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Arizona Administrative REGISTER

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~ Administrative Register Contents ~

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From the Publisher

ABOUT THIS PUBLICATION

The authenticated pdf of the *Administrative Register* (A.A.R.) posted on the Arizona Secretary of State's website is the official published version for rulemaking activity in the state of Arizona.

Rulemaking is defined in Arizona Revised Statutes known as the Arizona Administrative Procedure Act (APA), A.R.S. Title 41, Chapter 6, Articles 1 through 10.

The *Register* is cited by volume and page number. Volumes are published by calendar year with issues published weekly. Page numbering continues in each weekly issue.

In addition, the *Register* contains notices of rules terminated by the agency and rules that have expired.

ABOUT RULES

Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number). Rulemaking activity published in the *Register* includes: proposed, final, emergency, expedited, and exempt rules as defined in the APA, and other state statutes.

New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.

WHERE IS A "CLEAN" COPY OF THE FINAL OR EXEMPT RULE PUBLISHED IN THE REGISTER?

The *Arizona Administrative Code* (A.A.C) contains the codified text of rules. The A.A.C. contains rules promulgated and filed by state agencies that have been approved by the Attorney General or the Governor's Regulatory Review Council. The *Code* also contains rules exempt from the rulemaking process.

The authenticated pdf of *Code* Chapters posted on the Arizona Secretary of State's website are the official published version of rules in the A.A.C. The *Code* is posted online for free.

LEGAL CITATIONS AND FILING NUMBERS

On the cover: Each agency is assigned a Chapter in the *Arizona Administrative Code* under a specific Title. Titles represent broad subject areas. The Title number is listed first; with the acronym A.A.C., which stands for the *Arizona Administrative Code*; following the Chapter number and Agency name, then program name. For example, the Secretary of State has rules on rulemaking in Title 1, Chapter 1 of the *Arizona Administrative Code*. The citation for this Chapter is 1 A.A.C. 1, Secretary of State, Rules and Rulemaking. Every document filed in the office is assigned a file number. This number, enclosed in brackets, is located at the top right of the published documents in the *Register*. The original filed document is available for 10 cents a page.

Arizona Administrative REGISTER

December 16, 2022
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SECRETARY OF STATE
Katie Hobbs

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ADMINISTRATIVE REGISTER
This publication is available online for free at www.azsos.gov.

ADMINISTRATIVE CODE
The *Arizona Administrative Code* is available online at www.azsos.gov.

PUBLICATION DEADLINES
Publication dates are published in the back of the *Register*. These dates include file submittal dates with a three-week turnaround from filing to published document.

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The Office of the Secretary of State is an equal opportunity employer.

Participate in the Process

Look for the Agency Notice

Review (inspect) notices published in the *Arizona Administrative Register*. Many agencies maintain stakeholder lists and would be glad to inform you when they proposed changes to rules. Check an agency's website and its newsletters for news about notices and meetings.

Feel like a change should be made to a rule and an agency has not proposed changes? You can petition an agency to make, amend, or repeal a rule. The agency must respond to the petition. (See A.R.S. § 41-1033)

Attend a public hearing/meeting

Attend a public meeting that is being conducted by the agency on a Notice of Proposed Rulemaking. Public meetings may be listed in the Preamble of a Notice of Proposed Rulemaking or they may be published separately in the *Register*. Be prepared to speak, attend the meeting, and make an oral comment.

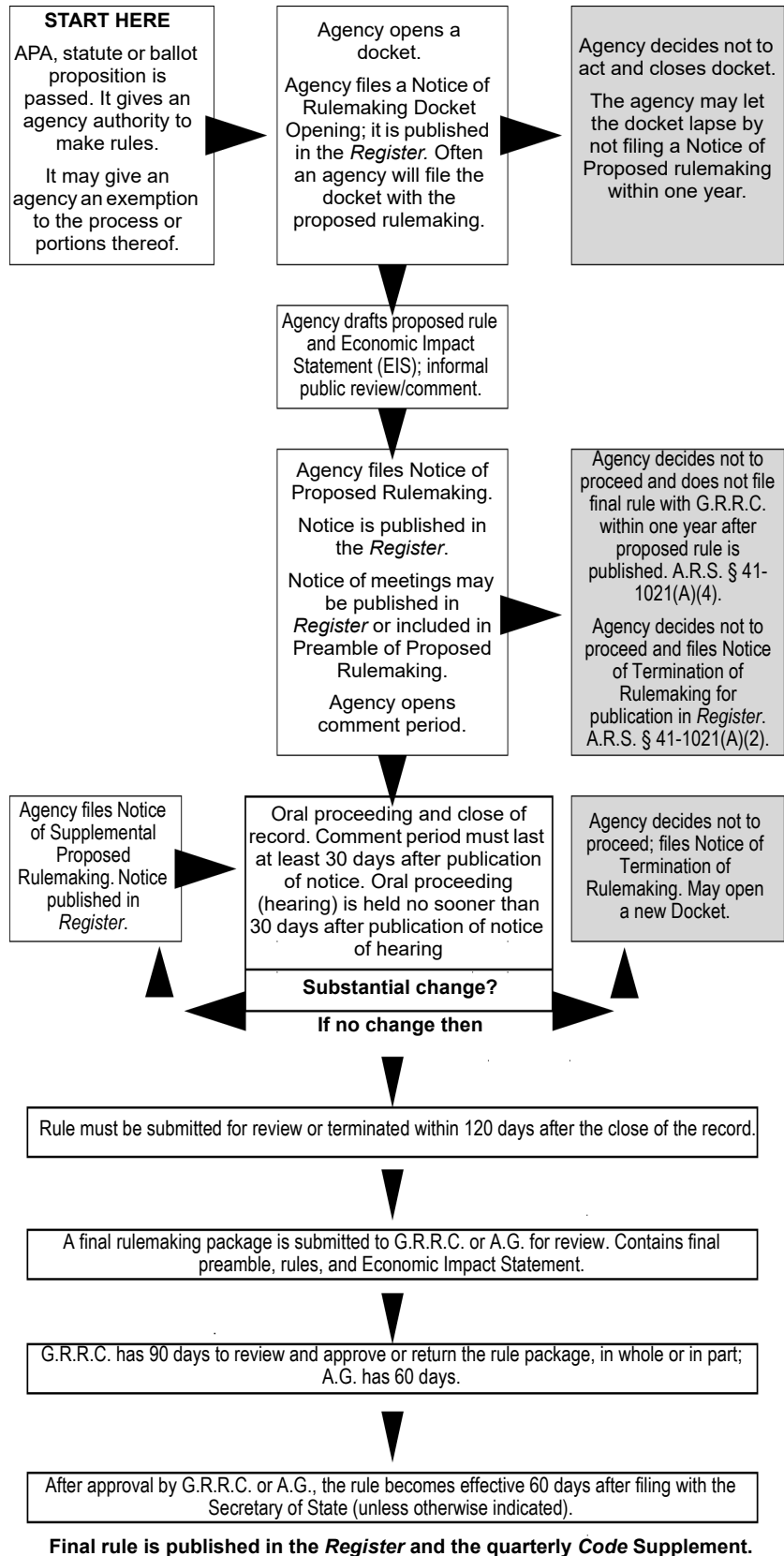
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

Write the agency

Put your comments in writing to the agency. In order for the agency to consider your comments, the agency must receive them by the close of record. The comment must be received within the 30-day comment timeframe following the *Register* publication of the Notice of Proposed Rulemaking.

You can also submit to the Governor's Regulatory Review Council written comments that are relevant to the Council's power to review a given rule (A.R.S. § 41-1052). The Council reviews the rule at the end of the rulemaking process and before the rules are filed with the Secretary of State.

Arizona Regular Rulemaking Process



Definitions

Arizona Administrative Code (A.A.C.): Official rules codified and published by the Secretary of State’s Office. Available online at www.azsos.gov.

Arizona Administrative Register (A.A.R.): The official publication that includes filed documents pertaining to Arizona rulemaking. Available online at www.azsos.gov.

Administrative Procedure Act (APA): A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at www.azleg.gov.

Arizona Revised Statutes (A.R.S.): The statutes are made by the Arizona State Legislature during a legislative session. They are compiled by Legislative Council, with the official publication codified by Thomson West. Citations to statutes include Titles which represent broad subject areas. The Title number is followed by the Section number. For example, A.R.S. § 41-1001 is the definitions Section of Title 41 of the Arizona Administrative Procedures Act. The “§” symbol simply means “section.” Available online at www.azleg.gov.

Chapter: A division in the codification of the *Code* designating a state agency or, for a large agency, a major program.

Close of Record: The close of the public record for a proposed rulemaking is the date an agency chooses as the last date it will accept public comments, either written or oral.

Code of Federal Regulations (CFR): The *Code of Federal Regulations* is a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the federal government.

Docket: A public file for each rulemaking containing materials related to the proceedings of that rulemaking. The docket file is established and maintained by an agency from the time it begins to consider making a rule until the rulemaking is finished. The agency provides public notice of the docket by filing a Notice of Rulemaking Docket Opening with the Office for publication in the *Register*.

Economic, Small Business, and Consumer Impact Statement (EIS): The EIS identifies the impact of the rule on private and public employment, on small businesses, and on consumers. It includes an analysis of the probable costs and benefits of the rule. An agency includes a brief summary of the EIS in its preamble. The EIS is not published in the *Register* but is available from the agency promulgating the rule. The EIS is also filed with the rulemaking package.

Governor’s Regulatory Review (G.R.R.C.): Reviews and approves rules to ensure that they are necessary and to avoid unnecessary duplication and adverse impact on the public. G.R.R.C. also assesses whether the rules are clear, concise, understandable, legal, consistent with legislative intent, and whether the benefits of a rule outweigh the cost.

Incorporated by Reference: An agency may incorporate by reference standards or other publications. These standards are available from the state agency with references on where to order the standard or review it online.

Federal Register (FR): The *Federal Register* is a legal newspaper published every business day by the National Archives and Records Administration (NARA). It contains federal agency regulations; proposed rules and notices; and executive orders, proclamations, and other presidential documents.

Session Laws or “Laws”: When an agency references a law that has not yet been codified into the Arizona Revised Statutes, use the word “Laws” is followed by the year the law was passed by the Legislature, followed by the Chapter number using the abbreviation “Ch.,” and the specific Section number using the Section symbol (§). For example, Laws 1995, Ch. 6, § 2. Session laws are available at www.azleg.gov.

United States Code (U.S.C.): The Code is a consolidation and codification by subject matter of the general and permanent laws of the United States. The Code does not include regulations issued by executive branch agencies, decisions of the federal courts, treaties, or laws enacted by state or local governments.

Acronyms

A.A.C. – *Arizona Administrative Code*

A.A.R. – *Arizona Administrative Register*

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

EIS – *Economic, Small Business, and Consumer Impact Statement*

FR – *Federal Register*

G.R.R.C. – *Governor’s Regulatory Review Council*

U.S.C. – *United States Code*

About Preambles

The Preamble is the part of a rulemaking package that contains information about the rulemaking and provides agency justification and regulatory intent.

It includes reference to the specific statutes authorizing the agency to make the rule, an explanation of the rule, reasons for proposing the rule, and the preliminary Economic Impact Statement.

The information in the Preamble differs between rulemaking notices used and the stage of the rulemaking.

NOTICES OF PROPOSED RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Proposed Rulemaking.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule (A.R.S. §§ 41-1013 and 41-1022).

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 33. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS

[R22-282]

PREAMBLE

1. Article, Part, or Section Affected (as applicable)

- R4-33-601
- R4-33-602
- R4-33-603
- R4-33-604
- R4-33-605
- R4-33-701
- R4-33-702
- R4-33-703
- R4-33-703.1
- R4-33-704
- R4-33-705
- R4-33-706

Rulemaking Action

- Amend
- Amend
- Amend
- Amend
- Amend
- Amend
- Amend
- Amend
- Amend
- Amend
- Amend
- Amend

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. § 36-446.03(A)
 Implementing statute: A.R.S. §§ 36-446(4) and 36-446.03(O)

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:

Notice of Rulemaking Docket Opening: 28 A.A.R. 3852, December 16, 2022 (*in this issue*)

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

Name: John Confer, Executive Director
 Address: Board of Examiners of Nursing Care Administrators and Assisted Living Facility Managers
 1740 W. Adams St., Suite 2490
 Phoenix, AZ 85007
 Telephone: (602) 364-2374
 Email: john.confer@aznciboard.us
 Website: nciboard.az.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:

During the 2020 pandemic lockdown, the Board allowed owners of assisted living facility training programs to deviate from the rule requirement regarding hours of classroom instruction and distance learning. The deviation applied to training programs for both managers and caregivers. Based on examination results and requests from owners of assisted living facility training programs, the Board has determined the distinction between classroom instruction and distance learning can be eliminated.

An exemption from A.R.S. § 41-1039 was provided for this rulemaking by Brian Norman, of the governor's office, in an email dated November 17, 2022.

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

The Board does not intend to review or rely on a study in its evaluation of or justification for any rule in this rulemaking.

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:

The Board expects the rulemaking will have a positive economic impact for owners of assisted living facility training programs who will be able to rely more on technology-based instruction to implement training programs. The rulemaking may negatively impact individuals who have previously benefited from providing classroom instruction in the training programs.

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

Name: John Confer, Executive Director
 Address: Board of Examiners of Nursing Care Administrators and Assisted Living Facility Managers
 1740 W. Adams St., Suite 2490
 Phoenix, AZ 85007
 Telephone: (602) 364-2374
 Email: john.confer@aznciaboard.us
 Website: nciaboard.az.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:

An oral proceeding regarding the proposed rules will be held as follows:

Date: Monday, February 6, 2023
 Time: 9:00 a.m.
 Location: 1740 W. Adams St., Room C
 Phoenix, AZ 85007

Participants may join the oral proceeding in person or by Google Meets. Instructions for joining by Google Meets will be posted on the Board's website.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

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:

The Board does not issue general permits. Rather, the Board issues individual licenses as required by the Board's statutes to each person that is qualified by statute (See A.R.S. §§ 36-446.01 and 36-446.04) and rule.

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

No federal law applies to the rules. Federal law makes receipt of federal funding contingent on a state licensing and regulating nursing care institution administrators. The specifics of the licensure and regulation are matters of state law.

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:

No analysis was submitted.

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 4. PROFESSIONS AND OCCUPATIONS
 CHAPTER 33. BOARD OF EXAMINERS OF NURSING CARE ADMINISTRATORS
 AND ASSISTED LIVING FACILITY MANAGERS**

ARTICLE 6. ASSISTED LIVING FACILITY MANAGER TRAINING PROGRAMS

Section	
R4-33-601.	Definitions
R4-33-602.	Minimum Standards for Assisted Living Facility Manager Training Program
R4-33-603.	Curriculum for Assisted Living Facility Manager Training Program
R4-33-604.	Application for Approval of an Assisted Living Facility Manager Training Program
R4-33-605.	Renewal of Approval of an Assisted Living Facility Manager Training Program

ARTICLE 7. ASSISTED LIVING FACILITY CAREGIVER TRAINING PROGRAMS

Section

- R4-33-701. Definitions
- R4-33-702. Minimum Standards for Assisted Living Facility Caregiver Training Program
- R4-33-703. Curriculum for Assisted Living Facility Caregiver Training Program
- R4-33-703.1. Minimum Standards and Curriculum for an Assisted Living Facility Caregiver Medication Management Training Program
- R4-33-704. Application for Approval of an Assisted Living Facility Caregiver Training Program
- R4-33-705. Renewal of Approval of an Assisted Living Facility Caregiver Training Program
- R4-33-707. Minimum Standards for Assisted Living Facility On-the-job Caregiver Training Program

ARTICLE 6. ASSISTED LIVING FACILITY MANAGER TRAINING PROGRAMS**R4-33-601. Definitions**

“Owner” means the person responsible for ensuring ~~that~~ an assisted living facility training program complies with this Article.

“Instruction,” as used in this Article, means the act of teaching knowledge and skills in a classroom or through the use of technology.

“Resident” means an individual who lives in an assisted living facility.

“Student cohort” means a group of individuals who begin participation in an assisted living facility training program at the same time.

R4-33-602. Minimum Standards for Assisted Living Facility Manager Training Program

- A. Organization and administration. The owner of an assisted living facility manager training program shall:
1. Provide the Board with a written description of the training program that includes:
 - a. Length of the training program in hours and days, and
 - b. Educational goals that demonstrate the training program is consistent with state requirements;
 2. Execute a written agreement with each assisted living facility at which students enrolled in the training program receive training that includes the following information:
 - a. The rights and responsibilities of both the facility and the training program,
 - b. The role and authority of the governing bodies of both the facility and the training program, and
 - c. A termination clause that provides time for students enrolled in the training program to complete training at the facility upon termination of the agreement;
 3. Develop and adhere to written policies and procedures regarding:
 - a. Attendance. Ensure that a student receives at least 40 hours of instruction;
 - b. Grading. Require a student to attain at least 75 percent on each theoretical examination or 75 percent on a comprehensive theoretical examination;
 - c. Reexamination. Inform students that a reexamination:
 - i. Addresses the same competencies examined in the original examination,
 - ii. Contains items different from those on the original examination, and
 - iii. Is documented in the student’s record;
 - d. Student records. Include the following information:
 - i. Records maintained,
 - ii. Retention period for each record,
 - iii. Location of records,
 - iv. Documents required under subsections (E)(1) and (E)(2), and
 - v. Procedure for accessing records and who is authorized to access records;
 - e. Student fees and financial aid, if any;
 - f. Withdrawal and dismissal;
 - g. Student grievances including a chain of command for disputing a grade;
 - h. Admission requirements including any criminal background or drug testing required;
 - i. Criteria for training program completion; and
 - j. Procedure for documenting that a student has received notice of Board requirements for certification, including the fingerprint clearance card requirement, before the student is enrolled;
 4. Date each policy and procedure developed under subsection (A)(3), review within one year from the date made and every year thereafter, update if necessary, and date the policy or procedure at the time of each review;
 5. Provide each student who completes the training program with evidence of completion, within 15 days of completion, which includes the following:
 - a. Name of the student;
 - b. Name and ~~classroom~~ location of the training program;
 - c. Number of ~~classroom~~ instruction hours in the training program;
 - d. Date on which the training program was completed;
 - e. Board’s approval number of the training program; and
 - f. Signature of the training program owner, administrator, or instructor;
 6. Provide the Board, within 15 days of completion, the following information regarding each student who completed the training program:
 - a. Student’s name, date of birth, Social Security number, address, and telephone number;
 - b. Student’s examination scores as provided by the examining entity;
 - c. Name and ~~classroom~~ location of the training program;

- d. Number of ~~classroom~~ instruction hours in the training program;
 - e. Date on which the training program was completed; and
 - f. Board's approval number of the training program; and
7. Execute and maintain under subsections (E)(1) and (E)(2) the following documents for each student:
- a. A skills checklist containing documentation the student achieved competency in the assisted living facility manager skills listed in R4-33-603(C), and
 - b. An evaluation form containing the student's responses to questions about the quality of the ~~classroom~~ instructional experiences provided by the training program.
- B.** Program administrator responsibilities. The owner of an assisted living facility manager training program shall ensure that a program administrator performs the following responsibilities:
1. Supervises and evaluates the training program,
 2. Uses only instructors who are qualified under subsection (C), and
 3. Makes the written policies and procedures required under subsection (A)(3) available to each student on or before the first day of the training program;
- C.** The owner of an assisted living facility manager training program shall ensure that a program instructor:
1. Is a certified assisted living facility manager who:
 - a. Holds an assisted living facility manager certificate that is in good standing and issued under A.R.S. Title 36, Chapter 4;
 - b. Has held the assisted living facility manager certificate referenced in subsection (C)(1)(a) for at least five years;
 - c. Has not been subject to any disciplinary action against the assisted living facility manager certificate during the last five years; and
 - d. Has at least three years' experience within the last five years as an assisted living facility manager of record immediately before becoming a training program instructor;
 2. Performs the following responsibilities:
 - a. Plans each learning experience,
 - b. Accomplishes educational goals of the training program and lesson objectives,
 - c. Enforces a grading policy that meets the requirement specified in subsection (A)(3)(b),
 - d. Requires satisfactory performance of all critical elements of each assisted living facility manager skill specified under R4-33-603(C),
 - e. Prevents a student from performing an activity unless the student has received instruction and been found able to perform the activity competently,
 - f. Is present ~~in the classroom~~ during all instruction,
 - g. Supervises health-care professionals who assist in providing training program instruction, and
 - h. Ensures that a health-care professional who assists in providing training program instruction:
 - i. Is licensed or certified as a health-care professional,
 - ii. Has at least one year of experience in the field of licensure or certification, and
 - iii. Teaches only a learning activity that is within the scope of practice of the field of licensure or certification.
- D.** Instructional and educational resources. The owner of an assisted living facility manager training program shall provide or provide access to the following instructional and educational resources adequate to implement the training program for all students and staff:
1. Current reference materials related to the level of the curriculum;
 2. Equipment, including computers, in good working condition to simulate facility management;
 3. Audio-visual equipment and media; and
 4. Designated space that provides a clean, distraction-free, learning environment for accomplishing educational goals of the training program;
- E.** The owner of an assisted living facility manager training program shall:
1. Maintain the following training program records for three years:
 - a. Curriculum and course schedule for each student cohort;
 - b. Results of state-approved written and manual skills testing;
 - c. Evaluation forms completed by students, a summary of the evaluation forms for each student cohort, and measures taken, if any, to improve the training program based on student evaluations; and
 - d. Copy of all Board reports, applications, or correspondence related to the training program; and
 2. Maintain the following student records for three years:
 - a. Name, date of birth, and Social Security number;
 - b. Completed skills checklist;
 - c. Attendance record including a record of any make-up class sessions;
 - d. Score on each test, quiz, and examination and, if applicable, whether a test, quiz, or examination was retaken; and
 - e. Copy of the certificate of completion issued to the student as required under subsection (A)(5);
- F.** Examination and evaluation requirements. The owner of an assisted living facility manager training program shall ensure that each student in the training program:
1. Takes an examination that covers each of the subjects listed in R4-33-603(C) and passes each examination using the standard specified in subsection (A)(3)(b);
 2. Is evaluated and determined to possess the practical skills listed in R4-33-603(C);
 3. Passes, using the standard specified in subsection (A)(3)(b), a final examination approved by the Board and given by a Board-approved provider; and
 4. Does not take the final examination referenced in subsection (F)(3) more than two times. If a student fails the final examination referenced in subsection (F)(3) two times, the student is able to obtain evidence of completion only by taking the assisted living facility manager training program again;

- G.** Periodic evaluation. The owner of an assisted living facility manager training program shall allow a representative of the Board or a state agency designated by the Board to conduct:
1. An onsite scheduled evaluation:
 - a. Before initial approval of the training program as specified under R4-33-604(D),
 - b. Before renewal of the training program approval as specified under R4-33-605, and
 - c. During a time of correction as specified under R4-33-606(B); and
 2. An onsite unscheduled evaluation of the training program if the evaluation is in response to a complaint or reasonable cause, as determined by the Board; and
- H.** Notice of change. The owner of an assisted living facility manager training program shall provide the documentation and information specified regarding the following changes within 10 days after making the change:
1. New training program administrator. Name and license number;
 2. New instructor. Name, license number, and evidence of being qualified under subsection (C)(1);
 3. Decrease in number of training program hours. Description of and reason for the change, a revised curriculum outline, and revised course schedule;
 4. Change in ~~classroom~~ location at which instruction is provided. Address and description of new location ~~and description of the new classroom~~; and
 5. For a training program that is based within an assisted living facility:
 - a. Change in name of the facility. Former and new name of the assisted living facility; and
 - b. Change in ownership of the facility. Names of the former and current owners of the assisted living facility.

