

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

PREAMBLE

1. Permission to proceed with this proposed rulemaking was granted under A.R.S. § 41-1039 by the governor on:

June 4, 2024

<u>2. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R9-21-101	Amend
R9-21-104	Amend
R9-21-105	Amend
R9-21-106	Amend
R9-21-203	Amend
R9-21-204	Amend
R9-21-210	Amend
R9-21-211	Amend
Exhibit A	Amend
Exhibit B	Amend
R9-21-401	Amend
R9-21-403	Amend
R9-21-404	Amend
R9-21-405	Amend
R9-21-407	Amend
R9-21-408	Amend
R9-21-409	Amend
R9-21-410	Amend
R9-21-501	Amend
Exhibit A	Amend
Exhibit B	Amend
R9-21-502	Amend
Exhibit C	Amend
R9-21-503	Amend
Exhibit D	Amend
R9-21-504	Amend
Exhibit E	Amend

Exhibit F	Amend
R9-21-507	Amend
R9-21-508	Amend
Exhibit G	Amend
Exhibit H	Amend
Exhibit I	New Exhibit
R9-21-509	Amend
Exhibit I	ReNUMBER (becoming Exhibit J)
Exhibit J	Amend
R9-21-510	Amend
Exhibit J	ReNUMBER (no longer Repealed)

3. 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. § 36-546.01

4. Citations to all related notices published in the Register that pertain to the current record of the proposed rule:

Notice of Rulemaking Docket Opening: (volume #) A.A.R. (page #), Issue Date: (date published), Issue Number: (number), File number: (R2#-###)

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

Name: Sladjana Kuzmanovic
 Title: Sr. Rules Analyst
 Division: AHCCCS Office of the General Counsel
 Address: 801 E. Jefferson Street, MD 6200, Phoenix, AZ 85034
 Telephone: (602) 417-4232
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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 An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking: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 current Chapter 21 rules establish standards and procedures for the admission, treatment, transfer, and absences of individuals with serious mental illness in mental health facilities. These regulations are crucial in ensuring that individuals receive consistent, high-quality care while safeguarding their rights and well-being. Clear guidelines also help mental health providers navigate complex processes, reducing misinterpretation and promoting accountability in service delivery. This rulemaking updates definitions and forms for clarity and aligns Independent Oversight Committee regulations with state provisions and common practices. It strengthens reporting requirements for Behavioral Health Inpatient Facilities and Mental Health Agencies, requiring Seclusion and Restraint (SAR) incidents involving AHCCCS members to be reported within five business days and those resulting in injuries

within 24 hours. Additionally, it ensures client services continue during appeals and designates health plans as responsible for initial attempts to resolve grievances and conduct investigations. These updates also clarify grievance and appeals processes for individuals with a serious mental illness designation, helping applicants and contractors navigate programs more effectively. Overall, these changes aim to enhance compliance, reduce confusion, and improve efficiency, while failure to amend the rules could lead to increased compliance challenges and vagueness.

7. 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 Administration did not review or rely on any study for this rulemaking.

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

Not applicable.

9. The 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 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.

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

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11. 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:

Written comments about this proposed rulemaking will be accepted in person at the address provided under Item #5, Monday through Friday from 8 a.m. to 5 p.m. except for state holidays. Comments will also be accepted via email at the email address provided under Item #5. Mailed written comments shall be postmarked within 30 days of this published notice.

An oral proceeding is scheduled on this proposed rulemaking.

Date: April 14, 2025
Time: 2:00 p.m.
Location: (meet.google.com/kgb-zyvf-kwv)

Nature: Public Hearing

Public comment period ends: April 14, 2025 at 5:00 p.m.

Close of record: April 14, 2025 at 5:00 p.m.

12. 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:

There are not other matters prescribed by statute applicable specifically to the Administration or this specific rulemaking.

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 the issuance of a regulatory permit. Therefore, a general permit is 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:

The rules are not more stringent than the federal 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:

Not applicable.

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

Not applicable.

14. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 21. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM - BEHAVIORAL HEALTH SERVICES FOR
~~PERSONS~~ PEOPLE WITH SERIOUS MENTAL ILLNESS**

ARTICLE 1. GENERAL PROVISIONS

Section

- R9-21-101. Definitions and Locations of Definitions
- R9-21-104. Office of Human Rights; Human Rights Advocates
- R9-21-105. Independent Oversight Committees
- R9-21-106. State Protection and Advocacy System

ARTICLE 2. RIGHT OF ~~PERSONS~~ PEOPLE WITH SERIOUS MENTAL ILLNESS

Section

- R9-21-203. Protection from Abuse, Neglect, Exploitation, and Mistreatment
- R9-21-204. Restraint and Seclusion
- R9-21-210. Policies and Procedures of Service Providers
- R9-21-211. Notice of Rights
- Exhibit A. AHCCCS ACOM 444, Attachment B. Notice of Legal Rights for ~~Persons~~ People with Serious Mental Illness
- Exhibit B. Notice of Legal Rights for ~~Persons~~ People with Serious Mental Illness AHCCCS ACOM 444, Attachment D. Notice of Discrimination Prohibited

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

Section

- R9-21-401. Appeals
- 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
- R9-21-407. 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

Section

- R9-21-501. Court-Ordered Evaluation
- Exhibit A. Application for Involuntary Evaluation
- Exhibit B. Petition for 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
- Exhibit D. Application for Voluntary Evaluation
- R9-21-504. Court-ordered Treatment
- Exhibit E. Affidavit for Petition for Court Ordered Treatment
- Exhibit F. Petition for Court-ordered Treatment
- R9-21-507. Transfers of Court-ordered Persons
- R9-21-508. Requests for Notification
- Exhibit G. DEMAND FOR NOTICE BY RELATIVE OR VICTIM
- Exhibit H. Petition for Notice
- Exhibit I. Order for Notice
- R9-21-509. Voluntary Admission for Treatment
- Exhibit ~~I~~ J. Application for Voluntary Treatment
- Exhibit I. Renumbered
- R9-21-510. Informed Consent in Voluntary Application for Admission and Treatment
- Exhibit J. ~~Repeated~~ Renumbered

ARTICLE 1. GENERAL PROVISIONS

R9-21-101. Definitions and Locations 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:

1. “Abuse”	R9-21-101
“ADHS”	R9-22-101
2. “Administration”	A.R.S. § 36-2901
3. <u>“Agency director”</u>	<u>R9-21-101</u>
4. <u>“AHCCCS”</u>	<u>R9-22-101</u>
5. <u>“Applicant”</u>	<u>R9-21-101</u>
6. <u>“ASH”</u>	<u>R9-21-101</u>
7. <u>“Authorization”</u>	<u>R9-21-101</u>
8. <u>“Behavioral health issue”</u>	<u>R9-21-101</u>
9. <u>“Burden of proof”</u>	<u>R9-21-101</u>
10. <u>“Case manager”</u>	<u>R9-21-101</u>
11. <u>“Client”</u>	<u>R9-21-101</u>
12. <u>“Client record”</u>	<u>R9-21-101</u>
13. <u>“Client who needs special assistance”</u>	<u>R9-21-101</u>
14. <u>“Clinical team”</u>	<u>R9-21-101</u>
15. <u>“Community services”</u>	<u>R9-21-101</u>
16. <u>“Condition requiring investigation”</u>	<u>R9-21-101</u>
17. <u>“County Annex”</u>	<u>R9-21-101</u>
18. “Court”	A.R.S. § 36-501
19. <u>“Court-ordered treatment”</u>	<u>R9-21-101</u>
20. <u>“Court-ordered evaluation”</u>	<u>R9-21-101</u>
21. <u>“Crisis services” or “emergency services”</u>	<u>R9-21-101</u>
22. “Danger to others”	A.R.S. § 36-501
23. <u>“Dangerous”</u>	<u>R9-21-101</u>
24. “Department”	R9-21-101, A.R.S. § 36-501
25. <u>“Designated representative”</u>	<u>R9-21-101</u>
26. <u>“Determining Entity”</u>	<u>R9-21-101</u>
27. “Director”	A.R.S. § 36-501
28. <u>“Discharge plan”</u>	<u>R9-21-101</u>
29. <u>“Division”</u>	<u>R9-21-101</u>
30. <u>“Drug used as a restraint”</u>	<u>R9-21-101</u>
31. <u>“DSM” or “Diagnostic and Statistical Manual of Mental</u>	<u>R9-21-101</u>

