ~~\$400~~ \$200.

6. Group 6 — fees above \$200

Notices of Exempt Rulemaking

- a. ~~Vendor A—tote Tote companies - \$1,250;~~
 - b. ~~Vendor B— All other vendors (video, photo finish, concessionaires, security) - \$750; \$500.~~
 - e. ~~Vendor C— simulcast export/signal, distribution/sales provider—\$500.~~
 - d. ~~Vendor D— all others (data providers, starting gate—\$350.~~
- D. Annual Permittee Fees.**
- 1. ~~Commercial racing permit permittee (40 or fewer days of live racing or no live racing) - \$2,500 \$1,000;~~
 - 2. ~~Commercial permittee (no live racing)—\$1,250 racing permit (more than 40 days of live racing) - \$2,500;~~
 - 3. ~~County fair permittee permit - \$250. (live racing no commercial racing)—\$1,500;~~
 - 4. ~~County fair permittee/racing at commercial track—\$200;~~
 - 5. ~~Commercial permittee general manager, assistant general manager, chief financial officer, 10% or more financial ownership interest—\$250;~~
 - 6. ~~County fair manager, county fair treasurer—\$100.~~