R4-33-603. Curriculum for Assisted Living Facility Manager Training Program

- A.** The owner of an assisted living facility manager training program shall ensure that the training program consists of at least 40 hours of ~~classroom~~ instruction.
- B.** The owner of an assisted living facility manager training program shall provide a written curriculum plan to each student that includes overall educational goals and for each required subject:
1. Measurable learner-centered objectives,
 2. Outline of the material to be taught,
 3. Time allotted to each unit of instruction, and
 4. Learning activities or reading assignments.
- C.** The owner of an assisted living facility manager training program shall ensure that the training program includes instruction regarding each of the following subjects:
1. Resident services management. Developing policies and procedures regarding:
 - a. Resident rights and confidentiality;
 - b. Developing, implementing, and updating resident service plans;
 - c. Resident agreements;
 - d. Providing social and recreational services;
 - e. Maintaining resident records and managing documentation systems;
 - f. Managing ancillary services;
 - g. Responding to and reporting specific incidents, accidents, and emergencies involving residents;
 - h. Managing dining services to meet resident needs;
 - i. Preventing abuse, neglect, and exploitation;
 - j. Accepting and retaining residents; and
 - k. Developing systems for managing residents with dementia, Alzheimer's ~~Disease~~ disease, or difficult behaviors;
 2. Personnel management.
 - a. Complying with federal, state and local laws relating to hiring personnel;
 - b. Developing and implementing systems related to qualifying, orienting, training, and other recurring personnel requirements; and
 - c. Evaluating personnel;
 3. Medication management.
 - a. Developing and evaluating policies and procedures for:
 - i. Medication management including medical restraints; and
 - ii. Non-medication intervention; and
 - b. Developing systems for:
 - i. Receiving and documenting doctors' orders;
 - ii. Ordering, refilling, and storing medications; and
 - iii. Recordkeeping related to receipt and administration of medication; and
 4. Legal management.
 - a. Board-prescribed requirements for certification and re-certification,
 - b. Delegation,
 - c. Ethics,
 - d. Advanced directives and do-not-resuscitate orders,
 - e. Standards of conduct under R4-33-407,
 - f. Department of Health Services compliance and complaint inspections:
 - i. Statement of deficiencies,
 - ii. Plan for correction, and
 - iii. Enforcement action; and
 - g. Risk management and quality improvement;

5. Financial management.
 - a. Developing and implementing policies, procedures, and practices that comply with:
 - i. State and local laws; and
 - ii. Generally accepted accounting principles regarding accounts receivable, accounts payable, payroll, resident funds, and refunds;
 - b. Developing, implementing, and evaluating facility budgeting including revenues, expenses, capital expenditures, and long-term projections; and
 - c. Maintaining appropriate insurance coverage; and
 6. Physical environment management.
 - a. Complying with federal, state, and local laws regarding:
 - i. Occupational Safety and Health Administration,
 - ii. Americans with Disabilities Act, and
 - iii. Fire and safety requirements for assisted living facilities;
 - b. Preparedness for and prevention of fire, emergencies, and disasters;
 - c. Resident safety and security including evacuation, relocation, and transportation; and
 - d. Daily and preventative maintenance plans for buildings, equipment, and grounds.
- D.** The owner of an assisted living facility manager training program shall ensure that the training program provides a student with at least:
1. Eight hours of ~~classroom~~ instruction and skills practice in each of the subjects identified in subsections (C)(1) through (C)(4), and
 2. Four hours of ~~classroom~~ instruction and skills practice in each of the subjects identified in subsections (C)(5) and (C)(6).
- E.** The owner of an assisted living facility manager training program shall ensure that the training program uses textbooks that are relevant to the subjects being taught and have been published within the last five years.
- R4-33-604. Application for Approval of an Assisted Living Facility Manager Training Program**
- A.** The owner of an assisted living facility manager training program shall ensure that no training is provided until the program is approved by the Board.
- B.** To obtain approval of an assisted living facility manager training program, the owner of the training program shall submit to the Board an application packet that contains the following:
1. Name, address, telephone number, and e-mail address of the owner;
 2. Name, address, telephone and fax numbers, and web site of the training program;
 3. Form of business organization under which the training program is operated and a copy of the establishing documents and organizational chart;
 4. A statement of whether the training program is based within an assisted living facility or other location;
 5. Name, telephone number, and license or certificate number of the program administrator required under R4-33-602(B);
 6. Name, telephone number, and certificate number of each program instructor and evidence that each program instructor is qualified under R4-33-602(C);
 7. A statement of whether the training program is accredited and if so, name of the accrediting body and date of last review;
 8. For all assisted living facilities at which the training program will provide ~~classroom~~ instruction:
 - a. Name, address, and telephone number of the assisted living facility;
 - b. Name and telephone number of a contact person at the assisted living facility;
 - c. License number of the assisted living facility issued by the Department of Health Services;
 - d. A statement of whether the license of the assisted living facility is in good standing; and
 - e. Date and results of the most recent compliance inspection conducted by the Department of Health Services;
 9. Evidence of compliance with R4-33-602 and R4-33-603, including the following:
 - a. Written training program description, consistent with R4-33-602(A)(1), and an implementation plan that includes time-lines;
 - b. Description of ~~classroom~~ instructional facilities, equipment, and ~~instructional~~ tools available, consistent with R4-33-602(D);
 - c. Written curriculum, consistent with R4-33-603(B);
 - d. Skills checklist used to verify whether a student has acquired the necessary assisted living facility manager skills, consistent with R4-33-602(A)(7)(a);
 - e. Evaluation form required under R4-33-602(A)(7)(b) to enable students to assess the quality of the ~~classroom~~ instructional experience provided by the training program;
 - f. Evidence of completion issued to a student under R4-33-602(A)(5);
 - g. Name of textbook used, author, publication date, and publisher;
 - h. Name of any technology-based materials used, producer of the material, and date produced; and
 - ~~h.i.~~ Copy of written policies and procedures required under R4-33-602(A)(3);
 10. Signature of the owner of the training program; and
 11. The fee prescribed under R4-33-104(C)(1).
- C.** The owner of an assisted living facility manager training program shall ensure that the application materials submitted under subsection (B) are printed on only one side of white, letter-sized paper, and are not bound in any manner.
- D.** After review of the materials submitted under subsection (B), the Board shall schedule an onsite evaluation of the training program and take one of the following actions:
1. If requirements are met, approve the training program for one year; or
 2. If requirements are not met, deny approval of the training program.

- E. The owner of an assisted living facility manager training program that is denied approval by the Board may request a hearing regarding the denial by filing a written request with the Board within 30 days after service of the Board's order denying approval of the training program. The Board shall conduct hearings under A.R.S. Title 41, Chapter 6, Article 10.

R4-33-605. Renewal of Approval of an Assisted Living Facility Manager Training Program

- A. The approval of an assisted living facility manager training program expires one year from the date of approval. If the approval of an assisted living facility manager training program expires, the owner of the training program shall immediately stop all training program activity.
- B. To renew approval of an assisted living facility manager training program, the owner of the training program shall submit to the Board, no fewer than 60 and no more than 120 days before expiration of the current approval, an application packet that contains the following:
1. Name, address, e-mail, and telephone number of the owner;
 2. Name, address, telephone and fax numbers, and ~~web site~~ website of the training program;
 3. Name, telephone number, and license number of the program administrator required under R4-33-602(B);
 4. Name, telephone number, and license number of each program instructor and evidence that each program instructor is qualified under R4-33-602(C);
 5. Written training program description, consistent with R4-33-602(A)(1);
 6. Written curriculum, consistent with R4-33-603(B);
 7. Since the time the training program was last approved:
 - a. Number of student-cohort classes to which training was provided,
 - b. Number of students who completed the training program,
 - c. Results obtained on the Board-approved written and skills examinations for each student, and
 - d. Percentage of students who passed the examinations on the first attempt;
 8. For an assisted living facility at which the training program has started to provide ~~classroom~~ instruction since the training program was last approved, the information required under R4-33-604(B)(8);
 9. Evaluation form required under R4-33-602(A)(7)(b) to enable students to assess the quality of the ~~classroom~~ instructional experience provided by the training program;
 10. Summary of evaluations for each student cohort, required under R4-33-602(E)(1)(c), and measures taken, if any, to improve the training program based on student evaluations;
 11. Evidence of completion issued to a student under R4-33-602(A)(5);
 12. Name of textbook used, author, publication date, and publisher;
 13. Copy of written policies and procedures required under R4-33-602(A)(3);
 14. Signature of the owner of the program; and
 15. The fee prescribed under R4-33-104(C)(2).
- C. After review of the materials submitted under subsection (B), the Board shall ensure that the training program is evaluated at either an onsite or telephonic meeting. The program owner shall ensure that the program owner, program administrator, and all instructors are available to participate in the evaluation meeting.
- D. The Board shall ensure that each training program receives an onsite evaluation at least every four years. An onsite evaluation includes visiting each assisted living facility at which the training program provides ~~classroom~~ instruction.
- E. If the Board approves a training program following an onsite evaluation, no deficiencies were identified during the onsite evaluation, and no complaints are filed with the Board, the Board shall evaluate the training program under subsection (C) using a telephonic meeting for at least two years.
- F. After conducting the evaluation required under subsection (C), the Board shall:
1. Renew approval of a training program that the Board determines complies with R4-33-602 and R4-33-603, or
 2. Issue a notice of deficiency under R4-33-606 to the owner of a training program that the Board determines does not comply with R4-33-602 or R4-33-603.
- G. The owner of an assisted living facility manager training program that is issued a notice of deficiency by the Board under subsection (F)(2) may request a hearing regarding the deficiency notice by filing a written request with the Board within 30 days after service of the Board's order. The Board shall conduct hearings under A.R.S. Title 41, Chapter 6, Article 10.

ARTICLE 7. ASSISTED LIVING FACILITY CAREGIVER TRAINING PROGRAMS

R4-33-701. Definitions

In addition to the definitions in R4-33-601, the following definitions apply in this Article:

1. "CMA" means certified medication assistant, an LNA certified by the Arizona Board of Nursing under A.R.S. § 32-1650.02.
2. "CNA" means certified nursing assistant, an individual licensed by the Arizona Board of Nursing under A.R.S. § 32-1645.
3. "DCW" means direct-care worker, an individual who meets the standards and requirements specified in Section 1240(A) of the Arizona Health Care Cost Containment System policy manual.
4. "~~Distance learning~~" means the use of technology to teach students who may or may not be physically present in a classroom. "Instruction," as used in this Article, means the act of teaching knowledge and skills in a classroom or through the use of technology.
5. "LNA" means licensed nursing assistant, an individual licensed by the Arizona Board of Nursing under A.R.S. § 32-1645.
6. "Skills training" means experiential learning focused on acquiring the ability to provide caregiving services to residents.

R4-33-702. Minimum Standards for Assisted Living Facility Caregiver Training Program

- A. Organization and administration. The owner of an assisted living facility caregiver training program shall:
1. Provide the Board with a written description of the training program that includes:
 - a. Length of the training program in hours:

- i. Number of hours of ~~classroom~~ instruction, and
 - ii. Number of hours of skills training, and
 - ~~iii. Number of hours of distance learning, and~~
 - b. Educational goals that demonstrate the training program is consistent with state requirements;
 2. Develop and adhere to written policies and procedures regarding:
 - a. Attendance. Ensure that a student receives at least 62 hours of instruction;
 - b. Grading. Require a student to attain at least 75 percent on each knowledge examination or 75 percent on a comprehensive knowledge examination;
 - c. Reexamination. Inform students that a reexamination:
 - i. Addresses the same competencies examined in the original examination,
 - ii. Contains items different from those on the original examination, and
 - iii. Is documented in the student's record;
 - d. Student records. Include the following information:
 - i. Records maintained,
 - ii. Retention period for each record,
 - iii. Location of records,
 - iv. Documents required under subsections (G)(1) and (G)(2), and
 - v. Procedure for accessing records and who is authorized to access records;
 - e. Student fees and financial aid, if any;
 - f. Withdrawal and dismissal;
 - g. Student grievances including a chain of command for disputing a grade;
 - h. Admission requirements including any criminal background or drug testing required;
 - i. Criteria for training program completion; and
 - j. Procedure for documenting that a student has received notice of the fingerprint clearance card requirement before the student is enrolled;
 3. Date each policy and procedure developed under subsection (A)(2), review within one year from the date made and every year thereafter, update if necessary, and date the policy or procedure at the time of each review;
 4. Provide each student who completes the training program with evidence of completion, within 15 days of completion, which includes the following:
 - a. Name of the student;
 - b. Name and ~~classroom~~ instruction location of the training program;
 - c. Total number of hours in the training program devoted to instruction;
 - ~~d. Number of classroom, hours in the training program devoted to skills training, and distance learning hours in the training program;~~
 - ~~e. Date on which the training program was completed;~~
 - ~~e.f. Board's approval number of the training program; and~~
 - ~~f.g. Signature of the training program owner, administrator, or instructor;~~
 5. Provide the Board, within 15 days of completion, the following information regarding each student who completed the training program:
 - a. Student's name, date of birth, Social Security number, address, and telephone number;
 - b. Student's examination score as provided by a Board-approved provider;
 - c. Name and ~~classroom~~ instruction location of the training program;
 - d. Number Total number of classroom instruction hours in the training program;
 - ~~e. Number of distance learning hours in the training program;~~
 - ~~f.e. Number of skills training hours in the training program;~~
 - ~~g.f. Date on which the training program was completed; and~~
 - ~~h.g. Board's approval number of the training program; and~~
 6. Execute and maintain under subsections (G)(1) and (G)(2) the following documents for each student:
 - a. A skills checklist containing documentation the student achieved competency in the assisted living facility caregiver skills listed in R4-33-703(C),
 - b. A copy of the current food-handler's card issued to the student by the county in which the student lives, and
 - c. An evaluation form containing the student's responses to questions about the quality of the instructional experiences provided by the training program.
- B.** Program administrator responsibilities. The owner of an assisted living facility caregiver training program shall ensure that a program administrator performs the following responsibilities:
1. Supervises and evaluates the training program,
 2. Uses only instructors who are qualified under subsection (C), and
 3. Makes the written policies and procedures required under subsection (A)(2) available to each student on or before the first day of the training program;
- C.** The owner of an assisted living facility caregiver training program shall ensure that a program instructor is qualified under subsection (C)(1), (C)(2), or (C)(3):
1. Is a certified assisted living facility manager:
 - a. Holds an assisted living facility manager certificate that is in good standing and issued under A.R.S. Title 36, Chapter 4;
 - b. Has held the assisted living facility manager certificate referenced in subsection (C)(1)(a) for at least two years;
 - c. Has not been subject to disciplinary action against the assisted living facility manager certificate during the last two years; and

- d. Has at least two years' experience within the last five years as an assisted living facility manager of record immediately before becoming a training program instructor;
2. Is a licensed health professional:
 - a. Holds a license that is in good standing and issued under A.R.S. Title 32, Chapter, 13, 15, 17, or 25;
 - b. Has held the health professional license referenced in subsection (C)(2)(a) for at least two years;
 - c. Has not been subject to disciplinary action against the health professional license during the last two years; and
 - d. Has at least two years' experience within the last five years in management, operation, or training in assisted living immediately before becoming a training program instructor; or
3. Other qualified individual:
 - a. Holds at least a baccalaureate degree in a health-related field from an accredited college or university;
 - b. Has not been subject to disciplinary action against any professional or occupational license or certificate during the last two years; and
 - c. Has at least two years' experience within the last five years in management, operation, or training in assisted living immediately before becoming a training program instructor.
- D. The owner of an assisted living facility caregiver training program shall ensure that a program instructor performs the following responsibilities:
 1. Plans each learning experience,
 2. Accomplishes educational goals of the training program and lesson objectives,
 3. Enforces a grading policy that meets the requirement specified in subsection (A)(2)(b),
 4. Requires satisfactory performance of all critical elements of each assisted living facility caregiver skill specified under R4-33-703(C),
 5. Prevents a student from performing an activity unless the student has received instruction and been found able to perform the activity competently,
 6. Is present ~~in the classroom~~ during all instruction,
 7. ~~Uses a maximum of 20 hours of distance learning,~~
 - 8.7. Supervises health professionals who assist in providing training program instruction, and
 - 9.8. Ensures that a health professional who assists in providing training program instruction:
 - a. Is licensed or certified as a health professional,
 - b. Has at least one year of experience in the field of licensure or certification, and
 - c. Teaches only a learning activity that is within the scope of practice of the field of licensure or certification.
- E. Skill training requirements. The owner of an assisted living facility caregiver training program shall:
 1. Provide each student with at least 12 hours of instructor-supervised skills training, and
 2. Ensure that each student develops skill proficiency in the subjects listed in R4-33-703(C).
- F. Instructional and educational resources. The owner of an assisted living facility caregiver training program shall provide, or provide access to, the following instructional and educational resources adequate to implement the training program for all students and staff:
 1. Current reference materials related to the level of the curriculum;
 2. Equipment in functional condition for simulating resident care, including:
 - a. Patient bed, over-bed table, and nightstand;
 - b. Privacy curtain and call bell;
 - c. Thermometers, stethoscopes, including a teaching stethoscope, blood-pressure cuff, and balance scale;
 - d. Hygiene supplies, elimination equipment, drainage devices, and linens;
 - e. Hand-washing equipment and clean gloves; and
 - f. Wheelchair, gait belt, walker, anti-embolic hose, and cane;
 3. Computer in good working condition;
 4. Audio-visual equipment and media; and
 5. Designated space that provides a clean, distraction-free, learning environment for accomplishing educational goals of the training program;
- G. Records. The owner of an assisted living facility caregiver training program shall:
 1. Maintain the following training program records for three years:
 - a. Curriculum and course schedule for each student cohort;
 - b. Results of state-approved written examination and skills checklist;
 - c. Evaluation forms completed by students, a summary of the evaluation forms for each student cohort, and measures taken, if any, to improve the training program based on student evaluations; and
 - d. Copy of all Board reports, applications, or correspondence related to the training program; and
 2. Maintain the following student records for three years:
 - a. Name, date of birth, and Social Security number;
 - b. Completed skills checklist;
 - c. Attendance record including a record of any make-up class sessions;
 - d. Score on each test, quiz, and examination and, if applicable, whether a test, quiz, or examination was retaken;
 - e. Documentation from the program instructor indicating the:
 - i. Number of skills training hours completed by the student,
 - ii. Student performance during the skills training, and
 - iii. Verification of ~~distance learning~~ total number of instruction hours completed by the student; and
 - f. Copy of the evidence of completion issued to the student as required under subsection (A)(4);
- H. Examination and evaluation requirements for students. The owner of an assisted living facility caregiver training program shall ensure each student in the training program:

1. Takes an examination that covers each of the subjects listed in R4-33-703(C) and passes each examination using the standard specified in subsection (A)(2)(b);
 2. Is evaluated and determined to possess the practical skills listed in R4-33-703(C);
 3. Passes, using the standard specified in subsection (A)(2)(b), a final examination approved by the Board and given by a Board-approved provider; and
 4. Does not take the final examination referenced in subsection (H)(3) more than three times. If a student fails the final examination referenced in subsection (H)(3) three times, the student is able to obtain evidence of completion only by taking the assisted living facility caregiver training program again;
- I.** Examination passing standard. The owner of an assisted living facility caregiver training program shall attain an annual first-time passing rate of 70 percent for all students who take the examination specified under subsection (H)(3). The Board may waive this requirement for a program if fewer than 10 students took the examination during the year.
- J.** Periodic evaluation. The owner of an assisted living facility caregiver training program shall allow a representative of the Board or a state agency designated by the Board to conduct:
1. A scheduled evaluation:
 - a. Before initial approval of the training program as specified under R4-33-704(D),
 - b. Before renewal of the training program approval as specified under R4-33-705(C), and
 - c. During a time of correction as specified under R4-33-706(B); and
 2. An onsite unscheduled evaluation of the training program if the evaluation is in response to a complaint or reasonable cause, as determined by the Board;
- K.** Notice of change. The owner of an assisted living facility caregiver training program shall provide the documentation and information specified regarding the following changes within 10 days after making the change:
1. New training program administrator. Name and license number;
 2. New instructor. Name, license number, and evidence of being qualified under subsection (C);
 3. Decrease in number of training program hours. Description of and reason for the change, a revised curriculum outline, and revised course schedule;
 4. Change in ~~classroom~~ location at which instruction is provided. Address and description of new location ~~and description of the new classroom~~; and
 5. For a training program that is based within an assisted living facility:
 - a. Change in name of the facility. Former and new name of the assisted living facility; and
 - b. Change in ownership of the facility. Names of the former and current owners of the assisted living facility.
- L.** Medication management training program. The owner of an assisted living facility caregiver training program may provide a medication management training program for a student who, at the time of admission, is in good standing and a CNA, LNA, or DCW. The owner shall ensure the medication management training program provides the ~~classroom~~ instruction listed in subsection R4-33-703(C)(14) and meets the standards in R4-33-703.1.