<u>32. Disorders</u>	<u>R9-21-101</u>
<u>33. “Emergency safety situation”</u>	<u>R9-21-101</u>
<u>34. “Evaluation”</u>	A.R.S. § 36-501
<u>35. “Exploitation”</u>	<u>R9-21-101</u>
<u>36. “Family member”</u>	A.R.S. § 36-501
<u>37. “Frivolous”</u>	<u>R9-21-101</u>
<u>38. “Grievance”</u>	<u>R9-21-101</u>
<u>39. “Guardian”</u>	<u>R9-21-101</u>
<u>40. “Hearing officer”</u>	<u>R9-21-101</u>
<u>41. “Human rights advocate”</u>	<u>R9-21-101</u>
<u>42. “Independent Oversight committee”</u>	<u>R9-21-101</u>
<u>43. “Illegal”</u>	<u>R9-21-101</u>
<u>44. “Individual service plan” or “ISP”</u>	<u>R9-21-101</u>
<u>45. “Informed consent”</u>	A.R.S. § 36-501
<u>46. “Inhumane”</u>	<u>R9-21-101</u>
<u>47. “Inpatient facility”</u>	<u>R9-21-101</u>
<u>48. “Inpatient treatment and discharge plan” or “ITDP”</u>	<u>R9-21-101</u>
<u>49. “Licensed physician”</u>	A.R.S. § 36-501
<u>50. “Long-term view”</u>	<u>R9-21-101</u>
<u>51. “Mechanical restraint”</u>	<u>R9-21-101</u>
<u>52. “Medical practitioner”</u>	<u>R9-21-101</u>
<u>53. “Meeting”</u>	<u>R9-21-101</u>
<u>54. “Mental disorder”</u>	A.R.S. § 36-501
<u>55. “Mental health agency”</u>	<u>R9-21-101</u>
<u>56. “Mental health provider”</u>	A.R.S. § 36-501
<u>57. “Nurse”</u>	<u>R9-21-101</u>
<u>58. “Outpatient treatment”</u>	A.R.S. § 36-501
<u>59. “Outpatient treatment center (OPC)”</u>	<u>R9-21-101</u>
<u>60. “Party” or “parties”</u>	<u>R9-21-101</u>
<u>61. “Persistent or acute disability”</u>	A.R.S. § 36-501
<u>62. “Personal restraint”</u>	<u>R9-21-101</u>
<u>63. “PRN order” or “Pro re rata medication”</u>	<u>R9-21-101</u>
<u>64. “Professional”</u>	A.R.S. § 36-501
<u>65. “Program director”</u>	<u>R9-21-101</u>
<u>66. “Proposed patient”</u>	A.R.S. § 36-501
<u>67. “Psychiatrist”</u>	A.R.S. § 36-501
<u>68. “Psychologist”</u>	A.R.S. § 36-501

69. <u>“Qualified clinician”</u>	<u>R9-21-101</u>
70. <u>“Records”</u>	A.R.S. § 36-501
71. <u>“Region”</u>	<u>R9-21-101</u>
72. <u>“Restraint”</u>	<u>R9-21-101</u>
73. <u>“Routine and Specialty Services”</u>	<u>R9-21-101</u>
74. <u>“Seclusion”</u>	<u>R9-21-101</u>
“Regional Behavioral Health Authority (RBHA)”	A.R.S. § 36-3401
75. <u>“Seriously Mentally Ill (SMI)”</u>	A.R.S. § 36-550
76. <u>“Service provider”</u>	<u>R9-21-101</u>
77. <u>“Social worker”</u>	A.R.S. § 36-501
78. <u>“State Protection and Advocacy System”</u>	<u>R9-21-101</u>
79. <u>“Title XIX”</u>	<u>R9-21-101</u>
80. <u>“Treatment team”</u>	<u>R9-21-101</u>

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

1. “Abuse” means, with respect to a client, the infliction of, or allowing another person to inflict or cause, physical pain or injury, impairment of bodily function, disfigurement or serious emotional damage which may be evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior. Such abuse may be caused by acts or omissions of an individual having responsibility for the care, custody or control of a client receiving behavioral health services or community services under this Chapter. Abuse shall also include sexual misconduct, assault, molestation, incest, or prostitution of, or with, a client under the care of personnel of a mental health agency.
2. “Administration” means the Arizona Health Care Cost Containment System.
3. “Agency director” means the person primarily responsible for the management of an outpatient or inpatient mental health agency, service provider, health plan or the Administration, or their designees.
4. “AHCCCS” means the Arizona Health Care Cost Containment System.
5. “Applicant” means an individual who:
 - a. Submits to a 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 health plan for a determination of eligibility for behavioral health services according to this Chapter.
6. “ASH” means the Arizona State Hospital.
7. “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.
- 8. “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.
- 9. “Behavioral health service” means the assessment, diagnosis, or treatment of an individual’s behavioral health Issue.
- 10. “Burden of proof” means the necessity or obligation of affirmatively proving the fact or facts in dispute.
- 11. “Case manager” means the person, regardless of their job/position title at the provider agency, who provides services to and is responsible for locating, accessing and monitoring the provision of member’s current needs, services required to address those needs, and progress clients in conjunction achieving goals or desired outcomes through regular and ongoing contact with a clinical team the member.
- 12. “Client” means an individual who has a qualifying serious mental illness and is being evaluated or treated for a mental disorder by or through a health plan.
- 13. “Client record” means the written compilation of information that describes and documents the evaluation, diagnosis or treatment of a client.
- 14. “Client who needs special assistance” means a client who has been:
 - a. Deemed by a qualified clinician, case manager, clinical team, or 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.
- 15. “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~~ may include, but is not in any way limited to, a psychiatrist, Qualified Clinician, behavioral health/medical professional, case manager/behavioral health technician, vocational specialist, psychiatric nurse, housing specialist, peer support specialist, specialist, psychiatric nurse, and other professionals or paraprofessionals, including but not limited in any way to, such as a psychologist, social worker, ~~consumer case management aide,~~ counselor, marriage and family therapist, or rehabilitation housing specialist, ~~as needed,~~ based on the client’s needs. The Additional clinical team shall also include a team leader who is a certified behavioral health supervisor. members may be added when requested by the client and based on their treatment goals.

16. “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.
17. “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.
18. “Court-ordered treatment” means treatment ordered by the court under A.R.S. Title 36, Chapter 5.
19. “Court-ordered evaluation” means evaluation ordered by the court under A.R.S. Title 36, Chapter 5.
20. “Crisis services” or “emergency services” means immediate and intensive, time-limited, crisis intervention and resolution services which are available on a 24-hour basis and may include information and referral, evaluation and counseling to stabilize the situation, triage to an inpatient setting, clinical crisis intervention services, mobile crisis services, emergency crisis shelter services, and follow-up counseling for clients who are experiencing a psychiatric emergency.
21. “Dangerous” as used in Article 4 of this Chapter means a condition that poses or posed a danger or the potential of danger to the health or safety of any client.
22. “Department” means the Arizona Department of Health Services.
23. “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.
24. “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.
25. “Discharge plan” means a hospital or community treatment and discharge plan prepared according to Article 3 of ~~this Chapter~~ these rules.
26. “Drug used as a restraint” means a pharmacological restraint as used in A.R.S. § 36-513 that is not standard treatment for a client’s medical condition or behavioral health issue and is administered ~~to~~ as a restriction to manage the patient's behavior or restrict the patient's freedom of movement and is not a standard treatment or dosage for the patient's condition.
~~Manage the client’s behavior in a way that reduces the safety risk to the client or others. Temporarily restrict the client’s freedom of movement.~~
27. “DSM” means the latest edition of the “Diagnostic and Statistical Manual of Mental Disorders,” edited by the American Psychiatric Association.
28. “Emergency safety situation” means unanticipated client behavior that creates a substantial and imminent risk that the client may inflict injury, and has the ability to inflict injury, upon:
 - 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.
29. “Exploitation” ~~means the illegal or improper use of a client or a client’s resources for another’s profit or advantage.~~ as defined in A.R.S. § 46-451 (A) (6).