R4-33-703. Curriculum for Assisted Living Facility Caregiver Training Program

- A.** The owner of an assisted living facility caregiver training program shall ensure that the training program consists of at least 62 hours ~~of instruction~~ including:
1. Fifty hours of ~~classroom~~ instruction, ~~of which a maximum of 20 hours may be provided by distance learning~~, and
 2. Twelve hours of instructor-supervised skills training.
- B.** The owner of an assisted living facility caregiver training program shall provide a written curriculum plan to each student that includes overall educational goals and for each required subject:
1. Measurable learner-centered objectives,
 2. Outline of the material to be taught,
 3. Time allotted to each unit of instruction, and
 4. Learning activities or reading assignments.
- C.** The owner of an assisted living facility caregiver training program shall ensure the training program includes ~~classroom~~ instruction and skills training regarding each of the following subjects:
1. Orientation to and overview of the assisted living facility caregiver training program (at least one ~~classroom~~ hour of instruction).
 - a. Levels of care within an assisted living facility, and
 - b. Impact of each level of care on residents;
 2. Legal and ethical issues and resident rights (at least two ~~classroom~~ hours of instruction).
 - a. Confidentiality (HIPAA);
 - b. Ethical principles;
 - c. Resident rights specified in R9-10-710;
 - d. Abuse, neglect, and exploitation;
 - e. Mandatory reporting; and
 - f. Do-not-resuscitate order and advanced directives;
 3. Communication and interpersonal skills (at least two ~~classroom~~ hours of instruction).
 - a. Components of effective communication,
 - b. Styles of communication,
 - c. Attitude in communication,
 - d. Barriers to effective communication:
 - i. Culture,
 - ii. Language, and
 - iii. Physical and mental disabilities, and
 - e. Techniques of communication;

4. Job management skills (at least one ~~classroom~~ hour of instruction).
 - a. Stress management, and
 - b. Time management;
5. Service plans (at least two ~~classroom~~ hours of instruction). Developing, using, and maintaining resident service plans;
6. Infection control (at least three ~~classroom~~ hours of instruction).
 - a. Common types of infectious diseases,
 - b. Preventing infection,
 - c. Controlling infection:
 - i. Washing hands,
 - ii. Using gloves, and
 - iii. Disposing of sharps and other waste;
7. Nutrition and food preparation (at least two ~~classroom~~ hours of instruction).
 - a. Basic nutrition;
 - b. Menu planning and posting;
 - c. Procuring, handling, and storing food safely; and
 - d. Special diets;
8. Fire, safety, and emergency procedures (at least two ~~classroom~~ hours of instruction).
 - a. Emergency planning,
 - b. Medical emergencies,
 - c. Environmental emergencies,
 - d. Fire safety,
 - e. Fire drills and evacuations, and
 - f. Fire-code requirements;
9. Home environment and maintenance (at least two ~~classroom~~ hours of instruction).
 - a. Housekeeping,
 - b. Laundry, and
 - c. Physical plant;
10. Basic caregiver skills (at least eight ~~classroom~~ hours of instruction).
 - a. Taking vital signs and measuring height and weight;
 - b. Maintaining a resident's environment;
 - c. Observing and reporting pain;
 - d. Assisting with diagnostic tests;
 - e. Providing assistance to residents with drains and tubes;
 - f. Recognizing and reporting abnormal changes to a supervisor;
 - g. Applying clean bandages;
 - h. Providing peri-operative care;
 - i. Assisting ambulation of residents including transferring and using assistive devices;
 - j. Bathing, caring for skin, and dressing;
 - k. Caring for teeth and dentures;
 - l. Shampooing and caring for hair;
 - m. Caring for nails;
 - n. Toileting, caring for perineum, and caring for ostomy;
 - o. Feeding and hydration including proper feeding techniques and use of assistive devices in feeding;
 - p. Preventing pressure sores; and
 - q. Maintaining and treating skin;
11. Mental health and social service needs (at least three ~~classroom~~ hours of instruction).
 - a. Modifying the caregiver's behavior in response to resident behavior,
 - b. Understanding the developmental tasks associated with the aging process,
 - c. Responding to resident behavior,
 - d. Promoting resident dignity,
 - e. Providing culturally sensitive care,
 - f. Caring for the dying resident, and
 - g. Interacting with the resident's family;
12. Care of the cognitively impaired resident (at least four ~~classroom~~ hours of instruction).
 - a. Anticipating and addressing the needs and behaviors of residents with dementia or Alzheimer's disease,
 - b. Communicating with cognitively impaired residents,
 - c. Understanding the behavior of cognitively impaired residents, and
 - d. Reducing the effects of cognitive impairment;
13. Skills for basic restorative services (at least two ~~classroom~~ hours of instruction).
 - a. Understanding body mechanics;
 - b. Assisting resident self-care;
 - c. Using assistive devices for transferring, walking, eating, and dressing;
 - d. Assisting with range-of-motion exercises;
 - e. Providing bowel and bladder training;
 - f. Assisting with care for and use of prosthetic and orthotic devices; and
 - g. Facilitating family and group activities; and

14. Medication management (at least 16 ~~classroom~~ hours of instruction).
 - a. Determining whether a resident needs assistance with medication administration and if so, the nature of the assistance;
 - b. Assisting a resident to self-administer medication;
 - c. Observing, documenting, and reporting changes in resident condition before and after medication is administered;
 - d. Knowing the rights of a resident regarding medication administration;
 - e. Knowing classifications of and responses to medications;
 - f. Taking, reading, and implementing a physician's medication and treatment orders;
 - g. Storing medication properly and securely;
 - h. Documenting medication and treatment services;
 - i. Maintaining records of medication and treatment services;
 - j. Using medication organizers properly;
 - k. Storing and documenting use of narcotic drugs and controlled substances;
 - l. Understanding how metabolism and physical conditions affect medication absorption;
 - m. Knowing the proper administration of all forms of medication;
 - n. Using drug-reference guides (Physician's Desk Reference); and
 - o. Preventing, identifying, documenting, reporting, and responding to medication errors.
- D. The owner of an assisted living facility caregiver training program shall ensure that the training program: provides a student with at least the number of:
 1. ~~Provides a student with at least the number of classroom hours~~ Hours of instruction specified in subsection (C); and
 2. ~~Subject to the limitations specified, uses distance learning for a maximum of 20 hours only for the classroom hours specified in subsections (C)(1) through (C)(9), (C)(11) and (C)(12):~~
 - a. ~~Only one of the classroom hours specified in subsection (C)(6) may be taught by distance learning; and~~
 - b. ~~Only two of the classroom hours specified in subsection (C)(12) may be taught by distance learning.~~
 - 3-2. ~~Provides a student with at least the number of skills~~ Instructor-supervised skills training hours specified in subsection (A)(2) (A).
- E. The owner of an assisted living facility caregiver training program shall ensure that the training program uses textbooks that are relevant to the subjects being taught and have been published within the last five years.
- F. The owner of an assisted living facility caregiver training program shall ensure that any distance learning provided uses materials that are relevant to the subjects being taught and have been produced within the last five years.

R4-33-703.1. Minimum Standards and Curriculum for an Assisted Living Facility Caregiver Medication Management Training Program

- A. An assisted living facility caregiver medication management training program may be established by:
 1. The owner or manager of an assisted living facility, or
 2. The owner of an assisted living facility caregiver training program.
- B. A person under subsection (A) may offer an assisted living facility caregiver medication management training program to:
 1. A CNA who is in good standing and whose certification by the Arizona Board of Nursing under A.R.S. § 32-1645 is verified;
 2. An LNA who is in good standing and whose licensure by the Arizona Board of Nursing under A.R.S. § 32-1645 is verified; and
 3. A DCW who is in good standing and whose training, including training about caregiving fundamentals and aging and physical disabilities, and testing record is verified through the AHCCCS online database.
- C. A person under subsection (A) that offers an assisted living facility caregiver medication management training program to individuals specified under subsection (B) shall ensure the assisted living facility caregiver medication management training program:
 1. Consists of at least the 16 ~~classroom~~ hours of instruction specified under R4-33-703(C)(14);
 - 2- ~~Is not taught by distance learning;~~
 - 3-2. Is taught by a health professional who holds a license in good standing and issued under A.R.S. Title 32, Chapter 13, 15, 17, 18, or 25; and
 - 4-3. Requires passing an examination regarding assisted living facility caregiver medication management, using the standard specified in R4-33-702(A)(2)(b), that is approved by the Board and given by a Board-approved provider. An individual under subsection (B) shall pass the required examination in no more than three attempts. After failing three times, the individual may take the assisted living facility caregiver medication management program again.
- D. In addition to complying with subsection (C), a person under subsection (A) shall ensure each individual under subsection (B) who participates in an assisted living facility caregiver medication management training program:
 1. Receives notice, before participating in the training program, of:
 - a. The fingerprint clearance card requirement, and
 - b. The need to obtain a food-handler's card from the county in which the individual lives.
 2. Provides written documentation, which is dated and signed, indicating the person under subsection (A) complied with subsection (D)(1). The person under subsection (A) shall maintain the written documentation under R4-33-702(G)(2).
- E. In addition to complying with subsection (C), a person under subsection (A) that offers an assisted living facility caregiver medication management training program to individuals specified under subsection (B) shall comply with the following subsections of R4-33-702:
 1. (A)(4)(a), (b), and (d) through (f);
 2. (A)(5)(a) through (d), (g), and (h);
 3. (A)(6)(b) and (c);
 4. (G)(1)(b) through (d);
 5. (G)(2)(a), (c), (d), and (f);
 6. (I) and

7. (J).

R4-33-704. Application for Approval of an Assisted Living Facility Caregiver Training Program

- A. The owner of an assisted living facility caregiver training program shall ensure no training is provided until the program is approved by the Board.
- B. To obtain approval of an assisted living facility caregiver training program, the owner of the training program shall submit to the Board an application packet that contains the following:
1. Name, address, telephone number, and e-mail address of the owner;
 2. Name, address, telephone and fax numbers, and ~~web site~~ website of the training program;
 3. Form of business organization under which the training program is operated and a copy of the establishing documents and organizational chart;
 4. A statement of whether the training program is based within an assisted living facility or other location;
 5. Name, telephone number, e-mail address, and license or certificate number of the program administrator required under R4-33-702(B);
 6. Name, telephone number, e-mail address, and license number of each program instructor and evidence each program instructor is qualified under R4-33-702(C);
 7. A statement of whether the training program is accredited and if so, name of the accrediting body and date of last review;
 8. For all assisted living facilities at which the training program will provide instruction:
 - a. Name, address, and telephone number of the assisted living facility;
 - b. Name, e-mail address, and telephone number of a contact person at the assisted living facility;
 - c. License number of the assisted living facility issued by the Department of Health Services;
 - d. A statement of whether the license of the assisted living facility is in good standing; and
 - e. Date and results of the most recent compliance inspection conducted by the Department of Health Services;
 9. Evidence of compliance with R4-33-702 and R4-33-703, including the following:
 - a. Written training program description, consistent with R4-33-702(A)(1), and an implementation plan that includes time-lines;
 - b. Description of ~~classroom~~ instructional facilities, equipment, and ~~instructional~~ tools available, consistent with R4-33-702(F);
 - c. Written curriculum, consistent with R4-33-703(C);
 - d. Skills checklist used to verify whether a student has acquired the necessary assisted living facility caregiver skills, consistent with R4-33-702(A)(6)(a);
 - e. Evaluation form required under R4-33-702(A)(6)(c) to enable students to assess the quality of the instructional experience provided by the training program;
 - f. Evidence of completion issued to a student under R4-33-702(A)(4);
 - g. Name of textbook used, author, publication date, and publisher;
 - h. Name of any ~~distance learning technology-based~~ materials used, producer of the material, and date produced; and
 - i. Copy of written policies and procedures required under R4-33-702(A)(2);
 10. Signature of the owner of the training program; and
 11. The fee prescribed under R4-33-104(D)(1).
- C. The owner of an assisted living facility caregiver training program shall ensure the application materials submitted under subsection (B) are printed on only one side of white, letter-sized paper, and are not bound in any manner.
- D. After review of the materials submitted under subsection (B), the Board shall schedule an onsite evaluation of the training program and take one of the following actions:
1. If requirements are met, approve the training program for one year; or
 2. If requirements are not met, deny approval of the training program.
- E. The owner of an assisted living facility caregiver training program denied approval by the Board may request a hearing regarding the denial by filing a written request with the Board within 30 days after service of the Board's order denying approval of the training program. The Board shall conduct hearings under A.R.S. Title 41, Chapter 6, Article 10.

R4-33-705. Renewal of Approval of an Assisted Living Facility Caregiver Training Program

- A. The approval of an assisted living facility caregiver training program expires one year from the date of approval. If the approval of the training program expires, the owner of the training program shall immediately stop all training program activity.
- B. To renew approval of an assisted living facility caregiver training program, the owner of the training program shall submit to the Board, no fewer than 60 and no more than 120 days before expiration of the current approval, an application packet that contains the following:
1. Name, address, telephone number, and e-mail address of the owner;
 2. Name, address, telephone and fax numbers, and ~~web site~~ website of the training program;
 3. Name, telephone number, e-mail address, and license number of the program administrator required under R4-33-702(B);
 4. Name, telephone number, e-mail address, and license number of each program instructor and evidence each program instructor is qualified under R4-33-702(C);
 5. Written training program description, consistent with R4-33-702(A)(1);
 6. Written curriculum, consistent with R4-33-703(C);
 7. Since the time the training program was last approved:
 - a. Number of student-cohort classes to which training was provided,
 - b. Number of students who completed the training program,
 - c. Results obtained on the Board-approved written examination and skills checklist for each student, and
 - d. Percentage of students who passed the examination on the first attempt;

8. For an assisted living facility at which the training program has started to provide instruction since the training program was last approved, the information required under R4-33-704(B)(8);
 9. Evaluation form required under R4-33-702(A)(6)(c) to enable students to assess the quality of the instructional experience provided by the training program;
 10. Summary of evaluations for each student cohort, required under R4-33-702(G)(1)(c), and measures taken, if any, to improve the training program based on student evaluations;
 11. Evidence of completion issued to a student under R4-33-702(A)(4);
 12. Name of textbook used, author, publication date, and publisher;
 13. Name of any ~~distance learning~~ technology-based materials used, producer of the material, and date produced;
 14. Copy of written policies and procedures required under R4-33-702(A)(2);
 15. Signature of the owner of the training program; and
 16. The fee prescribed under R4-33-104(D)(2).
- C. After review of the materials submitted under subsection (B), the Board shall ensure the training program is evaluated at either an onsite or telephonic meeting. The program owner shall ensure the program owner, program administrator, and all instructors are available to participate in the evaluation meeting.
- D. The Board shall ensure each training program receives an onsite evaluation at least every four years. An onsite evaluation includes visiting each assisted living facility at which the training program provides instruction.
- E. If the Board approves a training program following an onsite evaluation, no deficiencies were identified during the onsite evaluation, and no complaints are filed with the Board, the Board shall evaluate the training program under subsection (C) using a telephonic meeting for at least two years.
- F. After conducting the evaluation required under subsection (C), the Board shall:
1. Renew approval of a training program the Board determines complies with R4-33-702 and R4-33-703, or
 2. Issue a notice of deficiency under R4-33-706 to the owner of a training program the Board determines does not comply with R4-33-702 or R4-33-703.
- G. The owner of an assisted living facility training program issued a notice of deficiency by the Board under subsection (F)(2) may request a hearing regarding the deficiency notice by filing a written request with the Board within 30 days after service of the Board's order. The Board shall conduct hearings under A.R.S. Title 41, Chapter 6, Article 10.

R4-33-707. Minimum Standards for an Assisted Living Facility On-the-job Caregiver Training Program

- A. In this Section:
1. "Direct supervision" has the same meaning as specified at A.R.S. § 36-446.16(C).
 2. "Five years of experience," as used in A.R.S. § 36-446.16(A)(1)(a)(v), means a certified assisted living facility manager has been the manager of record for at least five years at an assisted living facility.
 3. "Manager of record" means a certified assisted living facility manager for whom notice of appointment is provided under R4-33-410.
 4. "OTJ" means on-the-job, a form of training that provides an employee with knowledge and skills essential to adequate job performance.
- B. Before implementing an OTJ training program, the owner of the assisted living facility at which the OTJ training program will be implemented shall apply to the Board to have the OTJ training program approved.
- C. To apply for Board approval under subsection (B), the owner of the assisted living facility shall submit an application packet that contains:
1. Name, address, telephone number, and e-mail address of the owner of the assisted living facility;
 2. Name, telephone number, e-mail address, and certificate number of the assisted living facility manager of record;
 3. A statement of who will be responsible for providing oversight of the OTJ training program. If oversight will be provided by someone other than the owner or manager of record, the name, telephone number, e-mail address, and occupational license number of the individual who will be responsible;
 4. License number of the assisted living facility at which the OTJ training program will be provided;
 5. A written description of the OTJ training program that includes:
 - a. A statement of pre-requisites for being employed by the assisted living facility and becoming a participant in the OTJ training program including any criminal background or drug testing required;
 - b. An acknowledgment that the OTJ training program will be provided only to individuals who:
 - i. Are employed at the assisted living facility;
 - ii. Are being paid and receiving the same benefits as other caregivers employed at the assisted living facility;
 - iii. Have a valid fingerprint clearance card; and
 - iv. Have a current food-handler's card issued by the county in which the individual lives;
 - c. A statement of whether any hours of the OTJ training program will involve classroom instruction and if so, the number of hours and curriculum subjects, as specified in R4-33-703(C), that will be taught by classroom instruction;
 - d. An acknowledgment that ~~none of the all~~ hours of the OTJ training program will be taught by distance learning only to students who are physically present at the assisted living facility;
 - e. An acknowledgment that the OTJ training program will consist of at least 62 hours of training covering all the curriculum subjects specified in R4-33-703(C); and
 - f. An acknowledgment that the OTJ training program complies with A.R.S. § 36-446.16(A)(1)(v) regarding direct supervision of the OTJ training program by the manager of record.
 6. A copy of the license or certificate, as specified in A.R.S. § 36-446.16(A)(1), of each health professional who will provide direct supervision of the OTJ training program;
 7. A copy of written policies and procedures regarding:

- a. Ensuring each individual in the OTJ training program receives at least 62 hours of training covering all the curriculum subjects specified in R4-33-703(C);
- b. Examining and evaluating each individual as specified in R4-33-702(H);
- c. Maintaining records of the OTJ training provided to each individual as specified in R4-33-702(A)(2)(d);
- d. Termination of or quitting by an individual participating in the OTJ training program;
- e. Criteria for completing the OTJ training program and procedure for ensuring each individual in the OTJ training program is informed of the criteria; and
- f. Frequency and documentation of updating the written policies and procedures;
- 8. A copy of a skills checklist used to verify that each individual in the OTJ training program acquires the skills listed in R4-33-703(C) and necessary to function competently as an assisted living facility caregiver;
- 9. A copy of the evidence of completion provided within 15 days to each individual who completes the OTJ training program;
- 10. A copy of the written information provided to each individual in the OTJ training program regarding how and to whom to submit a complaint regarding a grade, quality of training, failure to comply with this Section, discrimination, termination, or other issue;
- 11. The fee specified at R4-33-104(D); and
- 12. Signature of the owner of the assisted living facility at which the OTJ training program will be provided attesting that the information provided is complete and accurate.
- D. After receiving Board approval of the OTJ training program, the owner of the assisted living facility for which the approval was provided shall ensure the following responsibilities are performed:
 - 1. Within 15 days after an individual completes the OTJ training program, provide to the Board the information specified in R4-33-702(A)(5)(a), (b), (g), and (h); and
 - 2. Maintain the following records in the caregiver’s permanent employee file:
 - a. A copy of the caregiver’s fingerprint clearance card and food-handler’s card required under subsection (C)(5);
 - b. Written documentation, signed by and with the license number of the health professional providing direct supervision, of each hour of OTJ training provided to the caregiver;
 - c. A copy of the caregiver’s completed skills checklist required under subsection (C)(8);
 - d. Results of the state-approved written examination taken by the caregiver showing the caregiver achieved the grade specified in R4-33-702(A)(2)(b);
 - e. Copy of the evidence of completion issued to the caregiver with the caregiver’s signed and dated acknowledgment of receipt; and
 - f. A copy of any complaint submitted by the caregiver and records showing how the complaint was resolved.
- E. The owner of an assisted living facility with a Board-approved OTJ training program shall allow the Board to conduct periodic evaluation, as described in R4-33-702(J), of the OTJ training program.
- F. The approval of an OTJ training program expires one year after the date of approval. If the approval expires, the owner of the assisted living facility shall ensure the OTJ training program ceases. To renew approval of the OTJ training program, the owner of the assisted living facility shall submit to the Board a renewal application packet, which is available on the Board’s ~~web site~~ [website](#), and the fee specified under R4-33-104(D).
- G. The provisions of R4-33-706 are applicable to an OTJ training program.

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 21. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
BEHAVIORAL HEALTH SERVICES FOR PERSONS WITH SERIOUS MENTAL ILLNESS**

[R22-283]

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R9-21-101	Amend
R9-21-104	Amend
R9-21-105	Amend
R9-21-201	Amend
R9-21-202	Amend
R9-21-203	Amend
R9-21-206	Amend
R9-21-211	Amend
R9-21-401	Amend
R9-21-402	Amend
R9-21-403	Amend
R9-21-404	Amend
R9-21-405	Amend
R9-21-406	Amend
R9-21-407	Amend

R9-21-408	Amend
R9-21-409	Amend
R9-21-410	Amend
R9-21-501	Amend
R9-21-502	Amend
Exhibit C	Amend
R9-21-503	Amend
R9-21-504	Amend
R9-21-505	Amend
R9-21-507	Amend
R9-21-508	Amend
R9-21-509	Amend

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. § 36-502

Implementing statute: A.R.S. §§ 36-504-546.01, 41-3803, Laws 2022, Chapter 299

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:

Notice of Rulemaking Docket Opening: 28 A.A.R. 3853, December 16, 2022 (*in this issue*)

4. The agency’s contact person who can answer questions about the rulemaking:

Name: Nicole Fries
 Address: AHCCCS
 Office of the General Counsel
 801 E. Jefferson, Mail Drop 6200
 Phoenix, AZ 85034
 Telephone: (602) 417-4232
 Fax: (602) 253-9115
 Email: AHCCCSRules@azahcccs.gov
 Website: 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:

The proposed rulemaking makes a number of technical and conforming changes to the rules to update them and bring them into compliance with practice and prior session laws. These changes include:

- Changing references from the human rights committee to the Independent Oversight Committee, per A.R.S. § 41-3803;
- Changing references from the regional behavioral health authorities to health plans, per AHCCCS Complete Care joining of physical and behavioral health care administration through one health plan;
- Removing references to eligible children because Chapter 21 only pertains to adult Seriously Mentally Ill and General Behavioral Health services, not those provided to minors under age 18;
- Changing references to the Department of Health Services have been updated to the AHCCCS Administration, where appropriate, as the agency regulating the provision of services under Chapter 21; and
- Update the language of Exhibit C, in R9-22-502 to make permanent the change proposed in a prior emergency rulemaking, adding Persistently or Acutely Disabled and Gravely Disabled as categories for Emergency Application for Evaluation, per S.B. 1114.

The proposed rulemaking will also add two additional options for seeking an Emergency Admission for Evaluation; Persistently or Acutely Disabled, and Gravely Disabled. This rulemaking is requested to align the form with the language in S.B. 1114, that was signed into law by the Governor earlier this year and became effective September 24, 2022. This change is anticipated to be non-controversial but will have a significant impact on members of the Arizona community in need of emergency evaluation for mental/behavioral health conditions.

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

No study was relied upon.

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:

The rulemaking does not diminish a previous grant of authority.

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

The AHCCCS Administration does not anticipate that these rulemaking changes will have an economic, small business or consumer financial impact due to the technical and conforming nature of them. The authority for all of these changes is legislative or current agency practice, therefore the rules are being brought into alignment with already authorized practices and will not require a change to agency practice or financial impact.

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

Name: Nicole Fries
 Address: AHCCCS
 Office of the General Counsel
 801 E. Jefferson, Mail Drop 6200
 Phoenix, AZ 85034
 Telephone: (602) 417-4232
 Fax: (602) 253-9115
 Email: AHCCCSRules@azahcccs.gov
 Website: 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:

Proposed rule language will be available on the AHCCCS website. Please send comments to the above address by the close of the comment period, 5:00 p.m., January 17, 2023.
 Date: January 17, 2023
 Time: 2:00 p.m.
 Location: <https://meet.google.com/tym-ioap-cdq>
 Nature: Public Hearing

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

No other matters have been prescribed.

- 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:**
 The rule does not require a permit.
- b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**
 Federal law is 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:**
 No analysis was submitted.

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

No materials incorporated by reference.

13. The full text of the rules follows:

**CHAPTER 21. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
 BEHAVIORAL HEALTH SERVICES FOR PERSONS WITH SERIOUS MENTAL ILLNESS**

ARTICLE 1. GENERAL PROVISIONS

- Sections
- R9-21-101. Definitions and Locations of Definitions
 - R9-21-104. Office of Human Rights; Human Rights Advocates
 - R9-21-105. ~~Human Rights Committees~~ Independent Oversight Committees

ARTICLE 2. RIGHTS OF PERSONS WITH SERIOUS MENTAL ILLNESS

- Sections
- R9-21-201. Civil and Other Legal Rights
 - R9-21-202. Right to Support and Treatment
 - R9-21-203. Protection from Abuse, Neglect, Exploitation, and Mistreatment
 - R9-21-206. Competency and Consent
 - R9-21-211. Notice of Rights

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

- Sections
- R9-21-401. Appeals
 - R9-21-402. General
 - R9-21-403. Initiating a Grievance or Investigation
 - R9-21-404. Persons Responsible for Resolving Grievances and Requests for Investigation
 - R9-21-405. Preliminary Disposition
 - R9-21-406. Conduct of Investigation

- R9-21-407. Administrative Appeal
- R9-21-408. Further Appeal to Administrative Hearing
- R9-21-409. Notice and Records
- R9-21-410. Miscellaneous

ARTICLE 5. COURT-ORDERED EVALUATION AND TREATMENT

Sections

- R9-21-501. Court-ordered Evaluation
- R9-21-502. Emergency Admission for Evaluation
 - Exhibit C. Application for Emergency Admission for Evaluation
- R9-21-503. Voluntary Admission for Evaluation
- R9-21-504. Court-ordered Treatment
- R9-21-505. Coordination of Court-ordered Treatment Plans with ISPs and ITDPs
- R9-21-507. Transfers of Court-ordered Persons
- R9-21-508. Requests for Notification
- R9-21-509. Voluntary Admission for Treatment

ARTICLE 1. GENERAL PROVISIONS

R9-21-101. Definitions and Location of Definitions

A. Location of definitions. Unless the context otherwise requires, terms used in this Chapter that are defined in A.R.S. § 36-501 shall have the same meaning as in A.R.S. § 36-501. In addition, the following definitions applicable to this Chapter are found in the following Section or Citation:

“Abuse”	R9-21-101
“ADHS”	R9-22-101
“Administration”	A.R.S. § 36-2901
“Agency director”	R9-21-101
“AHCCCS”	R9-22-101
“Applicant”	R9-21-101
“ASH”	R9-21-101
“Authorization”	R9-21-101
“Behavioral health issue”	R9-21-101
“Burden of proof”	R9-21-101
“Case manager”	R9-21-101
“Client”	R9-21-101
“Client record”	R9-21-101
“Client who needs special assistance”	R9-21-101
“Clinical team”	R9-21-101
“Community services”	R9-21-101
“Condition requiring investigation”	R9-21-101
“County Annex”	R9-21-101
“Court”	A.R.S. § 36-501
“Court ordered treatment”	R9-21-101
“Crisis services” or “emergency services”	R9-21-101
“Danger to others”	A.R.S. § 36-501
“Dangerous”	R9-21-101
“Department”	R9-21-101, A.R.S. § 36-501
“Designated representative”	R9-21-101
“Director”	A.R.S. § 36-501
“Discharge plan”	R9-21-101
“Division”	R9-21-101
“Drug used as a restraint”	R9-21-101
“DSM” or “Diagnostic and Statistical Manual of Mental Disorders”	R9-21-101
“Emergency safety situation”	R9-21-101
“Enrolled Children”	R9-21-101
“Evaluation”	A.R.S. § 36-501
“Exploitation”	R9-21-101
“Family member”	A.R.S. § 36-501
“Frivolous”	R9-21-101
“Generic services”	R9-21-101
“Grievance”	R9-21-101
“Guardian”	R9-21-101
“Hearing officer”	R9-21-101
“Human rights advocate”	R9-21-101
“Human rights committee”	R9-21-101
“Illegal”	R9-21-101

“Individual service plan” or “ISP”	R9-21-101
“Informed consent”	A.R.S. § 36-501
“Inhumane”	R9-21-101
“Inpatient facility”	R9-21-101
“Inpatient treatment and discharge plan” or “ITDP”	R9-21-101
“Licensed physician”	A.R.S. § 36-501
“Long term view”	R9-21-101
“Mechanical restraint”	R9-21-101
“Medical practitioner”	R9-21-101
“Meeting”	R9-21-101
“Mental disorder”	A.R.S. § 36-501
“Mental health agency”	R9-21-101
“Mental health provider”	A.R.S. § 36-501
“Nurse”	R9-21-101
“Outpatient treatment”	A.R.S. § 36-501
“Party” or “parties”	R9-21-101
“Persistent or acute disability”	A.R.S. § 36-501
“Personal restraint”	R9-21-101
“PRN order” or “Pro re rata medication”	R9-21-101
“Professional”	A.R.S. § 36-501
“Program director”	R9-21-101
“Proposed patient”	A.R.S. § 36-501
“Psychiatrist”	A.R.S. § 36-501
“Psychologist”	A.R.S. § 36-501
“Qualified clinician”	R9-21-101
“Records”	A.R.S. § 36-501
“Region”	R9-21-101
“Regional authority”	R9-21-101
“Regional Behavioral Health Authority (RBHA)”	A.R.S. § 36-3401
“Restraint”	R9-21-101
“Seclusion”	R9-21-101
“Seriously Mentally Ill (SMI)”	A.R.S. § 36-550
“Service provider”	R9-21-101
“Social worker”	A.R.S. § 36-501
“State Protection and Advocacy System”	R9-21-101
“Title XIX”	R9-21-101
“Treatment team”	R9-21-101

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

“Abuse” means, with respect to a client, the infliction of, or allowing another person to inflict or cause, physical pain or injury, impairment of bodily function, disfigurement or serious emotional damage which may be evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior. Such abuse may be caused by acts or omissions of an individual having responsibility for the care, custody or control of a client receiving behavioral health services or community services under this Chapter. Abuse shall also include sexual misconduct, assault, molestation, incest, or prostitution of, or with, a client under the care of personnel of a mental health agency.

“Administration” means the Arizona Health Care Cost Containment System.

“Agency director” means the person primarily responsible for the management of an outpatient or inpatient mental health agency, service provider, ~~regional authority health plan~~ or the Administration, or their designees.

“AHCCCS” means the Arizona Health Care Cost Containment System.

“Applicant” means an individual who:

- a. Submits to a ~~regional authority health plan~~ an application for behavioral health services under this Chapter or on whose behalf an application has been submitted; or
- b. Is referred to a ~~regional authority health plan~~ for a determination of eligibility for behavioral health services according to this Chapter.

“ASH” means the Arizona State Hospital.

“Authorization” means written permission for a mental health agency to release or disclose a client’s record or information, containing:

- a. The name of the mental health agency releasing or disclosing the client’s record or information;
- b. The purpose of the release or disclosure;
- c. The individual, mental health agency, or entity requesting or receiving the client’s record or information;
- d. A description of the client’s record or information to be released or disclosed;

- e. A statement:
 - i. Of permission for the mental health agency to release or disclose the client's record or information; and
 - ii. That permission may be revoked at any time;
- f. The date when or conditions under which the permission expires;
- g. The date the document is signed; and
- h. The signature of the client or, if applicable, the client's guardian.

"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.

"Behavioral health service" means the assessment, diagnosis, or treatment of an individual's behavioral health issue.

"Burden of proof" means the necessity or obligation of affirmatively proving the fact or facts in dispute.

"Case manager" means the person responsible for locating, accessing and monitoring the provision of services to clients in conjunction with a clinical team.

"Client" means an individual who ~~is has a qualifying seriously serious mentally mental illness~~ and is being evaluated or treated for a mental disorder by or through a ~~regional authority health plan~~.

"Client record" means the written compilation of information that describes and documents the evaluation, diagnosis or treatment of a client.

"Client who needs special assistance" means a client who has been:

- a. Deemed by a qualified clinician, case manager, clinical team, or ~~regional authority health plan~~ to need special assistance in participating in the ISP or ITDP process, which may include, but is not limited to:
 - i. A client who requires 24-hour supervision;
 - ii. A client who is, in fact, incapable of making or communicating needs but is without a court-appointed fiduciary; or
 - iii. A client with physical disabilities or language difficulties impacting the client's ability to make or communicate decisions or to prepare or participate in meetings; or
- b. Otherwise deemed by a program director, the Administration, or an Administrative Law Judge to need special assistance to effectively file a written grievance, to understand the grievance and investigation procedure, or to otherwise effectively participate in the grievance process under this Chapter.

"Clinical team" refers to the interdisciplinary team of persons who are responsible for providing continuous treatment and support to a client and for locating, accessing and monitoring the provision of behavioral health services or community services. A clinical team consists of a psychiatrist, case manager, vocational specialist, psychiatric nurse, and other professionals or paraprofessionals, such as a psychologist, social worker, consumer case management aide, or rehabilitation specialist, as needed, based on the client's needs. The team shall also include a team leader who is a certified behavioral health supervisor.

"Community services" means services such as clinical case management, outreach, housing and residential services, crisis intervention and resolution services, mobile crisis teams, day treatment, vocational training and opportunities, rehabilitation services, peer support, social support, recreation services, advocacy, family support services, outpatient counseling and treatment, transportation, and medication evaluation and maintenance.

"Condition requiring investigation" means, within the context of the grievance and investigation procedure set forth in Article 4 of this Chapter, an incident or condition which appears to be dangerous, illegal, or inhumane, including a client death.

"County Annex" means the Maricopa County Psychiatric Annex of the Maricopa Medical Center.

"Court-ordered treatment" means treatment ordered by the court under A.R.S. Title 36, Chapter 5.

"Court-ordered evaluation" means evaluation ordered by the court under A.R.S. Title 36, Chapter 5.

"Crisis services" or "emergency services" means immediate and intensive, time-limited, crisis intervention and resolution services which are available on a 24-hour basis and may include information and referral, evaluation and counseling to stabilize the situation, triage to an inpatient setting, clinical crisis intervention services, mobile crisis services, emergency crisis shelter services, and follow-up counseling for clients who are experiencing a psychiatric emergency.

"Dangerous" as used in Article 4 of this Chapter means a condition that poses or posed a danger or the potential of danger to the health or safety of any client.

"Department" means the Arizona Department of Health Services.

"Designated representative" means a parent, guardian, relative, advocate, friend, or other person, designated in writing by a client or guardian who, upon the request of the client or guardian, assists the client in protecting the client's rights and voicing the client's service needs.

"Determining Entity" means either the AHCCCS designee authorized to make SMI determinations or a Tribal Regional Behavioral Health Authority (for each TRBHA, tribal members only) authorized to make the final determination of SMI eligibility.

“Discharge plan” means a hospital or community treatment and discharge plan prepared according to Article 3 of these rules.

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

- a. Manage the client’s behavior in a way that reduces the safety risk to the client or others,
- b. Temporarily restrict the client’s freedom of movement.

“DSM” means the latest edition of the “Diagnostic and Statistical Manual of Mental Disorders,” edited by the American Psychiatric Association.

“Emergency safety situation” means unanticipated client behavior that creates a substantial and imminent risk that the client may inflict injury, and has the ability to inflict injury, upon:

- a. The client, as evidenced by threats or attempts to commit suicide or to inflict injury on the client; or
- b. Another individual, as evidenced by threats or attempts to inflict injury on another individual or individuals, previous behavior that has caused injury to another individual or individuals, or behavior that places another individual or individuals in reasonable fear of sustaining injury.

~~“Enrolled Children” means persons under the age of 18 who receive behavioral health services by or through a regional authority.~~

“Exploitation” means the illegal or improper use of a client or a client’s resources for another’s profit or advantage.

“Frivolous” as used in this Chapter, means a grievance that is devoid of merit. Grievances are presumed not to be frivolous unless the grievance:

- a. Involves conduct that is not within the scope of this Chapter,
- b. Is impossible on its face, or
- e. Is substantially similar to conduct alleged in two previous grievances within the past year that have been determined to be unsubstantiated as provided in this Chapter.

“Generic services” means services other than behavioral health ~~services or community~~ other services for which clients may have a need and include, but are not limited to, health, dental, vision care, housing arrangements, social organizations, recreational facilities, jobs, and educational institutions.

“Grievance” means a complaint regarding an act, omission or condition, as provided in this Chapter.

“Guardian” means an individual appointed by court order according to A.R.S. Title 14, Chapter 5, or similar proceedings in another state or jurisdiction where said guardianship has been properly domesticated under Arizona law.

“Health Plan” means a Regional Behavioral Health Authority (RBHA), health plan, or Arizona Long Term Care Plan under contract with the Administration to coordinate the delivery of behavioral health services members in a geographically specific service area of the state for eligible persons.

“Hearing officer” refers to an impartial person designated by the Office of Administrative Hearing to hear a dispute and render a written decision.

“Human rights advocate” means the human rights advocates appointed by the Administration under R9-21-105.

~~“Human rights Independent Oversight committee” means the human rights~~ committee established under A.R.S. § 41-3803.

“Illegal” means, within the context of the grievance and investigation procedure set forth in Article 4 of this Chapter, an incident or occurrence which is or was likely to constitute a violation of a state or federal statute, regulation, court decision or other law, including the provisions of these Articles.

“Individual service plan” or “ISP” means the written plan for services to a client, prepared in accordance with Article 3 of this Chapter.

“Inhumane” as used in Article 4 of this Chapter means an incident, condition or occurrence that is demeaning to a client, or which is inconsistent with the proper regard for the right of the client to humane treatment.

“Inpatient facility” means the Arizona State Hospital, the County Annex, or any other inpatient treatment facility registered with or funded by or through the Administration to provide behavioral health services, including psychiatric health facilities, psychiatric hospitals, and psychiatric units in general hospitals.

“Inpatient treatment and discharge plan” or “ITDP” means the written plan for services to a client prepared and implemented by an inpatient facility in accordance with Article 3 of this Chapter.

“Long-term view” means a planning statement that identifies, from the client’s perspective, what the client would like to be doing for work, education, and leisure and where the client would like to be living for up to a three-year period. The long-term view is based on the client’s unique interests, strengths, and personal desires. It includes predicted times for achievement.

“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 orthopedic or surgical reasons, or
- b. Necessary to allow a client to heal from a medical condition or to participate in a treatment program for a medical condition.

“Medical practitioner” means a

- a. Physician,
- b. Physician assistant, or
- e. Nurse practitioner.

“Meeting” means an encounter or assembly of individuals which may be conducted in person or by telephone or by video-conferencing.

“Mental health agency” includes a ~~regional authority health plan~~, service provider, inpatient facility, or an entity that conducts screening and evaluation under Article 5.

“MIHS Behavioral Health Annex” means the Maricopa County Psychiatric Annex of the Maricopa Medical Center.

“Nurse” means an individual licensed as a registered nurse or a practical nurse according to A.R.S. Title 32, Chapter 15.

“Party” or “parties” as used in Articles 3 and 4 of these rules means the person filing a grievance under this Chapter, the agency director who issued any final resolution or decision of such a grievance, the person whose conduct is complained of in the grievance, any client or applicant who is the subject of the request or grievance, the legal guardian of client or applicant, and, in selected cases, the appropriate ~~human rights~~ Independent Oversight committee.

“Personal restraint” means the application of physical force without the use of any device, for the purpose of restricting the free movement of a client’s body; ~~but for a behavioral health agency licensed as a level I Residential Treatment Center RTC or a Level I sub-acute agency does not include:~~

- a. ~~Holding a client for no longer than five minutes, without undue force, in order to calm or comfort the client; or~~
- b. ~~Holding a client’s hand to escort the client from one area to another.~~

“PRN order” or “Pro re nata medication” means medication given as needed.

“Program director” means the person with the day-to-day responsibility for the operation of a programmatic component of a service provider, such as a specific residential, vocational, or case management program.

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

“Region” means the geographical region designated by the Administration in its contract with the ~~regional authority health plan~~.

~~“Regional authority” means the Regional Behavioral Health Authority (RBHA) under contract with the Administration to organize and administer the delivery of behavioral health services or community services to clients and enrolled children within a defined geographic area.~~

“Restraint” means personal restraint, mechanical restraint, or drug used as a restraint.

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

“Seriously mentally ill” means a person 18 years of age or older as defined in A.R.S. § 36-550.

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

“State Protection and Advocacy System” means the agency designated as the Protection and Advocacy System for individuals with mental illness, according to 42 U.S.C. 10801-10851.

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

“Treatment team” means the multidisciplinary team of persons who are responsible for providing continuous treatment and support to a client who is in an inpatient facility.

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

- A. An Office of Human Rights shall be established within the Administration. The office shall have its own chief officer who shall be responsible for the management and control of the office, as well as the hiring, training, supervision, and coordination of human rights advocates.
- B. The chief officer shall appoint at least one human rights advocate for each 2,500 clients in each region. Each region shall have at least one human rights advocate. The chief officer shall appoint at least one human rights advocate for ASH. All clients shall have the right of access to ~~a human rights advocate~~ The Office of Human Rights in order to understand, exercise, and protect their rights. The

human rights advocate shall advocate on behalf of clients and shall assist clients in understanding and protecting their rights and obtaining needed services. The human rights advocate shall also assist clients in resolving appeals and grievances under Article 4 of this Chapter and shall coordinate and assist the ~~human rights Independent Oversight~~ committees in performing their duties.

- C. The human rights advocates shall be given access to all:
 1. Clients; and
 2. Client records from a service provider, ~~regional authority health plan~~, or the Administration, except as prohibited by federal or state law.
- D. Staff of inpatient facilities, ~~regional authorities health plans~~, and service providers shall cooperate with the advocate by providing relevant information, reports, investigations, and access to meetings, staff persons, and facilities except as prohibited by federal or state law and the client's right to privacy.
- E. An agency director shall notify the ~~health plan and the~~ Office of Human Rights and the applicable ~~human rights committee~~ of each client who needs special assistance.
- F. The Office of Human Rights shall:
 1. ~~Assign a designated representative to each Special Assistance member;~~
 - a. ~~The Office of Human Rights shall assign a natural support if one exists and is willing to act as a designated representative, (e.g. a family member or friend), or~~
 - b. ~~If a natural support does not exist or is unwilling, an Advocate from the Office of Human Rights.~~
 - ~~2.~~ Maintain a list that contains the names of each client who needs special assistance and, if applicable, the name and address of the residential program providing behavioral services to the client; and
 - ~~3.~~ Provide each ~~human rights Independent Oversight~~ committee with a list of all clients who need special assistance who reside in the respective jurisdiction of the ~~human rights Independent Oversight~~ committee.
- G. ~~The Office of Human Rights shall promptly distribute to all appropriate human rights committees~~ The Administration shall ensure ~~appropriate Independent Oversight committees have access to~~ copies of all reports received according to this Chapter (e.g., reports regarding clients who need special assistance, allegations of mistreatment, denial of rights, restraint, and seclusion).

R9-21-105. ~~Human Rights Committees~~ Independent Oversight Committees

- A. According to A.R.S. §§ 41-3803 and 41-3804, the ~~Department of Administration~~ shall establish ~~human rights Independent Oversight~~ committees to provide independent oversight to ensure that the rights of clients ~~and enrolled children~~ are protected. The Administration shall establish at least one human rights committee for each region and the Arizona State Hospital. Upon the establishment of a human rights committee, if more than 2,500 clients reside within a region, the Administration shall establish additional human rights committees until there is one human rights committee for each 2,500 clients in a region.
- B. Each human rights committee shall be composed of at least seven and not more than 15 members. At least two members of the committee shall be clients or former clients, at least two members shall be relatives of clients, two members shall be parents of enrolled children and at least three members shall have expertise in one of the following areas: psychology, law, medicine, education, special education, social work, or behavioral health services.
- C. The ~~Department of Administration~~ shall appoint the initial members to each regional committee and the ~~human rights Independent Oversight~~ committee for the Arizona State Hospital. Members shall be appointed to fill vacancies on ~~a an human rights Independent Oversight~~ committee, subject to the approval of the committee.
- D. Each committee shall meet at least four times each year. Within three months of its formation, each committee shall establish written guidelines governing the committee's operations. These guidelines shall be consistent with A.R.S. §§ 41-3803 and 41-3804. The adoption and amendment of the committee's guidelines shall be by a majority vote of the committee and shall be submitted to the Administration for approval.
- E. No employee or individual under contract with the Administration, regional authority, or service provider may be a voting member of a committee.
- F. If a member of a ~~an human rights Independent Oversight~~ committee or the ~~human rights Independent Oversight~~ committee determines that a member has a conflict of interest regarding an agenda item, the member shall refrain from:
 1. Participating in a discussion regarding the agenda item, and
 2. Voting on the agenda item.
- G. Each committee shall, within its respective jurisdiction, provide independent oversight and review of:
 1. Allegations of illegal, dangerous, or inhumane treatment of clients ~~and enrolled children~~;
 2. Reports filed with the committee under R9-21-203 and R9-21-204 concerning the use of seclusion, restraint, abuse, neglect, exploitation, mistreatment, accidents, or injuries;
 3. The provision of services to clients identified under R9-21-301 in need of special assistance
 4. Violations of rights of clients ~~and enrolled children~~ and conditions requiring investigation under Article 4 of this Chapter;
 5. Research in the field of mental health according to A.R.S. § 41-3804(E)(2); and
 6. Any other issue affecting the human rights of clients ~~and enrolled children~~.
- H. Within its jurisdiction, each ~~human rights Independent Oversight~~ committee shall, for a client who needs special assistance, and may, for other clients ~~and enrolled children~~:
 1. Make regular site visits to residential environments;
 2. Meet with the client, including a client who needs special assistance, in residential environments to determine satisfaction of the clients with the residential environments; and
 3. Inspect client records, upon written request to the Administration, including client records for clients who need special assistance, except as prohibited by federal or state law and a client's right to privacy.
- I. A committee may request the services of a consultant or staff person to advise the committee on specific issues. The cost of the consultant or staff person shall be assumed by the Administration or ~~regional authority health plan~~ subject to the availability of funds specifically allocated for that purpose. A consultant or staff person may, in the sole discretion of the committee, be a member of another

- committee or an employee of the Administration, ~~regional authority health plan~~, or service provider. No committee consultant or staff person shall vote or otherwise direct the committee's decisions.
- J. Committee members and committee consultants and staff persons shall have access to client records according to A.R.S. §§ 36-509(A)(11) and 41-3804(I). If ~~a~~ an human rights Independent Oversight committee's request for information or records is denied, the committee may request a review of the decision to deny the request according to A.R.S. § 41-3804(J). Nothing in this rule shall be construed to require the disclosure of records or information to the extent that such information is protected by A.R.S. § 36-445 et seq.
- K. On the first day of the months of January, April, July, and October of each year, each committee shall issue a quarterly report summarizing its activities for the prior quarter, including any written objections to the Department of Administration according to A.R.S. § 41-3804(F), and make any recommendations for changes it believes the Administration or ~~regional authorities health plans~~ should implement. In addition, the committee may, as it deems appropriate, issue reports on specific problems or violations of client's rights. The report of a regional committee shall be delivered to the ~~regional authority and the~~ Administration.
- L. The Department of Administration shall provide training and support to human rights Independent Oversight committees.
- M. ~~A~~ An human rights Independent Oversight committee may request:
 1. An investigation for a client according to ~~Article 4 of~~ this Chapter, or
 2. A ~~regional authority health plan~~ or the Arizona State Hospital, as applicable, to conduct an investigation for an enrolled child.
- N. The ~~regional authority health plan~~ or the Arizona State Hospital, as applicable, when requested by ~~a~~ an human rights Independent Oversight committee, shall conduct an investigation concerning:
 - ~~1. A~~ a client as provided in Article 4 of this Chapter, ~~and~~
 - ~~2. An enrolled child.~~
- O. ~~A~~ An human rights Independent Oversight committee shall submit an annual report of the ~~human rights Independent Oversight~~ committee's activities and recommendations to the Director at the end of each calendar year according to A.R.S. § 41-3804(G).