30. “Family member” means a spouse, parent, adult child, adult sibling or other blood relative of a person undergoing treatment or evaluation pursuant to this chapter.
31. “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
 - c. 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 or 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.~~
32. “Grievance” means a complaint regarding an act, omission or condition, as provided in this Chapter.
33. “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.
34. ~~“Health Plan” means a Regional Behavioral Health Authority (RBHA), any behavioral health plan authority, managed care organization, or Arizona Long Term Care Plan under contract with state agency responsible for the Administration to coordinate coordination of the delivery of behavioral health services members in a geographically specific service area of the state for eligible persons to clients.~~
35. “Hearing officer” refers to an impartial person designated by the Office of Administrative Hearing to hear a dispute and render a written decision.
36. “Human rights advocate” means the human rights advocates appointed by the Administration under R9-21-~~105~~104.
37. “Independent Oversight ~~committee~~ Committee” means the committee established under A.R.S. § 41-3803.
38. “Illegal” means, within the context of the grievance and investigation procedure set forth in Article 4 of this Chapter, an incident or occurrence which is or was likely to constitute a violation of a state or federal statute, regulation, court decision or other law, including the provisions of these Articles.
39. “Individual service plan” or “ISP” means the written plan for services to a client, prepared in accordance with Article 3 of this Chapter.
40. “Inhumane” as used in Article 4 of this Chapter means an incident, condition or occurrence that is demeaning to a client, or which is inconsistent with the proper regard for the right of the client to humane treatment.
41. “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.
42. “Inpatient treatment and discharge plan” or “ITDP” means the written plan for services to a client prepared and implemented by an inpatient facility in accordance with Article 3 of this Chapter.
43. “Long-term view” means a planning statement that identifies, from the client’s perspective, what the client would like to be doing for work, education, and leisure and where the client would like to be living for up to a three-year period. The long-term view is based on the client’s unique interests, strengths, and personal desires. It includes predicted times for achievement.

44. “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.
45. “Medical practitioner” means a
- a. Physician,
 - b. Physician assistant, or
 - c. Nurse practitioner.
46. “Meeting” means an encounter or assembly of individuals which may be conducted in person or by telephone or by videoconferencing.
47. “Mental health agency” includes a 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.~~
48. “Nurse” means an individual licensed as a registered nurse or a practical nurse according to A.R.S. Title 32, Chapter 15.
49. “Outpatient treatment” or “combined inpatient and outpatient treatment” means any treatment program not requiring continuous inpatient hospitalization.
50. “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 Independent Oversight ~~committee~~ Committee.
51. “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.
52. “PRN order” or “Pro re nata medication” means medication given as needed.
53. “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.
54. “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.
55. “Region” means the geographical region designated by the Administration in its contract with the health plan.
56. “Restraint” means personal restraint, mechanical restraint, or drug used as a restraint.
57. “Routine and Specialty services” means services other than behavioral health or 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.
58. “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.

- 59. “Seriously mentally ill” means a person 18 years of age or older as defined in A.R.S. § 36-550.
- 60. “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.
- 61. “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.
- 62. “Title XIX” means Title XIX of the Social Security Act, 42 U.S.C. 1396 et seq.
- 63. “Inpatient 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~~ administrator 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~~ Administrator 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~~ Administrator shall appoint at least one human rights advocate for ASH. All clients shall have the right of access to 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 accordance with R9-21-104 and in conjunction with the ADOA, in resolving appeals and grievances under Article 4 of this Chapter ~~and shall coordinate and assist the 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, health plan, or the Administration, except as prohibited by federal or state law.
- D. Staff of inpatient facilities, 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 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~~ On a monthly basis, provide each Independent Oversight ~~committee~~ Committee with a list of all clients who need special assistance who reside in the respective jurisdiction of the Independent Oversight ~~committee~~ Committee.
- G. The Administration shall ensure appropriate Independent Oversight ~~committees~~ 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. Independent Oversight Committees

- A. According to A.R.S. §§ 41-3803 and 41-3804, the Department of Administration shall establish Independent Oversight ~~committees~~ Committees to provide independent oversight to ensure that the rights of clients 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 Independent Oversight ~~committee~~ Committee for the Arizona State Hospital. Members shall be appointed to fill vacancies on an Independent Oversight ~~committee~~ 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. §§ 413803 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.~~
- FC.** If a member of an Independent Oversight ~~committee~~ Committee or the Independent Oversight ~~committee~~ Committee determines that a member has a conflict of interest regarding an agenda item, the Committee member shall refrain from:
1. Participating in a discussion regarding the agenda item, and
 2. Voting on the agenda item.
- GD.** Each committee shall, within its respective jurisdiction, provide independent oversight and review of:
1. Allegations of illegal, dangerous, or inhumane treatment of clients;
 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 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); and
 6. Any other issue affecting the human rights of clients.

~~HE.~~ Within its jurisdiction, each Independent Oversight ~~committee~~ Committee shall, for a client who needs special assistance, and may, for other clients:

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.

~~F.~~ Annually, 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 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, 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 an 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 Section 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~~ year, including any written objections to the Department of Administration according to A.R.S. § 41-3804, and make any recommendations for changes it believes the Administration or 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 Administration.

~~L.~~ The Department of Administration shall provide training and support to Independent Oversight committees.