ARTICLE 2. RIGHTS OF PERSONS WITH SERIOUS MENTAL ILLNESS

R9-21-201. Civil and Other Legal Rights

- A. Clients shall have all rights accorded by applicable law, including but not limited to those prescribed in A.R.S. §§ 36-504 through 36-517.02. Any individual or agency providing behavioral health services or community services as defined in R9-21-101 shall not abridge these rights, including the following:
1. Those civil rights set forth in A.R.S. § 36-506;
 2. The right to acquire and dispose of property, to execute instruments, to enter into contractual relationships, to hold professional or occupational or vehicle operator's licenses, unless the client has been adjudicated incompetent or there has been a judicial order or finding that such client is unable to exercise the specific right or category of rights. In the case of a client adjudicated incompetent, these rights may be exercised by the client's guardian, in accordance with applicable law;
 3. The right to be free from unlawful discrimination by the Administration or by any mental health agency on the basis of race, creed, religion, sex, sexual preference, age, physical or mental handicap or degree of handicap; provided, however, classifications based on age, sex, category or degree of handicap shall not be considered discriminatory, if based on written criteria of client selection developed by a mental health agency and approved by the Administration as necessary to the safe operation of the mental health agency and in the best interests of the clients involved;
 4. The right to equal access to all existing behavioral health services, community services, and generic services provided by or through the state of Arizona;
 5. The right to religious freedom and practice, without compulsion and according to the preference of the client;
 6. The right to vote, unless under guardianship, including reasonable assistance when desired in registering and voting in a nonpartisan and noncoercive manner;
 7. The right to communicate including:
 - a. The right to have reasonable access to a telephone and reasonable opportunities to make and receive confidential calls and to have assistance when desired and necessary to implement this right;
 - b. The unrestricted right to send and receive uncensored and unopened mail, to be provided with stationery and postage in reasonable amounts, and to receive assistance when desired and necessary to implement this right;
 8. The right to be visited and visit with others, provided that reasonable restrictions may be placed on the time and place of the visit but only to protect the privacy of other clients or to avoid serious disruptions in the normal functioning of the mental health agency;
 9. The right to associate with anyone of the client's choosing, to form associations, and to discuss as a group, with those responsible for the program, matters of general interest to the client, provided that these do not result in serious disruptions in the normal functioning of the mental health agency. Clients shall receive cooperation from the mental health agency if they desire to publicize and hold meetings and clients shall be entitled to invite visitors to attend and participate in such meetings, provided that they do not result in serious disruptions in the normal functioning of the mental health agency;
 10. The right to privacy, including the right not to be fingerprinted and photographed without authorization, except as provided by A.R.S. § 36-507(2);
 11. The right to be informed, in appropriate language and terms, of client rights;
 12. The right to assert grievances with respect to infringement of these rights, including the right to have such grievances considered in a fair, timely, and impartial procedure, as set forth in Article 4 of these rules, and the right not to be retaliated against for filing a grievance;
 13. The right of access to ~~a human rights advocate~~ the Office of Human Rights to request assistance in order to understand, exercise, and protect a client's rights;
 14. The right to be assisted by an attorney or designated representative of the client's own choice, including the right to meet in a private area at the program or facility with an attorney or designated representative. Nothing in this Chapter shall be construed to

require the Administration or any mental health agency to pay for the services of an attorney who consults with or represents a client;

15. The right to exercise all other rights, entitlements, privileges, immunities provided by law, and specifically those rights of consumers of behavioral health services or community services set forth in A.R.S. §§ 36-504 through 36-517.02;
16. The same civil rights as all other citizens of Arizona, including the right to marry and to obtain a divorce, to have a family, and to live in the community of their choice without constraints upon their independence, except those constraints to which all citizens are subject.

B. Nothing in this Article shall be interpreted to:

1. Give the power, right, or authority to any person or mental health agency to authorize sterilization, abortion, or psychosurgery with respect to any client, except as may otherwise be provided by law; or
2. Restrict the right of physicians, nurses, and emergency medical technicians to render emergency care or treatment in accordance with A.R.S. § 36-512; or
3. Construe this rule to confer constitutional or statutory rights not already present.

R9-21-202. Right to Support and Treatment

A. A client has the following rights with respect to the client's support and treatment:

1. The right to behavioral health services or community services:
 - a. Under conditions that support the client's personal liberty and restrict personal liberty only as provided by law or in this Chapter;
 - b. From a flexible service system that responds to the client's needs by increasing, decreasing and changing services as needs change;
 - c. Provided in a way that:
 - i. Preserves the client's human dignity;
 - ii. Respects the client's individuality, abilities, needs, and aspirations without regard to the client's psychiatric condition;
 - iii. Encourages the client's self-determination, freedom of choice, and participation in treatment to the client's fullest capacity;
 - iv. Ensures the client's freedom from the discomfort, distress and deprivation that arise from an unresponsive and inhumane environment;
 - v. Protects and promotes the client's privacy, including an opportunity whenever possible to be provided clearly defined private living, sleeping and personal care spaces; and
 - vi. Maximizes integration of the client into the client's community through ~~housing and residential~~ services which are located in residential neighborhoods, rely as much as possible on generic support services to provide training and assistance in ordinary community experiences, and utilize specialized mental health programs that are situated in or near generic community services;
 - vii. Offers the client humane and adequate support and treatment that is responsive to the client's needs, recognizes that the client's needs may vary, and is capable of adjusting to the client's changing needs; and
 - d. That provide the client with an opportunity to:
 - i. Receive services that are adequate, appropriate, consistent with the client's individual needs, and least restrictive of the client's freedom;
 - ii. Receive treatment and services that are culturally sensitive in structure, process and content;
 - iii. Receive services on a voluntary basis to the maximum extent possible and entirely if possible;
 - iv. Live in the client's own home;
 - v. Undergo normal experiences, even though the experiences may entail an element of risk, unless the client's safety or well-being or that of others is unreasonably jeopardized; and
 - vi. Engage in activities and styles of living, consistent with the client's interests, which encourage and maintain the integration of the client into the community.
2. The right to ongoing participation in the planning of services as well as participation in the development and periodic revision of the individual service plan;
3. The right to be provided with a reasonable explanation of all aspects of one's condition and treatment;
4. The right to give informed consent to all behavioral health services and the right to refuse behavioral health services in accordance with A.R.S. §§ 36-512 and 36-513, except as provided for in A.R.S. §§ 36-520 through 36-544 and 13-3994;
5. The right not to participate in experimental treatment without voluntary, written informed consent; the right to appropriate protection associated with such participation; and the right and opportunity to revoke such consent;
6. The right to a humane treatment environment that affords protection from harm, appropriate privacy, and freedom from verbal or physical abuse;
7. The right to enjoy basic goods and services without threat of denial or delay. For residential service providers, these basic goods and services include at least the following:
 - a. A nutritionally sound diet of wholesome and tasteful food available at appropriate times and in as normal a manner as possible;
 - b. Arrangements for or provision of an adequate allowance of neat, clean, appropriate, and seasonable clothing that is individually chosen and owned;
 - c. Assistance in securing prompt and adequate medical care, including family planning services, through community medical facilities;
 - d. Opportunities for social contact in the client's home, work or schooling environments;
 - e. Opportunities for daily activities, recreation and physical exercise;
 - f. The opportunity to keep and use personal possessions; and
 - g. Access to individual storage space for personal possessions;

8. The right to be informed, in advance, of charges ~~for services~~;
 9. The right to a continuum of care in a unified and cohesive system of community services that is well integrated, facilitates the movement of clients among programs, and ensures continuity of care;
 10. The right to a continuum of care that consists of, but is not limited to, clinical case management, outreach, supportive housing and residential services, crisis intervention and resolution services, mobile crisis teams, vocational training and opportunities, day treatment, rehabilitation services, peer support, social support, recreation services, advocacy, family support services, outpatient counseling and treatment, transportation, and medication evaluation and maintenance;
 11. The right to a continuum of care with programs that offer different levels of intensity of services in order to meet the individual needs of each client;
 12. The right to appropriate mental health treatment, based on each client's individual and unique needs, and to those community services from which the client would reasonably benefit;
 13. The right to community services provided in the most normal and least restrictive setting, according to the least restrictive means appropriate to the client's needs;
 14. The right to clinical case management services and a case manager. The clinical team negotiates and oversees the provision of services and ensures the client's smooth transition with service providers and among agencies;
 15. The right to participate in treatment decisions and in the development and implementation of the client's ISP, and the right to participate in choosing the type and location of services, consistent with the ISP;
 16. The right to prompt consideration of discharge from an inpatient facility and the identification of the steps necessary to secure a client's discharge as part of an ISP;
 17. The rights prescribed in Articles 3 and 4 of this Chapter, including the right to:
 - a. A written individual service plan;
 - b. Assert grievances; and
 - c. Be represented by a qualified advocate or other designated representative of the client's choosing in the development of the ISP and the inpatient treatment and discharge plan and in the grievance process, in order to understand, exercise and protect the client's rights.
- B. Subsection (A) shall not be construed to confer constitutional or statutory rights not already present.

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

- A. No mental health agency shall mistreat a client or permit the mistreatment of a client by staff subject to its direction. Mistreatment includes any intentional, reckless or negligent action or omission which exposes a client to a serious risk of physical or emotional harm. Mistreatment includes but is not limited to:
1. Abuse, neglect, or exploitation;
 2. Corporal punishment;
 3. Any other unreasonable use or degree of force or threat of force not necessary to protect the client or another person from bodily harm;
 4. Infliction of mental or verbal abuse, such as screaming, ridicule, or name calling;
 5. Incitement or encouragement of clients or others to mistreat a client;
 6. Transfer or the threat of transfer of a client for punitive reasons;
 7. Restraint or seclusion used as a means of coercion, discipline, convenience, or retaliation;
 8. Any act in retaliation against a client for reporting any violation of the provisions of this Chapter to the Administration; or
 9. Commercial exploitation.
- B. The following special sanctions shall be available to the Department and/or the Administration, in addition to those set forth in 9 A.A.C. 10, Article 10 of the Department's rules, to protect the interests of the client involved as well as other current and former clients of the mental health agency.
1. Mistreatment of a client by staff or persons subject to the direction of a mental health agency may be grounds for suspension or revocation of the license of the mental health agency or the provision of financial assistance, and, with respect to employees of the mental health agency, grounds for disciplinary action, which may include dismissal.
 2. Failure of an employee of the Administration to report any instance of mistreatment within any mental health agency subject to this Chapter shall be grounds for disciplinary action, which may include dismissal.
 3. Failure of a mental health agency to report client deaths and allegations of sexual and physical abuse to the Administration and to comply with the procedures described in Article 4 of this Chapter for the processing and investigation of grievances and reports shall be grounds for ~~suspension of the license~~ revocation of provider participation agreement of the mental health agency or the provision of financial assistance, and, with respect to a service provider directly operated by the Department, grounds for disciplinary action, which may include dismissal.
 4. A mental health agency shall report all allegations of mistreatment and denial of rights to the Office of Human Rights and the regional authority health plan for review and monitoring in accordance with R9-21-105.
- C. A mental health agency shall report all incidents of abuse, neglect, or exploitation to the appropriate authorities as required by A.R.S. § 46-454 and shall document all such reports in the mental health agency's records.
- D. If a mental health agency has reasonable cause to believe that a felony relevant to the functioning of the program has been committed by staff persons subject to the agency's direction, a report shall be filed with the county attorney.
- E. The identity of persons making reports of abuse, neglect, exploitation, or mistreatment shall not be disclosed by the mental health agency or by the Administration, except as necessary to investigate the subject matter of the report.

R9-21-206. Competency and Consent

- A. A client shall not be deemed incompetent to manage the client's affairs, to contract, to hold professional, occupational or vehicle operator's licenses, to make wills, to vote or to exercise any other civil or legal right solely by reason of admission to a mental health agency.

- B.** An applicant or client is presumed to be legally competent to conduct the client's personal and financial affairs, unless otherwise determined by a court in a guardianship or conservatorship proceeding.
- C.** Only an applicant or client who is competent may provide informed consent, authorization, or permission as required in this Chapter. A mental health agency shall use the following criteria to determine if an applicant or client is competent and the appropriateness of establishing or removing a guardianship, temporary guardianship, conservatorship, or guardianship ad litem for the client:
1. An applicant or client shall be determined to be in need of guardianship or conservatorship only if the applicant's or client's ability to make important decisions concerning the applicant or client or the applicant's or client's property is so limited that the absence of a person with legal authority to make such decisions for the applicant or client creates a serious risk to the applicant's or client's health, welfare or safety.
 2. Although the capability of the applicant or client to make important decisions is the central factor in determining the need for guardianship, the capabilities of the applicant's or client's family, the applicant's or client's living circumstances, the probability that available treatment will improve the applicant's or client's ability to make decisions on the applicant's or client's behalf, and the availability and utility of nonjudicial alternatives to guardianships such as trusts, representative payees, citizen advocacy programs, or community support services should also be considered.
 3. If the applicant or client has been determined to be incapable of making important decisions with regard to the applicant's or client's personal or financial affairs, and if nonjudicial, less restrictive alternatives such as trusts, representative payees, cosignatory bank accounts, and citizen advocates are inadequate to protect the applicant or client from a substantial and unreasonable risk to the applicant's or client's health, safety, welfare, or property, the applicant's or client's nearest living relatives shall be notified with an accompanying recommendation that a guardian or conservator be appointed.
 4. If the applicant or client is capable of making important decisions concerning the applicant's or client's health, welfare, and property, either independently or through other less restrictive alternatives such as trusts, representative payees, cosignatory bank accounts, and citizen advocates, the applicant's or client's nearest living relative shall be notified with an accompanying recommendation that any existing guardian or conservator be removed.
 5. If the client has been determined to require or no longer require assistance in the management of financial or personal affairs, and the nearest living relative cannot be found or is incapable of or not interested in caring for the client's interest, the mental health agency shall assist in the recruitment or removal of a trustee, representative payee, advocate, conservator, or guardian. Nothing in this Chapter shall be construed to require the Administration or any ~~regional authority health plan~~ or service provider to pay for the recruitment, appointment or removal of a trustee, representative payee, advocate, conservator, or guardian.
 6. The assessment or periodic review shall identify the specific area or areas of the client's functioning that forms the basis of the recommendation for the appointment or removal of a guardian or conservator, such as an inability to respond appropriately to health problems or consent to medical care, or an inability to manage savings or routine expenses.
- D.** Mental health agencies shall devise and implement procedures to ensure that suspected improprieties of a guardian, conservator, trustee, representative payee, or other fiduciary are reported to the court or other appropriate authorities.

R9-21-211. Notice of Rights

- A.** Every mental health agency shall provide written notice of the civil and legal rights of its clients by posting a copy of ~~ADHS~~AHC-CCS Form MH-211, "Notice of Client's Rights," set forth in Exhibit A, in one or more areas of the agency so that it is readily visible to clients and visitors.
- B.** In addition to posting as required by subsection (A), a copy of ADHS Form MH-211, set forth in Exhibit B, shall be given to each client, or guardian if any, at the time of admission to the agency for evaluation or treatment. The person receiving the notice shall be required to acknowledge in writing receipt of the notice and the acknowledgment shall be retained in the client's record.
- C.** Every mental health agency shall provide written notice of the terms of A.R.S. § 36-506 to each client upon discharge by giving the client a copy of ADHS Form MH-209, "Discrimination Prohibited".
- D.** All notices required by this rule shall be provided and posted in both English and Spanish.

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

R9-21-401. Appeals

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

suspended or terminated, and at any other time provided by this Chapter. The notice shall be in writing in English and Spanish and shall include:

1. The client's right to appeal and to an administrative hearing according to A.R.S. § 41-1092.03;
 2. The method by which an appeal and an administrative hearing may be obtained;
 3. That the client may represent himself or use legal counsel or other appropriate representative;
 4. The services available to assist the client from the Office of Human Rights, ~~Human Rights~~ Independent Oversight Committees, State Protection and Advocacy System, and other peer support and advocacy services;
 5. What action the mental health agency or ~~regional authority~~ health plan intends to take;
 6. The reasons for the intended action;
 7. The specific rules or laws that support such action; and
 8. An explanation of the circumstances under which services will continue if an appeal or an administrative hearing is requested.
- C. The right to appeal in this Section does not include the right to appeal a court order entered according to A.R.S. Title 36, Chapter 5, Articles 4 and 5. The following issues may be appealed:
1. Decisions regarding the individual's eligibility for behavioral health services;
 2. The sufficiency or appropriateness of the assessment or any further evaluation;
 3. The long-term view, service goals, objectives, or timelines stated in the ISP or ITDP;
 4. The recommended services identified in the assessment report, ISP, or ITDP;
 5. The actual services to be provided, as described in the ISP, plan for interim services, or ITDP;
 6. The access to or prompt provision of services provided under Title XIX;
 7. The findings of the clinical team with regard to the client's competency, capacity to make decisions, need for guardianship or other protective services, or need for special assistance;
 8. A denial of a request for a review of, the outcome of a review of, a modification to or failure to modify, or a termination of an ISP, ITDP, or portion of an ISP or ITDP;
 9. The application of the procedures and timetables as set forth in this Chapter for developing the ISP or ITDP;
 10. The implementation of the ISP or ITDP;
 11. The decision to provide service planning, including the provision of assessment or case management services, to a client who is refusing such services, or a decision not to provide such services to such a client; or
 12. Decisions regarding a client's fee assessment or the denial of a request for a waiver of fees;
 13. Denial of payment for a client; and
 14. Failure of the ~~regional authority~~ health plan or the Administration to act within the time frames for appeal established in this Chapter.
- D. Initiation of the appeal.
1. An appeal may be initiated by the client or by any of the following persons on behalf of a client or applicant requesting behavioral health services or community services:
 - a. The client's or applicant's guardian,
 - b. The client's or applicant's designated representative, or
 - c. A service provider of the client, if the client or, if applicable, the client's guardian gives permission to the service provider;
 2. An appeal is initiated by notifying the ~~director of the regional authority or the director designee~~ orally or in writing health plan of the decision, report, plan or action being appealed, including a brief statement of the reasons for the appeal and the current address and telephone number, if available, of the applicant or client and designated representative if one is provided.
 3. An appeal shall be initiated within 60 days of the decision, report, plan, or action being appealed. However, ~~the director of the regional authority or the director designee~~ the health plan shall accept a late appeal for good cause. If the ~~regional authority director or the director designee~~ health plan refuses to accept a late appeal or determines that the issue is not appealable under subsection (C) of this article, ~~the director or director designee~~ health plan shall notify the individual or client in writing, with a statement of reasons for the decision. Within 10 days of the notification, the client or applicant may request review of that decision by the Administration, ~~who~~ which shall act within 15 days of receipt of the request for review. The decision of the Administration shall be final.
 4. Within five days of receipt of an appeal, the ~~director of the regional authority~~ health plan shall inform the client in writing that the appeal has been received and of the procedures that shall be followed during the appeal.
- E. Informal conference with the ~~regional authority~~ health plan.
1. Within seven days of receipt of the notice of appeal, the ~~director of the regional authority or the director designee~~ health plan shall hold an informal conference with the client, any designated representative and/or guardian, the case manager and representatives of the clinical team, and a representative of the service provider, if appropriate.
 - a. The ~~regional authority director or the director's designee~~ health plan shall schedule the conference at a convenient time and place and shall inform all participants in writing of the time, date, and location two days before the conference.
 - b. Individuals may participate in the conference by telephone.
 2. The ~~director of the regional authority or the director's designee~~ health plan shall chair the informal conference and shall seek to mediate and resolve the issues in dispute. To the extent that resolution satisfactory to the client or guardian is not achieved, the ~~regional authority director or director's designee~~ health plan shall clarify issues for further appeal and shall determine the agreement, if any, of the participants as to the material facts of the case.
 3. Except to the extent that statements of the participants are reduced to an agreed statement of facts, all statements made during the informal conference shall be considered as offers in compromise and shall be inadmissible in any subsequent hearing or court proceedings under this rule.
 4. If the informal conference with the ~~director of the regional authority or the director's designee~~ health plan does not resolve the issues in dispute to the satisfaction of the client or, if applicable, the client's guardian, and the issues in dispute are not related to the client's eligibility for behavioral health services, the client or, if applicable, the client's guardian shall be informed that the

matter may be further appealed to the Administration, and of the procedure for requesting a waiver of the informal conference with the Administration.

5. If a client or, if applicable, the client's guardian waives the right to an informal conference with the Administration according to subsection (E)(4) or, if the informal conference with the ~~director of the regional authority or the director designee~~ health plan does not resolve the issues in dispute to the satisfaction of the client or, if applicable, the client's guardian, and the issues in dispute are related to the client's eligibility for behavioral health services, the ~~regional authority~~ health plan shall, at the informal conference:
 - a. Provide written notice to the client or, if applicable, the client's guardian according to A.R.S. § 41-1092.03, and
 - b. Ask the client or, if applicable, the client's guardian whether the client or, if applicable, the client's guardian would like the ~~regional authority~~ health plan to request an administrative hearing according to A.R.S. § 41-1092.03 on behalf of the client.
 - c. For a client who needs special assistance, send a copy of the notice in subsection (5)(a) to the appropriate ~~human rights~~ Independent Oversight Committee in committee and the Office of Human Rights.
 6. If, at the informal conference, a client or, if applicable, the client's guardian requests that the ~~regional authority~~ health plan file a request for an administrative hearing according to A.R.S. § 41-1092.03 on behalf of the client, the ~~regional authority~~ health plan shall file the request within three days of the informal conference.
 7. If resolution satisfactory to the client or guardian is achieved, the ~~director of the regional authority or the director designee~~ health plan shall issue a dated written notice to all parties which shall include a statement of the nature of the appeal, the issues involved, the resolution achieved and the date by which the resolution will be implemented.
- F. Informal conference with the Administration.
1. Within three days of the conclusion of an informal conference with the ~~regional authority~~ health plan according to subsection (E)(4), the ~~director of the regional authority or the director designee~~ health plan shall notify the Administration and shall immediately forward the client's notice of appeal, all documents relevant to the resolution of the appeal and any agreed statements of fact.
 2. Within 15 days of the notification from the ~~regional authority director or the director designee~~ health plan, the Administration shall hold an informal conference with the client, any designated representative and/or guardian, the case manager, and representatives of the clinical team, the service provider, if appropriate, for the purpose of mediating and resolving the issues being appealed.
 - a. The Administration shall schedule the conference at a convenient time and place and shall inform the participants in writing of the time, date, and location five days prior to the conference.
 - b. Individuals may participate in the conference by telephone.
 - c. If a client is unrepresented at the conference but needs requests assistance, or if for any other reason the Administration determines the appointment of a representative to be in the client's best interest, the Administration may designate a human rights advocate or other person to assist the client in the appeal.
 3. To the extent that resolution satisfactory to the client or guardian is not achieved, the Administration shall clarify issues for further appeal and shall determine the agreement, if any, of the participants as to the material facts of the case.
 4. If resolution satisfactory to the client or guardian is achieved, the Administration shall issue a dated written notice to all parties which shall include a statement of the nature of the appeal, the issues involved, the resolution achieved, and the date by which the resolution will be implemented.
 5. Except to the extent that statements of the participants are reduced to an agreed statement of facts, all statements made during the informal conference shall be considered as offers in compromise and shall be inadmissible in any subsequent hearing or court proceedings under this rule.
 6. If all issues in dispute are not resolved to the satisfaction of the client or guardian at the informal conference with the Administration, the Administration shall, at the informal conference:
 - a. Provide written notice to the client or, if applicable, the client's guardian according to A.R.S. § 41-1092.03, and
 - b. Ask the client or, if applicable, the client's guardian whether the client or, if applicable, the client's guardian would like the Administration to file a request for an administrative hearing according to A.R.S. § 41-1092.03 on behalf of the client.
 - c. For all clients including clients who needs special assistance, send a copy of the notice in subsection (6)(a) to the Office of Human Rights and make the notice available to the appropriate ~~human rights committee~~ Independent Oversight Committee.
 7. If, at the informal conference, a client or, if applicable, the client's guardian requests that the Administration file a request for an administrative hearing according to A.R.S. § 41-1092.03 on behalf of the client, the Administration shall file the request within three days of the informal conference according to subsection (G).
- G. The state fair hearing.
1. Within three days of the informal conference with the Administration, if the conference failed to resolve the appeal, or within five days of the date the conference was waived, the Administration shall forward a request to schedule a state fair hearing.
 2. Within five days of the notification, the Administration shall send a written notice of state fair hearing to all parties, informing them of the time and place of the hearing, the name, address, and telephone number of the Administrative Law Judge, and the issues to be resolved. The notice shall also be sent to the appropriate ~~human rights committee and~~ Independent Oversight Committee in the Office of Human Rights for all clients, including clients who need special assistance.
 3. A state fair hearing shall be held on the appeal in a manner consistent with A.R.S. § 41-1092 et seq., and those portions of 9 A.A.C. 1 which are consistent with this Article.
 4. During the pendency of the appeal, the client, any designated representative and/or guardian, the clinical team, and representatives of any service providers may agree to implement any part of the ISP or ITDP or other matter under appeal without prejudice to the appeal.
 5. The client or applicant shall have the right to be represented at the hearing by a person chosen by the client or applicant at the client's or applicant's own expense, in accordance with Rule 31, Rules of the Supreme Court.

6. The client, any designated representative and/or guardian, and the opposing party shall have the right to present any evidence relevant to the issues under appeal and to call and examine witnesses. The Administration shall have the right to appear to present legal argument.
 7. The client and any designated representative and/or guardian shall have the right to examine and copy at a reasonable time prior to the hearing all records held by the Administration, ~~regional authority health plan~~, or service provider pertaining to the client and the issues under appeal, including all records upon which the ISP or ITDP decisions were based.
 8. Any portion of the hearing may be closed to the public if the client requests or if the Administrative Law Judge determines that it is necessary to prevent the unwarranted invasion of a client's privacy or that public disclosure would pose a substantial risk of harm to a client.
- H. Expedited appeal.
1. At the time an appeal is initiated, the applicant, client, or mental health agency may request orally or in writing an expedited appeal on issues related to crisis or emergency services or for good cause. Any appeal from a decision denying admission to or continued stay at an inpatient psychiatric facility due to lack of medical necessity shall be accompanied by all medical information necessary to resolution of the appeal and shall be expedited.
 2. An expedited appeal shall be conducted in accordance with the provisions of this Section, except as provided for in this subsection.
 3. Within one day of receipt of an expedited appeal, the ~~director of the regional authority~~ health plan shall inform the client in writing that the appeal has been received.
 4. The ~~director of the regional authority~~ health plan shall accept an expedited appeal on issues related to crisis or emergency services. The ~~regional authority~~ health plan shall also accept an expedited appeal for good cause. If the regional authority refuses to expedite the appeal based on a determination that good cause does not exist, the ~~director~~ health plan shall notify the applicant or client in writing within one day of the initiation of the appeal, with a statement of reasons for the decision, and shall proceed with the appeal in accordance with the provisions of this Section. Within three days of the notification of refusal to expedite the appeal for good cause, the client or applicant may request review of the decision by the Administration, who shall act within one day. The decision of the Administration shall be final.
 5. If the ~~regional authority~~ health plan accepts the appeal for expedited consideration, the ~~director~~ health plan shall hold the informal conference according to R9-21-401(E) within two days of the initiation of the appeal. The ~~regional authority~~ health plan shall schedule the conference at a convenient time and place and shall inform all participants of the time, date and location prior to the conference.
 6. If the informal conference with the ~~director of the regional authority or the director's designee~~ health plan does not resolve the issues in dispute to the satisfaction of the client or, if applicable, the client's guardian, and the issues in dispute are not related to the client's eligibility for behavioral health services, the client or, if applicable, the client's guardian shall be informed that the matter may be further appealed to the Administration, and of the procedure for requesting waiver of the informal conference with the Administration.
 7. If a client or, if applicable, the client's guardian waives the right to an informal conference with the Administration or, if the informal conference with the ~~director of the regional authority or the director's designee~~ health plan does not resolve the issues in dispute to the satisfaction of the client or, if applicable, the client's guardian, and the issues in dispute are related to the client's eligibility for behavioral health services, the ~~regional authority~~ health plan shall, at the informal conference:
 - a. Provide written notice to the client or, if applicable, the client's guardian according to A.R.S. § 41-1092.03, and
 - b. Ask the client or, if applicable, the client's guardian whether the client or, if applicable, the client's guardian would like the ~~regional authority~~ health plan to request an administrative hearing according to A.R.S. § 41-1092.03 on behalf of the client.
 - c. Send a copy of the notice in subsection (H)(7)(a) to the Office of Human Rights ~~and the appropriate human rights committee~~.
 8. If, at the informal conference, a client or, if applicable, the client's guardian requests that the ~~regional authority~~ health plan file a request for an administrative hearing according to A.R.S. § 41-1092.03 on behalf of the client, the Administration shall file the request within one day of the informal conference.
 9. Within one day of the conclusion of an informal conference with the ~~regional authority~~ health plan, the ~~director of the regional authority~~ health plan shall notify the Administration if the informal conference failed to resolve the appeal and shall immediately forward the client's notice of appeal and any agreed statements of fact unless the client or, if applicable, the client's guardian waived the client's right to an informal conference with the Administration or the issues in dispute are related to the client's eligibility for behavioral health services.
 10. Within two days of the notification from the ~~regional authority~~ health plan, the Administration shall hold the informal conference pursuant to subsection (F).
 11. If all issues in dispute are not resolved to the satisfaction of the client or if applicable, the client's guardian at the informal conference with the Administration, the Administration shall, at the informal conference:
 - a. Provide written notice to the client or, if applicable, the client's guardian according to A.R.S. § 41-1092.03, and
 - b. Ask the client or, if applicable, the client's guardian whether the client or, if applicable, the client's guardian would like the Administration to file a request for an administrative hearing according to A.R.S. § 41-1092.03 on behalf of the client.
 - c. For a client who needs special assistance, send a copy of the notice in subsection (H)(11)(a) to the Office of Human Rights ~~and the appropriate human rights committee~~.
 12. If, at the informal conference, a client or, if applicable, the client's guardian requests that the Administration file a request for an administrative hearing according to A.R.S. § 41-1092.03 on behalf of the client, the Administration shall file the request within one day of the informal conference.
 13. Within one day of the informal conference with the Administration, if the conference failed to resolve the appeal, or within two days of the date the conference was waived, the Administration shall forward a request to schedule a state fair hearing.

14. Within one day of notification, the Administration shall send a written notice of an expedited state fair hearing in accordance with subsection (G)(2) and A.R.S. 41-1092, et seq.
 15. An expedited state fair hearing shall be held on the appeal in accordance with subsection (G)(3) and A.R.S. 41-1092, et seq.
- I.** Standard and burden of proof.
1. The standard of proof on all issues shall be by a preponderance of the evidence.
 2. The burden of proof on the issue of the need for or appropriateness of behavioral health services or community services shall be on the person appealing.
 3. The burden of proof on the issue of the sufficiency of the assessment and further evaluation, and the need for guardianship, conservatorship, or special assistance shall be on the agency which made the decision.
 4. The burden of proof on issues relating to services or placements shall be on the party advocating the more restrictive alternative.
- J.** Implementation of final decision. Within five days after a satisfactory resolution is achieved at an informal conference or after the expiration of an appeal period when no appeal is taken, or after the exhaustion of all appeals and subject to the final decision thereon, the ~~regional authority~~ health plan shall implement the final decision and shall notify the client, any designated representative and/or guardian, and Administration of such action.
- K.** Appeal log.
1. The Administration and ~~regional authority~~ health plan shall maintain logs of appeals filed under this Section.
 2. The log maintained by the Administration shall not include personally identifiable information and shall be a public record, available for inspection and copying by any person.
 3. With respect to each entry, the logs shall contain:
 - a. A unique docket number or matter number;
 - b. A substantive but concise description of the appeal including whether the appeal related to the provision of Title XIX services;
 - c. The date of the filing of appeal;
 - d. The date of the initial decision appealed from;
 - e. The date, nature and outcome of all subsequent decisions, appeals, or other relevant events; and
 - f. A substantive but concise description of the final decision and the action taken by the agency director and the date the action was taken.

R9-21-402. General

- A.** It is the policy of the Administration to conduct investigations and bring matters to a resolution in four circumstances: first, in the event of a death of a client; second, whenever there is alleged to have occurred a rights violation; third, whenever there is alleged to exist a condition requiring investigation because it is dangerous, illegal or inhumane; and fourth, in any other case where an investigation would be in the public interest, as determined by the Administration. The purpose of R9-21-402 through R9-21-410 is to implement that policy. All investigations according to R9-21-402 through R9-21-410 shall be carried out in a prompt and equitable manner and with due regard for the dignity and rights of all persons involved. R9-21-402 through R9-21-410 do not obviate the need for systematically reporting, where appropriate, accidents and injuries involving clients.
- B.** This grievance and investigation procedure applies to any allegation that a rights violation or a condition requiring investigation, as defined in R9-21-101, has occurred or currently exists.
1. A grievance may be filed by a client, guardian, human rights advocate, ~~human rights committee~~ Independent Oversight Committee, State Protection and Advocacy System, designated representative, or any other concerned person when a violation of the client's rights or of the rights of several clients has occurred.
 2. A request for an investigation may be filed by any person whenever a condition requiring investigation occurs or has occurred.
 3. Allegations about the need for or appropriateness of behavioral health services or community services ~~should generally~~ should be addressed according to the Individual Service Planning Sections R9-21-301 through R9-21-314 and according to R9-21-401, as applicable.

R9-21-403. Initiating a Grievance or Investigation

- A.** Any individual may file a grievance regarding an abridgement by a mental health agency of one or more of a client's rights in Article 2 of this Chapter,
- B.** Any individual may request an investigation regarding a condition requiring investigation.
- C.** An employee of or individual under contract with one of the following shall file a grievance if the employee has reason to believe that a mental health agency has abridged one or more of a client's rights in Article 2 of this Chapter or that a condition requiring investigation exists, and shall receive disciplinary action for failure to comply with this subsection:
1. A service provider,
 2. A ~~regional authority~~ health plan,
 3. An inpatient facility, or
 4. The Administration.
- D.** A service provider or ~~regional authority~~ health plan shall file a grievance if it:
1. Receives a non-frivolous allegation that:
 - a. A mental health agency has abridged one or more of a client's rights in Article 2 of this Chapter, or
 - b. A condition requiring investigation exists; or
 2. Has reason to believe that there exists or has occurred a condition requiring investigation in a mental health agency or program.
- E.** The Administration shall request an investigation if:
1. The Administration determines that it would be in the best interests of a client, the Administration, or the public; or
 2. The Administration receives a non-frivolous allegation or has reason to believe that:
 - a. A mental health agency has abridged one or more of a client's rights in Article 2 of this Chapter, or
 - b. A condition requiring investigation exists.

- F. To file a grievance, an individual shall communicate the grievance orally or submit the grievance in writing to ~~any employee of a~~ mental health agency who shall forward the grievance to the appropriate person as identified in R9-21-404. If asked to do so by a client, an employee shall assist the client in making an oral or written grievance or shall direct the client to the available supervisory or managerial staff who shall assist the client in making an oral or written grievance.
- G. Any grievance or request for investigation shall be accurately and completely reduced to writing on an Administration-provided grievance or request for investigation form by:
1. The individual filing the grievance or request for investigation, or
 2. The mental health agency to whom the grievance or request for investigation is made.

R9-21-404. Persons Responsible for Resolving Grievances and Requests for Investigation

- A. Allegations involving rights violations, except those involving physical abuse, sexual abuse, or sexual misconduct of a mental health agency, or as a result of an employee of a mental health agency, shall be addressed to and initially decided by the appropriate health plan.
1. ~~Of other than physical abuse, sexual abuse, or sexual misconduct that occurred in a mental health agency, or as a result of an action of a person employed by a mental health agency, shall be addressed to and initially decided by:~~ If the mental health agency is operated exclusively by a governmental entity, then the allegation shall be addressed to and initially decided by the agency.
 - a. ~~The appropriate regional authority; or~~
 - b. ~~If the mental health agency is operated exclusively by a governmental entity the allegation shall be addressed to and initially decided by that agency; or~~
 2. ~~Allegations of~~ physical abuse, sexual abuse, or sexual misconduct that occurred in a mental health agency, or as a result of an action of a person employed by a mental health agency, shall be addressed to and decided by the Administration.
- B. ~~Allegations involving conditions requiring investigation shall be addressed to and initially decided by the appropriate health plan.~~
1. ~~Of other than a client death, which occurred in a mental health agency, or as a result of a person employed by a mental health agency, shall be addressed to and initially decided by:~~ If the mental health agency is operated exclusively by a governmental entity, the allegation shall be addressed to and initially decided by that agency.
 - a. ~~The appropriate regional authority; or~~
 - b. ~~If the mental health agency is operated exclusively by a governmental entity, the allegation shall be addressed to and initially decided by that agency; or~~
 2. ~~Allegations of~~ a client death, which occurred in a mental health agency, or as a result of an action of a person employed by a mental health agency, shall be addressed to and decided by the Administration.
- C. Within five days of receipt by a mental health agency of a grievance or request for investigation:
1. The mental health agency shall inform the person filing the grievance or request, in writing, that the grievance or request has been received;
 2. If the mental health agency is operated exclusively by a governmental entity, the mental health agency shall provide a copy of the grievance to the appropriate ~~regional authority~~ health plan; and
 3. If the client is in need of special assistance, the mental health agency shall immediately send a copy of the grievance or request to the Office of Human Rights and the ~~human rights committee~~ Independent Oversight Committee with jurisdiction over the agency.

R9-21-405. Preliminary Disposition

- A. The agency director before whom a grievance or request for investigation has been initiated shall immediately take whatever action may be reasonable to protect the health, safety and security of any client, witness, individual filing the grievance or request for investigation, or individual on whose behalf the grievance or request for investigation is filed.
- B. Summary disposition.
1. A mental health agency or the Administration may summarily dispose of any grievance or a request for an investigation where the alleged rights violation or condition occurred more than one year immediately prior to the date on which the grievance or request is made.
 2. A mental health agency or the Administration who receives a grievance or request which is primarily directed to the level or type of mental health treatment provided to a client, which can be fairly and efficiently addressed within the procedures set forth in Article 3 and in R9-21-401, and which do not directly or indirectly involve any rights set forth in A.R.S. Title 36 or Article 2, may refer the grievance for resolution through the Individual Service Plan process or the appeal process in R9-21-401.
- C. Disposition without investigation.
1. Within seven days of receipt of a grievance or request for an investigation, a mental health agency or the Administration may promptly resolve a grievance or request without conducting a full investigation, where the matter:
 - a. Involves no dispute as to the facts;
 - b. Is patently frivolous; or
 - c. Is resolved fairly and efficiently within seven days without a formal investigation.
 2. Within seven days of receipt of the grievance or request described in subsection (C)(1), the mental health agency or the Administration shall prepare a written, dated decision.
 - a. The decision shall explain the essential facts, why the mental health agency or the Administration believes that the matter is appropriately resolved without the appointment of an investigator, and the resolution of the matter.
 - b. The mental health agency or the Administration shall send copies of the decision to the parties, together with a notice of appeal rights according to A.R.S. § 41-1092.03, and to anyone else having a direct interest in the matter.
 3. After the expiration of the appeal period without appeal by any party, or after the exhaustion of all appeals and subject to the final decision on the appeal, the mental health agency or the Administration shall promptly take appropriate action and prepare and add to the case record a written, dated report of the action taken to resolve the grievance or request.
- D. Matters requiring investigation.

1. If the matter complained of cannot be resolved without a formal investigation according to the criteria set forth in subsection (C)(1), within seven days of receipt of the grievance or request the mental health agency or the Administration shall prepare a written, dated appointment of an impartial investigator who, in the judgment of the mental health agency or the Administration, is capable of proceeding with the investigation in an objective manner but who shall not be:
 - a. Any of the persons directly involved in the rights violation or condition requiring investigation; or
 - b. A staff person who works in the same administrative unit as, except a person with direct line authority over, any person alleged to have been involved in the rights violation or condition requiring investigation.
 2. Immediately upon the appointment of an investigator, the mental health agency or the Administration shall notify the person filing the grievance or request for investigation in writing of the appointment. The notice shall contain the name of the investigator, the procedure by which the investigation will be conducted and the method by which the person may obtain assistance or representation.
- E. If a client is a client who needs special assistance, the mental health agency or the Administration shall immediately send a copy of the grievance or request to the Office of Human Rights and the ~~human rights committee~~ Independent Oversight Committee with jurisdiction over the agency and shall send a copy of all decisions required by this Chapter made by the mental health agency or the Administration regarding the grievance or request to the Office of Human Rights and the ~~human rights committee~~ Independent Oversight Committee with jurisdiction over the agency.

R9-21-406. Conduct of Investigation

- A. Within 10 days of the appointment, the investigator shall hold a private, face-to-face conference with the person who filed the grievance or request for investigation to learn the relevant facts that form the grounds for the grievance or request, unless the grievance or request has been initiated by a mental health agency or the Administration according to R9-21-403(D) or (E).
1. In scheduling such conference, and again at the conference, if the client appears without a designated representative, the investigator shall advise the client that:
 - a. The client may be represented by a designated representative of the client's own choice. The investigator shall also advise the client of the availability of assistance from the State Protection and Advocacy System, the Office of Human Rights, and the relevant ~~human rights committee~~ Independent Oversight Committee.
 - b. The client may make an audio tape of the conference and all future conferences, meetings or hearings to which the client may be a party during the investigation, provided that the client notify all other parties not later than the beginning of the meeting or hearing that the client intends to do so.
 - c. In any case where the person initiating the grievance or request, or the person(s) who is alleged to have been responsible for the rights violation or condition, is a client and is in need of special assistance and is unrepresented, the investigator shall give the Office of Human Rights notice of the need for representation.
 2. Where the grievance has been initiated by the mental health agency or the Administration, the investigator shall promptly determine which persons have relevant information concerning the occurrence of the alleged rights violation or condition requiring investigation and proceed to interview such individuals.
- B. Within 15 days of the appointment, but only after the conference with the person initiating the grievance or request for investigation, the investigator shall hold a private, face-to-face conference with the person(s) complained of or thought to be responsible for the rights violation or condition requiring investigation to discuss the matter and, in scheduling the conference with such person(s) or with any other witness, the investigator shall advise the person(s) or any other witness that:
1. The individual may make a recording of the conference and all future conferences, meetings or hearings during the course of the investigation, provided that the individual must notify all other parties to such meetings or hearings not later than the beginning of the meeting or hearing if the individual intends to so record.
 2. An employee of an inpatient facility, service provider, ~~regional authority~~ health plan or the Administration has an obligation to cooperate in the investigation.
 3. Failure of an employee to cooperate may result in appropriate disciplinary action.
- C. The investigator shall gather ~~whatever further information may seem~~ relevant and appropriate information, including interviewing additional witnesses, requesting and reviewing documents, and examining other evidence or locations.
- D. Within 10 days of completing all interviews with the parties but not later than 30 days from the date of the appointment, the investigator shall prepare a written, dated report briefly describing the investigation and containing findings of fact, conclusions, and recommendations.
- E. Within five days of receiving the investigator's report, the agency director shall review the report and the case record and prepare a written, dated decision which shall either:
1. Accept the investigator's report in whole or in part, at least with respect to the facts as found, and state a summary of findings and conclusions and the intended action of the agency director; and send:
 - a. A copy of the decision to:
 - i. The investigator;
 - ii. The individual who filed the grievance or request for investigation;
 - iii. The individual who is the subject of the grievance or request for investigation, if applicable;
 - iv. The Office of Human Rights; and
 - v. The appropriate ~~human rights committee~~ Independent Oversight Committee.
 - b. A notice to the individual who filed the grievance or request for investigation and, if applicable, the client who is the subject of the grievance or request for investigation or, if applicable, the client's guardian, of:
 - i. If the decision is from an agency director, the client's right to appeal to the Administration according to R9-21-406 and to an administrative hearing according to A.R.S. § 41-1092.03; and
 - ii. If the decision is from the Administration, the client's right to an administrative hearing according to A.R.S. § 41-1092.03; or

2. Reject the report for insufficiency of facts and return the matter for further investigation. In such event, the investigator shall complete the further investigation and deliver a revised report to the agency director within 10 days. Upon receipt of the report, the agency director shall proceed as provided in subsection (E)(I).
- F.** Actions that an agency director may take according to subsection (E)(1) include:
1. Identifying training or supervision for or disciplinary action against an individual responsible for a rights violation or condition requiring investigation identified during the course of investigating a grievance or request for investigation;
 2. Developing or modifying a mental health agency's policies and procedures;
 3. Notifying the regulatory entity that licensed or certified an individual according to A.R.S. Title 32, Chapter 33 of the findings from the investigation; or
 4. Imposing sanctions, including monetary penalties, according to terms of a contract, if applicable.
- G.** After the expiration of the appeal period set forth in R9-21-407, or after the exhaustion of all appeals and subject to the final decision on the appeal, the agency director shall promptly take the action set forth in the decision and add to the case record a written, dated report of the action taken. A copy of the report shall be sent to the Office of Human Rights and the ~~human rights committee~~ Independent Oversight Committee if the client is in need of special assistance.

R9-21-407. Administrative Appeal

- A.** Any grievant or the client who is the subject of the grievance who is dissatisfied with the final decision of the agency director may, within 30 days of receipt of the decision, file a notice of appeal with the Administration. The appealing party shall send copies of the notice to the other parties and their representatives and to the agency director who shall forward the full case record to the Administration.
- B.** The Administration shall review the notice of appeal and the case record, and may discuss the matter with any of the persons involved or convene an informal conference. Within 15 days of the filing of the appeal, the Administration shall prepare a written, dated decision which shall either:
1. Accept the investigator's report, in whole or in part, at least with respect to the facts as found, and affirm, modify or reject the decision of the agency director with a statement of reasons; or
 2. Reject the investigator's report for insufficiency of facts and return the matter with instructions to the agency director for further investigation and decision. In such event, the further investigation shall be completed and a revised report and decision shall be delivered to the Administration within 10 days. Upon receipt of the report and decision, the Administration shall render a final decision, consistent with the procedures set forth in subsection (B)(1).
 3. A designated representative shall be afforded the opportunity to be present at any meeting or conference convened by the Administration to which the represented party is invited.
 4. The Administration shall send copies of the decision to:
 - a. The parties, together with a notice of appeal rights according to A.R.S. § 41-1092.03;
 - b. The agency director; and
 - c. The Office of Human Rights and the applicable ~~human rights committee~~ Independent Oversight Committee for all clients, including clients who are in need of special assistance.

R9-21-408. Further Appeal to Administrative Hearing

- A.** Any grievant or the client who is the subject of the grievance who is dissatisfied with the Director's decision of the Administration may request a state fair hearing before an Administrative Law Judge.
1. Within 30 days of the date of the Director's decision, the appealing party shall file with the Administration a notice requesting a state fair hearing.
 2. Upon receipt of the notice, the Administration shall send a copy to the parties, and to the Office of Human Rights and the ~~human rights committee~~ Independent Oversight Committee for clients who are in need of special assistance.
- B.** The hearing shall be conducted consistent with A.R.S. § 41-1092 et seq., and those portions of 9 A.A.C. 1 which are consistent with this Article.
1. The client shall have the right to be represented at the hearing by an individual chosen by the client at the client's own expense, in accordance with Rule 31, Rules of the Supreme Court. If the client has not designated a representative to assist the client at the hearing and is in need of special assistance, the human rights committee, or the human rights advocate unless refused by the client, shall make all reasonable efforts to represent the client.
 2. Any portion of the hearing may be closed to the public if the client requests or if the Administrative Law Judge determines that it is necessary to prevent an unwarranted invasion of the client's privacy or that public disclosure would pose a substantial risk of harm to the client.
 3. The Administration shall explain the Director's decision to the client at the client's request, together with the right to seek rehearing and judicial review.

R9-21-409. Notice and Records

- A.** Notice to clients. All clients shall be informed of their right to file a grievance or request for investigation under these rules.
1. Notice of this grievance and investigation process shall be included in the information posted or otherwise provided to every current and new client and employee. Special efforts shall be made to inform current and new residents of mental health facilities of this process and of the right to file a grievance or request for investigation;
 2. A copy of a brief memorandum explaining these rules shall be given to every current and new resident of an inpatient facility;
 3. Such memorandum and blank copies of the forms for filing a grievance, request for investigation, and appeal shall be posted in a prominent place in plain sight on every unit of an inpatient facility or in a program operated by a service provider; and
 4. Such memoranda, forms and copies of these rules shall be available at each inpatient facility, ~~regional authority~~ health plan and service provider upon request by any person at any time.
- B.** Notice and oversight by the Office of Human Rights and ~~human rights committee~~ Independent Oversight Committees.

1. Upon receipt of any grievance or request for investigation involving a client, including a client who is in need of special assistance, the agency director shall immediately forward a copy of such grievance or request to the Office of Human Rights and the appropriate regional ~~human rights committee~~ Independent Oversight Committee.
 2. Upon receipt of such a grievance from the agency director, at the request of a client, or on its own initiative, the Office of Human Rights and/or the appropriate ~~human rights committee~~ Independent Oversight Committee shall assist a client in filing a grievance or request, if necessary. The Office and/or committee shall use its best efforts to see that such client is represented by an attorney, human rights advocate, committee member, or other person to protect the individual's interests and present information on the client's behalf. The Office and/or committee shall maintain a list of attorneys and other representatives, including the state protection and advocacy system, available to assist clients.
 3. Whenever the ~~human rights committee~~ Independent Oversight Committee has reason to believe that a rights violation involving abuse or a dangerous condition requiring investigation, including a client death, has occurred or currently exists, or that any rights violation or condition requiring investigation occurred or exists which involves a client who is in need of special assistance, it may, upon written notice and a release signed by the member, or designated representative, giving permission for the IOC to join, sent to the official before whom the matter is pending, become a party to the grievance or request. As a party it shall receive copies of all reports, plans, appeals, notices and other significant documents relevant to the resolution of the grievance or request and be able to appeal any finding or decision.
 4. The Office of Human Rights shall assist clients in resolving grievances according to R9-21-104.
- C. Notification of other persons.
1. Whenever any rule, regulation, statute, or other law requires notification of a law enforcement officer, public official, medical examiner, or other person that an incident involving the death, abuse, neglect, or threat to a client has occurred, or that there exists a dangerous condition or event, such notice shall be given as required by law.
 2. A mental health agency shall immediately notify the Administration when:
 - a. A client brings criminal charges against an employee;
 - b. An employee brings criminal charges against a client;
 - c. An employee or client is indicted or convicted because of any action required to be investigated by this Article;
 - d. A client of an inpatient facility, a mental health agency, or a service provider dies. The agency director shall report such death according to the Administration's policy on the reporting and investigation of deaths.
 - e. A client of an inpatient facility, a mental health agency, or a service provider allegedly is physically or sexually abused.
 3. The investigation by the Administration provided for by this Article is independent of any investigation conducted by police, the county attorney, or other authority.
- D. Case records.
1. A file, known as the case record, shall be kept for each grievance or request for investigation which is received by the Administration, ASH, ~~regional authority~~ health plan or service provider under contract or subcontract with the Administration. The record shall include the grievance or request, the docket number or matter number assigned, the names of all persons interviewed and the dates of those interviews, either a taped or written summary of those interviews, a summary of documents reviewed, copies of memoranda generated by the investigation, the investigator's report, the agency director's decision, and all documents relating to any appeal.
 2. The investigator shall maintain possession of the case record until the investigation report is submitted. Thereafter, the agency director shall maintain control over the case record, except when the matter is on appeal. During any appeal, the record will be in the custody of the official who hears or decides the appeal.
- E. Public logs.
1. The Administration and ~~regional authority~~ health plan shall maintain logs of deaths and non-frivolous grievances or requests for investigation for inpatient facilities, agencies, service providers, and mental health agencies which it operates, funds, or supervises.
 2. The log maintained by the Administration shall not include personally identifiable information and shall be a public record, available for inspection and copying by any person.
 3. With respect to each grievance or request for investigation, the Administration's log shall contain:
 - a. A unique docket number or matter number;
 - b. A substantive but concise description of the grievance or request for investigation;
 - c. The date of the filing of grievance;
 - d. The date of the initial decision or appointment of investigator;
 - e. The date of the filing of the investigator's final report;
 - f. A substantive but concise description of the investigator's final report;
 - g. The date of all subsequent decisions, appeals, or other relevant events; and
 - h. A substantive but concise description of the final decision and the action taken by the mental health agency or the Administration.

R9-21-410. Miscellaneous

- A. Disqualification of official. The agency director, investigator, or any other official with authority to act on a grievance or request for investigation shall disqualify himself from acting, if such official cannot act on the matter impartially and objectively, in fact or in appearance. In the event of such disqualification, the official shall forthwith prepare and forward a written, dated memorandum explaining the reasons for the decision to the Administration, as appropriate, who shall, within 10 days of receipt of the memorandum make a determination upon the appropriateness of the disqualification and notify, ~~take such steps as are necessary to resolve the grievance in an impartial, objective manner.~~
- B. Request for extension of time.
1. The investigator or any other official of a mental health agency acting according to this Article may secure an extension of any time limit provided in this Article with the permission of the ~~regional authority~~ health plan.

- 2. The investigator or any other official of an inpatient facility operated exclusively by an governmental entity acting according to this Article may secure an extension of any time limit provided in this Article with the permission of the CEO of the entity or his designee.
 - 3. The investigator or any other official of the Administration acting according to this Article may secure an extension of any time limit provided in this Article with the permission of the Administration or designee.
 - 4. An extension of time may only be granted upon a showing of necessity and a showing that the delay will not pose a threat to the safety or security of the client.
 - 5. A request for extension shall be in writing, with copies to all parties. The request shall explain why an extension is needed and propose a new time limit which does not unreasonably postpone a final resolution of the matter.
 - 6. Such request shall be submitted to and acted upon prior to the expiration of the original time limit. Failure of the relevant official to act within the time allowed shall constitute a denial of the request for an extension.
- C. Procedural irregularities.
- 1. Any party may protest the failure or refusal of any official with responsibility to take action in accord with the procedural requirements of this Article, including the time limits, by filing a written protest with the Administration.
 - 2. Within 10 days of the filing of such a protest, the Administration shall take appropriate action to ensure that if there is or was a violation of a procedure or timeline, it is promptly corrected, including, if appropriate, disciplinary action against the official responsible for the violation or by removal of an investigator and the appointment of a substitute.
- D. Special Investigation.
- 1. The Administration may at any time order that a special investigator review and report the facts of a grievance or condition requiring investigation, including a death or other matter.
 - 2. The special investigator and the Administration shall comply with the time limits and other procedures for an investigation set forth in this Article.
 - 3. Any final decision issued by the Administration based on such an investigation under this rule is appealable as provided in R9-21-408.
 - 4. Nothing in this Article shall prevent the Administration from conducting an investigation independent of these rules.

ARTICLE 5. COURT-ORDERED EVALUATION AND TREATMENT

R9-21-501. Court-ordered Evaluation

- A. An application for court-ordered evaluation shall, according to A.R.S. § 36-521, be made on ~~Department~~AHCCCS form MH-100, Titled “Application for Involuntary Evaluation,” set forth in Exhibit A.
- B. Any mental health agency or service provider that receives an application for court-ordered evaluation shall immediately refer the applicant for pre-petition screening and petitioning for court-ordered evaluation, provided for in A.R.S. Title 36, Chapter 5, Article 4, to:
 - 1. A ~~regional authority~~health plan; or
 - 2. If a county has not contracted with a ~~regional authority~~health plan for pre-petition screening and petitioning for court-ordered evaluation, the county.

R9-21-502. Emergency Admission for Evaluation

- A. An application for emergency evaluation pursuant to A.R.S. § 36-524 may be made to any evaluation agency licensed and approved by the ~~Department~~Administration to provide such services on ~~Department~~AHCCCS form MH-104, Titled “Application for Emergency Admission for Evaluation,” set forth in Exhibit C.
- B. Prior to admission of an individual under this rule, the evaluation agency shall notify the appropriate ~~regional authority~~health plan of the potential admission so that the ~~regional authority~~health plan may first:
 - 1. ~~Offer and provide~~Provide services or treatment to the individual as an alternative to admission; or
 - 2. Authorize admission of the individual.
- C. If the evaluation agency does not provide notice pursuant to subsection (B) of this rule, the ~~regional authority~~health plan shall not be obligated to pay for the services provided.
- D. Only a mental health agency licensed by the ~~Department~~Administration to provide emergency services according to A.R.S. Title 36, Chapter 4 may provide court-ordered emergency admission services under A.R.S. Title 36, Chapter 5, Article 4.

Exhibit C. Application for Emergency Admission for Evaluation

**APPLICATION FOR EMERGENCY ADMISSION FOR EVALUATION
(Pursuant to A.R.S. § 36-524)**

STATE OF ARIZONA)
) ss
 COUNTY OF _____)
 _____)

The undersigned applicant, being first duly sworn/affirmed, hereby requests that _____ (Evaluation Agency) admit the person named herein for evaluation.

- 1. The undersigned applicant alleges that there is now in the County a person whose name and address are: _____ (Name) _____ (Address) and that s/he believes that the person has a mental disorder and, as a result of said mental disorder, is:
 - A danger to self; A danger to others; Persistently or Acutely Disabled; Gravely Disabled;
 and that, during the time necessary to complete pre-petition screening under A.R.S. §§ 36-520 and 36-521, the person is likely

without immediate hospitalization to suffer serious physical harm or serious illness or is likely to inflict serious physical harm up on another person.

2. The conclusion that the person has a mental disorder is based on the following facts:

3. The specific nature of the danger posed by this person is:

4. A summary of the personal observations upon which this statement is based is as follows:

PERSONAL DATA OF PROPOSED PATIENT:

Age _____ Date of Birth _____ Sex _____ Race _____
Weight _____ Height _____ Hair Color _____ Eye Color _____
Marital Status _____ Number of Children _____
Social Security No. _____ Religion _____
Distinguishing Marks _____
Occupation _____
Present Location _____
Dates and Places of Previous Hospitalization _____
How Long in Arizona _____ State Last From _____
Veteran? _____ C-No. _____ Education _____

NAME, ADDRESS AND TELEPHONE NUMBER OF:

- 1) Guardian _____
- 2) Spouse _____
- 3) Next of Kin _____
- 4) Significant Other Persons _____

_____ DATE

_____ SIGNATURE OF APPLICANT

Printed or Typed Name of Applicant _____

Relationship to Proposed Patient _____

Applicant's Address _____

Applicant's Telephone _____

SUBSCRIBED AND SWORN to before me this _____ day of _____, 19____.

Notary Public

My Commission Expires:

ADHS/BHS Form MH-104 (9/93)

R9-21-503. Voluntary Admission for Evaluation

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

R9-21-504. Court-ordered Treatment

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

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

- A. All inpatient and outpatient treatment plans prepared for clients according to A.R.S. §§ 36-533, 36-540 and 36-540.01, and any modifications to the treatment plans, shall be developed and implemented according to the individual service planning procedures in Article 3 of this Chapter, including the right of the client to request different services and to appeal the treatment plan.
- B. If a client’s ISP or ITDP is inconsistent with an inpatient or outpatient treatment plan ordered by the court, the mental health agency or ~~regional authority health plan~~, whichever is appropriate, shall recommend to the court that the court-ordered plan be amended so that it is consistent with the client’s ISP or ITDP.
- C. If, during the period a client is on outpatient status, an emergency occurs that satisfies the standards for emergency admission under A.R.S. §§ 36-524 and 36-526, and that requires immediate revocation or modification of an outpatient order, a modification may be submitted to the court in consultation with the client’s clinical team without complying with the individual service planning procedures, provided that the client and clinical team subsequently review any such modification according to the individual service planning procedures in Article 3 of this Chapter.

R9-21-507. Transfers of Court-ordered Persons

- A. For the purpose of this Section, “non-client” means an individual who ~~have a qualifying~~are seriously serious mentally mental illness but is not currently being evaluated or treated for a mental disorder by or through a ~~regional authority health plan~~.
- B. An individual ordered by the court to undergo treatment and without a guardian may be transferred from a mental health agency to another mental health agency, provided that the medical director of the mental health agency initiating the transfer has established that:

1. There is no reason to believe the individual will suffer more serious physical harm or serious illness as a result of the transfer; and
 2. The individual is being transferred to a level and kind of treatment more appropriate to the individual's treatment needs and has been accepted for transfer by the medical director of the receiving mental health agency pursuant to subsection (D).
- C. The medical director of the mental health agency initiating the transfer shall:
1. Be the medical director of the mental health agency to which the court committed the individual; or
 2. Obtain the court's consent to the transfer as necessary.
- D. All clients shall be transferred according to the procedures in Article 3 of this Chapter. With regard to non-clients, the medical director of the mental health agency initiating the transfer may not transfer a non-client to, or use the services of, any other mental health agency, unless the medical director of the other mental health agency has agreed to provide such services to a non-client to be transferred, and the Department has licensed and approved the mental health agency to provide those services.
- E. The medical director of the mental health agency initiating the transfer shall notify the receiving mental health agency in sufficient time for the intended transfer to be accomplished in an orderly fashion, but not less than three days. This notification shall include:
1. A summary of the individual's needs.
 2. A statement that, in the medical director's judgment, the receiving mental health agency can adequately meet the individual's needs.
 3. If the individual is a client, a modification of a client's ISP according to R9-21-314, when applicable.
 4. Documentation of the court's consent, when applicable.
- F. The medical director of the transferring mental health agency shall present a written compilation of the individual's clinical needs and suggestions for future care to the medical director of the receiving mental health agency, who shall accept and approve it before an individual can be transferred according to subsection (B).
- G. The transportation of individuals transferred from one mental health agency to another shall be the responsibility of the mental health agency initiating the transfer, irrespective of the allocation of the cost of the transportation defined elsewhere.

R9-21-508. Requests for Notification

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

R9-21-509. Voluntary Admission for Treatment

- A. Application for admission for voluntary treatment according to A.R.S. § 36-518 shall be made to a mental health agency on ~~Department~~AHCCCS form MH-210, Titled "Application for Voluntary Treatment," in Exhibit I, by any individual who:
1. Voluntarily makes application as provided in subsection (A);
 2. Gives informed consent;
 3. Has not been adjudicated as an incapacitated person according to A.R.S. Title 14, Chapter 5, or Title 36, Chapter 5; and
 4. If a minor, is appropriately admitted according to A.R.S. § 36-518.
- B. Any mental health agency that is not a ~~regional authority health plan~~ under R9-21-501 and that receives an application for voluntary treatment by a client shall immediately refer the client to the appropriate ~~regional authority health plan~~ for treatment as provided under this rule, except that in the case of an emergency, a mental health treatment agency licensed by the Department to provide treatment under A.R.S. § 36-518 may accept an application for voluntary treatment and admit the client for treatment as follows:
1. Prior to admission of a client under this rule, the agency shall notify the appropriate ~~regional authority health plan~~ of the potential admission and treatment so that the ~~regional authority health plan~~ may first:
 - a. Provide other services or treatment to the client as an alternative; or
 - b. Authorize treatment of the client.
 2. If the agency does not provide notice according to subsection (B)(1) above, the ~~regional authority health plan~~ shall not be obligated to pay for the treatment provided.
- C. Any mental health agency providing treatment according to A.R.S. § 36-518 shall place in the medical record of the individual to be treated the following:
1. A completed copy of the application for voluntary treatment;
 2. A completed informed consent form according to R9-21-511; and
 3. A written statement of the individual's present mental condition.
- D. If the client admitted under this rule does not have an ISP, the ~~regional authority health plan~~ shall prepare one in accordance with Article 3 of this Chapter. If the client already has an ISP, the ~~regional authority health plan~~ shall commence a review of the ISP as provided in R9-21-313 and, if necessary, take steps to modify the ISP in accordance with R9-21-314.

NOTICES OF EMERGENCY RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Emergency Rulemaking prepared and filed by an agency under A.R.S. § 41-1001(8).

If an agency makes a finding that a rule is necessary as an emergency measure, the rule may be made, amended, or repealed as an emergency measure, without the notice prescribed by sections 41-1021 and 41-1022 and prior review by the council, if the rule is first approved by the attorney general and filed with the secretary of state. A rule made, amended, or repealed is valid for 180 days after the filing of the rule with the Office.

The emergency may be renewed for one more 180 period if all the following requirements are met under A.R.S. § 41-1026(D)(1) through (6).

The Office of the Secretary of State is the filing office and publisher of these rules.

Questions about the interpretation of the emergency rules should be addressed to the agency proposing them.

Refer to Item #5 to contact the person charged with the rulemaking.

NOTICE OF EMERGENCY RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 21. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
BEHAVIORAL HEALTH SERVICES FOR PERSONS WITH SERIOUS MENTAL ILLNESS**

[R22-284]

PREAMBLE

- | | |
|---|---------------------------------|
| 1. <u>Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
| Exhibit C | Amend |
- 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. § 36-520
 Implementing statute: A.R.S. § 36-524 (Session Law 2022, Chapter 299, Senate Bill 1114)
- 3. The effective date of the rule:**
 November 28, 2022
- a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**
 AHCCCS requests an immediate effective date, upon filing with the Secretary of State, due to the immediate nature of Emergency Applications for Evaluation. In addition, an immediate effective date meets the requirements in A.R.S. § 41-1032(A):
 (1) To preserve the public peace, health or safety; and
 (4) To provide a benefit to the public and a penalty is not associated with a violation of the rule.
- b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**
 Not applicable
- 4. Citations to all related emergency rulemaking notices published in the Register as specified in R1-1-409(A) that pertain to the record of this notice of emergency rulemaking:**
 Not applicable
- 5. The agency’s contact person who can answer questions about the rulemaking:**
 Name: Nicole Fries
 Address: AHCCCS
 Office of the General Counsel
 801 E. Jefferson, Mail Drop 6200
 Phoenix, AZ 85034
 Telephone: (602) 417-4232
 Fax: (602) 253-9115
 Email: AHCCCSRules@azahcccs.gov
 Website: www.ahcccs.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 proposed rulemaking will add two additional options for seeking an Emergency Admission for Evaluation; Persistently or Acutely Disabled, and Gravely Disabled. This rulemaking is requested to align the form with the language in S.B. 1114, that was

signed into law by the Governor earlier this year and became effective September 24, 2022. This change is anticipated to be non-controversial but will have a significant impact on members of the Arizona community in need of emergency evaluation for mental/behavioral health conditions. AHCCCS has already received questions from providers and counties regarding the forms and this is the best way to continue to serve the public, while including this change in a subsequent regular rulemaking to allow for public notice and comment.

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:

Not applicable

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:

The rulemaking will not diminish a previous grant of authority of a political subdivision of the state.

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

There is not anticipated to be a fiscal impact on small business or consumers since this retains the same process and only adopts the two new bases for evaluation outlined in statute. The state may see an economic impact if there is a much greater number of people who apply for evaluation on these new bases. However any additional cost has been anticipated by the legislature prior to their change in the implementing statutes during the 2022 Session.

10. 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 are not 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 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

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

No material is incorporated by reference.

12. An agency explanation about the situation justifying the rulemaking as an emergency rule:

All providers of emergency evaluations expect to receive emergency applications for evaluation via the form in Exhibit C. In order to make sure individuals may apply for emergency evaluations on all statutory basis, it is imperative to get a new version of Exhibit C out to the public. AHCCCS plans to follow the emergency rule with a regular rulemaking also reflecting this change; however, that change will not occur soon enough to allow those individuals who meet the Persistently or Acutely Disabled and Gravely Disabled categories that the legislature also intended to apply. The multiple month gap between the effective date of the statute and the effective date of a regular rulemaking would cause many individuals who are actually eligible for emergency evaluation to go untreated, causing serious harm to their health. Therefore, AHCCCS believes this emergency rulemaking is necessary to preserve public health and as a benefit to the public, which the legislature intended.

13. The date the Attorney General approved the rule:

November 25, 2022

14. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 21. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
BEHAVIORAL HEALTH SERVICES FOR PERSONS WITH SERIOUS MENTAL ILLNESS**

ARTICLE 5. COURT-ORDERED EVALUATION AND TREATMENT

Section

Exhibit C. Application for Emergency Admission for Evaluation

ARTICLE 5. COURT-ORDERED EVALUATION AND TREATMENT

Exhibit C. Application for Emergency Admission for Evaluation

**APPLICATION FOR EMERGENCY ADMISSION FOR EVALUATION
(Pursuant to A.R.S. § 36-524)**

STATE OF ARIZONA)
) ss
COUNTY OF _____)
_____)

The undersigned applicant, being first duly sworn/affirmed, hereby requests that _____ (Evaluation Agency) admit the person named herein for evaluation.

1. The undersigned applicant alleges that there is now in the County a person whose name and address are: _____ (Name) _____ (Address) and that s/he believes that the person has a mental disorder and, as a result of said mental disorder, is:

A danger to self; A danger to others; Persistently or Acutely Disabled; Gravely Disabled;

and that, during the time necessary to complete pre-petition screening under A.R.S. §§ 36-520 and 36-521, the person is likely without immediate hospitalization to suffer serious physical harm or serious illness or is likely to inflict serious physical harm up on another person.

2. The conclusion that the person has a mental disorder is based on the following facts:

3. The specific nature of the danger posed by this person is:

4. A summary of the personal observations upon which this statement is based is as follows:

PERSONAL DATA OF PROPOSED PATIENT:

Age _____ Date of Birth _____ Sex _____ Race _____
Weight _____ Height _____ Hair Color _____ Eye Color _____
Marital Status _____ Number of Children _____
Social Security No. _____ Religion _____
Distinguishing Marks _____
Occupation _____
Present Location _____
Dates and Places of Previous Hospitalization _____
How Long in Arizona _____ State Last From _____
Veteran? _____ C-No. _____ Education _____

NAME, ADDRESS AND TELEPHONE NUMBER OF:

- 1) Guardian _____
- 2) Spouse _____
- 3) Next of Kin _____
- 4) Significant Other Persons _____

DATE

SIGNATURE OF APPLICANT

Printed or Typed Name of Applicant _____

Relationship to Proposed Patient _____

Applicant's Address _____

Applicant's Telephone _____

SUBSCRIBED AND SWORN to before me this _____ day of _____, 19_____.

Notary Public

My Commission Expires:

ADHS/BHS Form MH-104 (9/93)

NOTICES OF EXPIRATION OF RULES UNDER A.R.S. § 41-1056(J) OR 41-1052(M)

This section of the *Arizona Administrative Register* contains Notices of Expiration of Rules under A.R.S. § 41-1056(J).

If an agency does not file a five-year rule review report with the Governor’s Regulatory Review Council (Council), including, when applicable, a revised report; or if an agency does not file an extension before the due date of

the report; or if an agency files an extension but does not submit a report within the extension period; the rules scheduled for review expire and are no longer enforceable.

The Council prepares these notices which lists the expired rules and files them with the Office for publication in the *Register*. The rules are then removed from the *Code Chapter* as specified in the notice.

NOTICE OF EXPIRATION OF RULES UNDER A.R.S. § 41-1052(M)

GOVERNOR’S REGULATORY REVIEW COUNCIL

**DEPARTMENT OF ADMINISTRATION
GENERAL SERVICES DIVISION**

[R22-285]

- 1. **Agency name:** Department of Administration
- 2. **Title and its heading:** 2, Administration
- 3. **Chapter and its heading:** 15, Department of Administration - General Services Division
- 4. **Article and its heading:** 2, Fleet Management

As required by A.R.S. § 41-1052(M), the Council provides notice that the following rules expired as of December 6, 2022:

- R2-15-201: Definitions
- R2-15-202: Vehicles, Operators, and Uses
- R2-15-203: Operator Responsibilities
- R2-15-204: Repealed
- R2-15-205: Vehicle Request Procedures
- R2-15-206: Special Equipment
- R2-15-207: Billing Rates
- R2-15-208: Repealed
- R2-15-209: Repealed

Signature of Nicole Sornsin
Nicole Sornsin
Council Chair

December 7, 2022
Date

NOTICES OF RULEMAKING DOCKET OPENING

This section of the *Arizona Administrative Register* contains Notices of Rulemaking Docket Opening under A.R.S. § 41-1021.

A docket opening is the first part of the administrative rulemaking process. It is an “announcement” that an agency intends to work on its rules.

When an agency opens a rulemaking docket to consider rulemaking, the Administrative Procedure Act (APA) requires the publication of the Notice of Rulemaking Docket Opening.

Under the APA, effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process. An agency may file the Notice of Rulemaking Docket Opening along with the Notice of Proposed Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these notices. Questions about the interpretation of this information should be directed to the agency contact person listed in item #4 of this notice.

NOTICE OF RULEMAKING DOCKET OPENING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 33. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS

[R22-286]

1. **Title and its heading:** 4, Professions and Occupations
Chapter and its heading: 33, Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers
Article and its heading: 6, Assisted Living Facility Manager Training Programs
 7, Assisted Living Facility Caregiver Training Programs
Section numbers: R4-33-601 through R4-33-605 and R4-33-701 through R4-33-706
(Additional Sections made be made, amended, or repealed as necessary).

2. **The subject matter of the proposed rule:**
 During the 2020 pandemic, the Board allowed owners of assisted living facility training programs to deviate from the rule requirement regarding hours of classroom instruction and distance learning. The deviation applied to training programs for both managers and caregivers. Based on examination results and requests from owners of assisted living facility training programs, the Board has determined the distinction between classroom instruction and distance learning can be eliminated.
 An exemption from A.R.S. § 41-1039 was provided for this rulemaking by Brian Norman, of the governor’s office, in an email dated November 17, 2022.

3. **A citation to all published notices relating to the proceeding:**
 Notice of Proposed Rulemaking: 28 A.A.R. 3809, December 16, 2022 *(in this issue)*

4. **Name and address of agency personnel with whom persons may communicate regarding the rule:**
 Name: John Confer, Executive Director
 Address: Board of Examiners of Nursing Care Administrators and Assisted Living Facility Managers
 1740 W. Adams St., Suite 2490
 Phoenix, AZ 85007
 Telephone: (602) 364-2374
 Email: john.confer@aznciaboard.us

5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**
 The Board will accept comments during business hours at the address listed in item 4. Information regarding an oral proceeding will be included in the Notice of Proposed Rulemaking.

6. **A timetable for agency decisions or other action on the proceeding, if known:**
 To be determined

NOTICE OF RULEMAKING DOCKET OPENING**TITLE 9. HEALTH SERVICES****CHAPTER 21. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
BEHAVIORAL HEALTH SERVICES FOR PERSONS WITH SERIOUS MENTAL ILLNESS**

[R22-287]

- 1. Title and its heading:** 9, Health Services
- Chapter and its heading:** 21, Arizona Health Care Cost Containment System (AHCCCS) - Behavioral Health Services for Persons with Serious Mental Illness
- Article and its heading:** 1, General Provisions
2, Rights of Persons with Serious Mental Illness
4, Appeals, Grievances, and Requests for Investigation for Persons with Serious Mental Illness
5, Court Ordered Evaluation and Treatment
- Section numbers:** R9-21-101, R9-21-104, R9-21-105; R9-21-201 through R9-21-203, R9-21-206, R9-21-211; R9-21-401 through R9-21-410; R9-21-501, R9-21-502, Exhibit C, R9-21-503 through R9-21-505, R9-21-507 through R9-21-509 (*As part of this rulemaking, the Administration may add, delete, or modify Sections as necessary.*)
- 2. The subject matter of the proposed rule:**
The proposed rulemaking makes a number of technical and conforming changes to the rules to update them and bring them into compliance with practice and prior session laws. These changes include:
- Changing references from the human rights committee to the Independent Oversight Committee, per A.R.S. § 41-3803;
 - Changing references from the regional behavioral health authorities to health plans, per AHCCCS Complete Care joining of physical and behavioral health care administration through one health plan;
 - Removing references to eligible children because Chapter 21 only pertains to adult Seriously Mentally Ill and General Behavioral Health services, not those provided to minors under age 18;
 - Changing references to the Department of Health Services have been updated to the AHCCCS Administration, where appropriate, as the agency regulating the provision of services under Chapter 21; and
 - Update the language of Exhibit C, in R9-22-502 to make permanent the change proposed in a prior emergency rulemaking, adding Persistently or Acutely Disabled and Gravely Disabled as categories for Emergency Application for Evaluation, per S.B. 1114.
- The proposed rulemaking will also add two additional options for seeking an Emergency Admission for Evaluation; Persistently or Acutely Disabled, and Gravely Disabled. This rulemaking is requested to align the form with the language in S.B. 1114, that was signed into law by the Governor earlier this year and became effective September 24, 2022. This change is anticipated to be non-controversial but will have a significant impact on members of the Arizona community in need of emergency evaluation for mental/behavioral health conditions.
- 3. A citation to all published notices relating to the proceeding:**
Notice of Proposed Rulemaking: 28 A.A.R. 3823, December 16, 2022 (*in this issue*)
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Nicole Fries
Address: AHCCCS
Office of the General Counsel
801 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4232
Fax: (602) 253-9115
Email: AHCCCSRules@azahcccs.gov
Website: www.azahcccs.gov
- 5. The time which the agency will accept written comments and the time and place where oral comments may be made:**
The Administration will accept written comments Monday through Friday, 8 a.m. to 5 p.m., at the address indicated in question #4. Public hearings will be scheduled later to provide a forum for interactive discussion with interested parties. Email comments will be accepted.
- 6. A timetable for agency decisions or other action on the proceeding, if known:**
The Administration has initiated this rulemaking within the 60-day time period as stated under A.R.S. § 41-1033. The Notice of Proposed Rulemaking is published along with this notice.

REGISTER INDEXES

The *Register* is published by volume in a calendar year (See “General Information” in the front of each issue for more information).

Abbreviations for rulemaking activity in this Index include:

PROPOSED RULEMAKING

PN = Proposed new Section
 PM = Proposed amended Section
 PR = Proposed repealed Section
 P# = Proposed renumbered Section

SUPPLEMENTAL PROPOSED RULEMAKING

SPN = Supplemental proposed new Section
 SPM = Supplemental proposed amended Section
 SPR = Supplemental proposed repealed Section
 SP# = Supplemental proposed renumbered Section

FINAL RULEMAKING

FN = Final new Section
 FM = Final amended Section
 FR = Final repealed Section
 F# = Final renumbered Section

SUMMARY RULEMAKING

PROPOSED SUMMARY

PSMN = Proposed Summary new Section
 PSMM = Proposed Summary amended Section
 PSMR = Proposed Summary repealed Section
 PSM# = Proposed Summary renumbered Section

FINAL SUMMARY

FSMN = Final Summary new Section
 FSMM = Final Summary amended Section
 FSMR = Final Summary repealed Section
 FSM# = Final Summary renumbered Section

EXPEDITED RULEMAKING

PROPOSED EXPEDITED

PEN = Proposed Expedited new Section
 PEM = Proposed Expedited amended Section
 PER = Proposed Expedited repealed Section
 PE# = Proposed Expedited renumbered Section

SUPPLEMENTAL EXPEDITED

SPEN = Supplemental Proposed Expedited new Section
 SPEM = Supplemental Proposed Expedited amended Section
 SPER = Supplemental Proposed Expedited repealed Section
 SPE# = Supplemental Proposed Expedited renumbered Section

FINAL EXPEDITED

FEN = Final Expedited new Section
 FEM = Final Expedited amended Section
 FER = Final Expedited repealed Section
 FE# = Final Expedited renumbered Section

EXEMPT RULEMAKING

EXEMPT

XN = Exempt new Section
 XM = Exempt amended Section
 XR = Exempt repealed Section
 X# = Exempt renumbered Section

EXEMPT PROPOSED

PXN = Proposed Exempt new Section
 PXM = Proposed Exempt amended Section
 PXR = Proposed Exempt repealed Section
 PX# = Proposed Exempt renumbered Section

EXEMPT SUPPLEMENTAL PROPOSED

SPXN = Supplemental Proposed Exempt new Section
 SPXR = Supplemental Proposed Exempt repealed Section
 SPXM = Supplemental Proposed Exempt amended Section
 SPX# = Supplemental Proposed Exempt renumbered Section

FINAL EXEMPT RULEMAKING

FXN = Final Exempt new Section
 FXM = Final Exempt amended Section
 FXR = Final Exempt repealed Section
 FX# = Final Exempt renumbered Section

EMERGENCY RULEMAKING

EN = Emergency new Section
 EM = Emergency amended Section
 ER = Emergency repealed Section
 E# = Emergency renumbered Section
 EEXP = Emergency expired

RECODIFICATION OF RULES

RC = Recodified

REJECTION OF RULES

RJ = Rejected by the Attorney General

TERMINATION OF RULES

TN = Terminated proposed new Sections
 TM = Terminated proposed amended Section
 TR = Terminated proposed repealed Section
 T# = Terminated proposed renumbered Section

RULE EXPIRATIONS

EXP = Rules have expired
 See also “emergency expired” under emergency rulemaking

CORRECTIONS

C = Corrections to Published Rules

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R18-11-205.	PN-2329	R7-6-261.	SPR-1093	R9-22-712.06.	PM-3465
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Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date
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1/26	3/27	2/26	4/27	3/26	5/25	4/26	6/25	5/26	7/25	6/26	8/25
1/27	3/28	2/27	4/28	3/27	5/26	4/27	6/26	5/27	7/26	6/27	8/26
1/28	3/29	2/28	4/29	3/28	5/27	4/28	6/27	5/28	7/27	6/28	8/27
1/29	3/30			3/29	5/28	4/29	6/28	5/29	7/28	6/29	8/28
1/30	3/31			3/30	5/29	4/30	6/29	5/30	7/29	6/30	8/29
1/31	4/1			3/31	5/30			5/31	7/30		

July		August		September		October		November		December	
Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date	Date Filed	Effective Date
7/1	8/30	8/1	9/30	9/1	10/31	10/1	11/30	11/1	12/31	12/1	1/30
7/2	8/31	8/2	10/1	9/2	11/1	10/2	12/1	11/2	1/1	12/2	1/31
7/3	9/1	8/3	10/2	9/3	11/2	10/3	12/2	11/3	1/2	12/3	2/1
7/4	9/2	8/4	10/3	9/4	11/3	10/4	12/3	11/4	1/3	12/4	2/2
7/5	9/3	8/5	10/4	9/5	11/4	10/5	12/4	11/5	1/4	12/5	2/3
7/6	9/4	8/6	10/5	9/6	11/5	10/6	12/5	11/6	1/5	12/6	2/4
7/7	9/5	8/7	10/6	9/7	11/6	10/7	12/6	11/7	1/6	12/7	2/5
7/8	9/6	8/8	10/7	9/8	11/7	10/8	12/7	11/8	1/7	12/8	2/6
7/9	9/7	8/9	10/8	9/9	11/8	10/9	12/8	11/9	1/8	12/9	2/7
7/10	9/8	8/10	10/9	9/10	11/9	10/10	12/9	11/10	1/9	12/10	2/8
7/11	9/9	8/11	10/10	9/11	11/10	10/11	12/10	11/11	1/10	12/11	2/9
7/12	9/10	8/12	10/11	9/12	11/11	10/12	12/11	11/12	1/11	12/12	2/10
7/13	9/11	8/13	10/12	9/13	11/12	10/13	12/12	11/13	1/12	12/13	2/11
7/14	9/12	8/14	10/13	9/14	11/13	10/14	12/13	11/14	1/13	12/14	2/12
7/15	9/13	8/15	10/14	9/15	11/14	10/15	12/14	11/15	1/14	12/15	2/13
7/16	9/14	8/16	10/15	9/16	11/15	10/16	12/15	11/16	1/15	12/16	2/14
7/17	9/15	8/17	10/16	9/17	11/16	10/17	12/16	11/17	1/16	12/17	2/15
7/18	9/16	8/18	10/17	9/18	11/17	10/18	12/17	11/18	1/17	12/18	2/16
7/19	9/17	8/19	10/18	9/19	11/18	10/19	12/18	11/19	1/18	12/19	2/17
7/20	9/18	8/20	10/19	9/20	11/19	10/20	12/19	11/20	1/19	12/20	2/18
7/21	9/19	8/21	10/20	9/21	11/20	10/21	12/20	11/21	1/20	12/21	2/19
7/22	9/20	8/22	10/21	9/22	11/21	10/22	12/21	11/22	1/21	12/22	2/20
7/23	9/21	8/23	10/22	9/23	11/22	10/23	12/22	11/23	1/22	12/23	2/21
7/24	9/22	8/24	10/23	9/24	11/23	10/24	12/23	11/24	1/23	12/24	2/22
7/25	9/23	8/25	10/24	9/25	11/24	10/25	12/24	11/25	1/24	12/25	2/23
7/26	9/24	8/26	10/25	9/26	11/25	10/26	12/25	11/26	1/25	12/26	2/24
7/27	9/25	8/27	10/26	9/27	11/26	10/27	12/26	11/27	1/26	12/27	2/25
7/28	9/26	8/28	10/27	9/28	11/27	10/28	12/27	11/28	1/27	12/28	2/26
7/29	9/27	8/29	10/28	9/29	11/28	10/29	12/28	11/29	1/28	12/29	2/27
7/30	9/28	8/30	10/29	9/30	11/29	10/30	12/29	11/30	1/29	12/30	2/28
7/31	9/29	8/31	10/30			10/31	12/30			12/31	3/1

REGISTER PUBLISHING DEADLINES

The Secretary of State's Office publishes the Register weekly. There is a three-week turnaround period between a deadline date and the publication date of the Register. The weekly deadline dates and issue dates are shown below. Council meetings and Register deadlines do not correlate. Also listed are the earliest dates on which an oral proceeding can be held on proposed rulemakings or proposed delegation agreements following publication of the notice in the Register.

Deadline Date Friday, 5:00 p.m. <i>(*earlier date due to holiday)</i>	Register Publication Date	Oral Proceeding may be scheduled on or after
October 14, 2022	November 4, 2022	December 5, 2022
October 21, 2022	November 11, 2022	December 12, 2022
October 28, 2022	November 18, 2022	December 19, 2022
November 4, 2022	November 25, 2022	December 27, 2022
*November 10, 2022	December 2, 2022	January 2, 2023
November 18, 2022	December 9, 2022	January 9, 2023
November 25, 2022	December 16, 2022	January 17, 2023
December 2, 2022	December 23, 2022	January 23, 2023
December 9, 2022	December 30, 2022	January 30, 2023
December 16, 2022	January 6, 2023	February 6, 2023
December 23, 2022	January 13, 2023	February 13, 2023
December 30, 2022	January 20, 2023	February 21, 2023
January 6, 2023	January 27, 2023	February 27, 2023
January 13, 2023	February 3, 2023	March 6, 2023
January 20, 2023	February 10, 2023	March 13, 2023
January 27, 2023	February 17, 2023	March 20, 2023
February 3, 2023	February 24, 2023	March 27, 2023
February 10, 2023	March 3, 2023	April 3, 2023
February 17, 2023	March 10, 2023	April 10, 2023
February 24, 2023	March 17, 2023	April 17, 2023
March 3, 2023	March 24, 2023	April 24, 2023
March 10, 2023	March 31, 2023	May 1, 2023
March 17, 2023	April 7, 2023	May 8, 2023
March 24, 2023	April 14, 2023	May 15, 2023
March 31, 2023	April 21, 2023	May 22, 2023
April 7, 2023	April 28, 2023	May 30, 2023
April 14, 2023	May 5, 2023	June 5, 2023
April 21, 2023	May 12, 2023	June 12, 2023
April 28, 2023	May 19, 2023	June 19, 2023

GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES

The following deadlines apply to all Five-Year Review Reports and any adopted rule submitted to the Governor’s Regulatory Review Council. Council meetings and Register deadlines do not correlate. We publish these deadlines under A.R.S. § 41-1013(B)(15).

All rules and Five-Year Review Reports are due in the Council office by 5 p.m. of the deadline date. The Council’s office is located at 100 N. 15th Ave., Suite 305, Phoenix, AZ 85007. For more information, call (602) 542-2058 or visit <https://grrc.az.gov>.

GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2022/2023
(MEETING DATES ARE SUBJECT TO CHANGE)

[M21-61/M22-60]

DEADLINE FOR PLACEMENT ON AGENDA*	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
<i>Tuesday</i> October 18, 2022	<i>Tuesday</i> November 22, 2022	<i>Tuesday</i> November 29, 2022	<i>Tuesday</i> December 6, 2022
<i>Tuesday</i> November 22, 2022	<i>Tuesday</i> December 20, 2022	Wednesday December 28, 2022	Wednesday January 4, 2023
<i>Tuesday</i> December 20, 2022	<i>Tuesday</i> January 24, 2023	<i>Tuesday</i> January 31, 2023	<i>Tuesday</i> February 7, 2023
<i>Tuesday</i> January 24, 2023	<i>Tuesday</i> February 21, 2023	<i>Tuesday</i> February 28, 2023	<i>Tuesday</i> March 7, 2023
<i>Tuesday</i> February 21, 2023	<i>Tuesday</i> March 21, 2023	<i>Tuesday</i> March 28, 2023	<i>Tuesday</i> April 4, 2023
<i>Tuesday</i> March 21, 2023	<i>Tuesday</i> April 18, 2023	<i>Tuesday</i> April 25, 2023	<i>Tuesday</i> May 2, 2023
<i>Tuesday</i> April 18, 2023	<i>Tuesday</i> May 23, 2023	Wednesday May 31, 2023	<i>Tuesday</i> June 6, 2023
<i>Tuesday</i> May 23, 2023	<i>Tuesday</i> June 20, 2023	<i>Tuesday</i> June 27, 2023	Wednesday July 5, 2023
<i>Tuesday</i> June 20, 2023	<i>Tuesday</i> July 18, 2023	<i>Tuesday</i> July 25, 2023	<i>Tuesday</i> August 1, 2023
<i>Tuesday</i> July 18, 2023	<i>Tuesday</i> August 22, 2023	<i>Tuesday</i> August 29, 2023	Wednesday September 6, 2023
<i>Tuesday</i> August 22, 2023	<i>Tuesday</i> September 19, 2023	<i>Tuesday</i> September 26, 2023	<i>Tuesday</i> October 3, 2023
<i>Tuesday</i> September 19, 2023	<i>Tuesday</i> October 24, 2023	<i>Tuesday</i> October 31, 2023	<i>Tuesday</i> November 7, 2023
<i>Tuesday</i> October 24, 2023	<i>Tuesday</i> November 21, 2023	<i>Tuesday</i> November 28, 2023	<i>Tuesday</i> December 5, 2023
<i>Tuesday</i> November 21, 2023	<i>Tuesday</i> December 19, 2023	Wednesday December 27, 2023	<i>Tuesday</i> January 2, 2024
<i>Tuesday</i> December 19, 2023	<i>Tuesday</i> January 23, 2024	<i>Tuesday</i> January 23, 2024	<i>Tuesday</i> February 6, 2024

* Materials must be submitted by **5 PM** on dates listed as a deadline for placement on a particular agenda. Placement on a particular agenda is not guaranteed.