~~MG.~~ An Independent Oversight ~~committee~~ Committee may request:

1. An investigation for a client according to this Chapter, or
2. A health plan or the Arizona State Hospital, as applicable, to conduct an investigation for an enrolled child.

~~NH.~~ The health plan or the Arizona State Hospital, as applicable, when requested by an Independent Oversight committee, shall conduct an investigation concerning a client as provided in Article 4 of this Chapter.

~~O.~~ An Independent Oversight committee shall submit an annual report of the 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).

R9-21-106. State Protection and Advocacy System

Staff of mental health agencies shall cooperate with the State Protection and Advocacy System in its investigations and advocacy for clients and shall provide the System access to clients, records and facilities to the extent permitted and required by federal law, 42 U.S.C. 10801-10851. Nothing in this ~~Section~~ rule shall be construed to create an independent cause of action that does not already exist for the State Protection and Advocacy System either in state court or any administrative proceeding provided by ~~this Chapter~~ these rules.

ARTICLE 2. RIGHTS OF PERSONS PEOPLE WITH SERIOUS MENTAL ILLNESS

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, or others employed, contracted, or otherwise acting on behalf of the organization/agency.~~ 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 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 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 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.

R9-21-204. Restraint and Seclusion

- A.** A mental health agency shall only use restraint or seclusion to the extent permitted by and in compliance with this Chapter, and other applicable federal or state law.
- B.** A mental health agency shall only use restraint or seclusion:
 - 1. To ensure the safety of the client or another individual in an emergency safety situation;
 - 2. After other available less restrictive methods to control the client's behavior have been tried and were unsuccessful;
 - 3. Until the emergency safety situation ceases and the client's safety and the safety of others can be ensured, even if the restraint or seclusion order has not expired; and
 - 4. In a manner that:
 - a. Prevents physical injury to the client,
 - b. Minimizes the client's physical discomfort and mental distress, and
 - c. Complies with the mental health agency's policies and procedures required in subsection (E) and with this Section.
- C.** A mental health agency shall not use restraint or seclusion as a means of coercion, discipline, convenience, or retaliation.
- D.** A service provider shall at all times have staff qualified on duty to provide:
 - 1. Restraint and seclusion according to this Section, and
 - 2. The behavioral health services the mental health agency is authorized to provide.
- E.** A mental health agency shall develop and implement written policies and procedures for the use of restraint and seclusion that are consistent with this Section and other applicable federal or state law and include:
 - 1. Methods of controlling behavior that may prevent the need for restraint or seclusion,
 - 2. Appropriate techniques for placing a client in each type of restraint or seclusion; used at the mental health agency, and
 - 3. Immediate release of a client during an emergency.
- F.** A mental health agency shall develop and implement a training program on the policies and procedures in subsection (E).
- G.** A mental health agency shall only use restraint or seclusion according to:
 - 1. A written order given:
 - a. By a physician providing treatment to a client; or
 - b. If a physician providing treatment to a client is not present on the premises or on-call:
 - i. If the agency is licensed as a level 1 psychiatric acute hospital, by a physician or a nurse practitioner; or
 - ii. If the agency is licensed as a level 1 subacute agency or a level 1 RTC, by a medical practitioner.
 - 2. An oral order given to a nurse by:
 - a. A physician providing treatment to a client, or
 - b. If a physician providing treatment to a client is not present on the premises or on-call:
 - i. If the agency is licensed as a level 1 psychiatric acute hospital, by a physician or a nurse practitioner; or
 - ii. If the agency is licensed as a level 1 sub-acute agency or a level 1 RTC, by a medical practitioner.
- H.** If a restraint or seclusion is used according to subsection (G)(2), the individual giving the order shall, at the time of the oral order in consultation with the nurse, determine whether, based upon the client's current and past medical, physical and psychiatric condition, it is clinically necessary for:

1. If the agency is licensed as a level 1 psychiatric acute hospital, a physician to examine the client as soon as possible and, if applicable, the physician shall examine the client as soon as possible; or
 2. If the agency is licensed as a level 1 sub-acute agency or a level 1 RTC, a medical practitioner to examine the client as soon as possible and, if applicable, the medical practitioner shall examine the client as soon as possible.
- I.** An individual who gives an order for restraint or seclusion shall:
1. Order the least restrictive restraint or seclusion that may resolve the client's behavior that is creating the emergency safety situation, based upon consultation with a staff member at the agency;
 2. Be available to the agency for consultation, at least by telephone, throughout the period of the restraint or seclusion;
 3. Include the following information on the order:
 - a. The name of the individual ordering the restraint or seclusion,
 - b. The date and time that the restraint or seclusion was ordered,
 - c. The restraint or seclusion ordered,
 - d. The criteria for release from restraint or seclusion without an additional order, and
 - e. The maximum duration for the restraint or seclusion;
 4. If the order is for mechanical restraint or seclusion, limit the order to a period of time not to exceed three hours.
 5. If the order is for a drug used as a restraint, limit the:
 - a. Dosage to that necessary to achieve the desired effect, and
 - b. Drug ordered to a drug other than a time-released drug designed to be effective for more than three hours; and
 6. If the individual ordering the use of restraint or seclusion is not a physician providing treatment to the client:
 - a. After ordering the restraint or seclusion, consult with the physician providing treatment as soon as possible, and
 - b. Inform the physician providing treatment of the client's behavior that created the emergency safety situation and required the client to be restrained or placed in seclusion.
- J.** PRN orders shall not be used for any form of restraint or seclusion.
- K.** If an individual has not examined the client according to subsection (H), the following individual shall conduct a face-to-face assessment of a client's physical and psychological well-being within one hour after the initiation of restraint or seclusion:
1. For a behavioral health agency licensed as a level 1 psychiatric acute hospital, a physician or nurse practitioner who is either on-site or on-call at the time the mental health agency initiates the restraint or seclusion; or
 2. For a behavioral health agency licensed as a level 1 RTC or a level 1 sub-acute agency a medical practitioner or a registered nurse with at least one year of full time behavioral health work experience, who is either on-site or on-call at the time the mental health agency initiates the restraint or seclusion.
- L.** A face-to-face assessment of a client according to subsection (K) shall include a determination of:
1. The client's physical and psychological status,
 2. The client's behavior,
 3. The appropriateness of the restraint or seclusion used,
 4. Whether the emergency safety situation has passed, and
 5. Any complication resulting from the restraint or seclusion used.

- M.** For each restraint or seclusion of a client, a mental health agency shall include in the client's record the order and any renewal order for the restraint or seclusion, and shall document in the client's record:
1. The nature of the restraint or seclusion;
 2. The reason for the restraint or seclusion, including the facts and behaviors justifying it;
 3. The types of less restrictive alternatives that were attempted and the reasons for the failure of the less restrictive alternatives;
 4. The name of each individual authorizing the use of restraint or seclusion and each individual restraining or secluding a client or monitoring a client who is in restraint or seclusion;
 5. The evaluation and assessment of the need for seclusion or restraint conducted by the individual who ordered the restraint or seclusion;
 6. The determination and the reasons for the determination made according to subsection (H);
 7. The specific and measurable criteria for client release from mechanical restraint or seclusion with documentation to support that the client was notified of the release criteria and the client's response;
 8. The date and times the restraint or seclusion actually began and ended;
 9. The time and results of the face-to-face assessment required in subsection (L);
 10. For the monitoring of a client in restraint or seclusion required by subsection (P):
 - a. The time of the monitoring,
 - b. The name of the staff member who conducted the monitoring, and
 - c. The observations made by the staff member during the monitoring; and
 11. The outcome of the restraint or seclusion.
- N.** If, at any time during a seclusion or restraint, a medical practitioner or registered nurse determines that the emergency which justified the seclusion or restraint has subsided, or if the required documentation reflects that the criteria for release have been met, the client shall be released and the order terminated. The client shall be released from seclusion or restraint no later than the end of the period of time ordered for the restraint or seclusion, unless a the order for restraint or seclusion is renewed according to subsection (Q).
- O.** For any client in restraint, the individual ordering the restraint shall determine whether one-to-one supervision is clinically necessary and shall document the determination and the reasons for the determination in the client's record.
- P.** A mental health agency shall monitor a client in restraint or seclusion as follows:
1. The client shall be personally examined at least every 15 minutes for the purpose of ensuring the client's general comfort and safety and determining the client's need for food, fluid, bathing, and access to the toilet. Personal examinations shall be conducted by staff members with documented training in the appropriate use of restraint and seclusion and who are working under the supervision of a licensed physician, nurse practitioner or registered nurse.
 2. A registered nurse shall personally examine the client every hour to assess the status of the client's mental and physical condition and to ensure the client's continued well-being.
 3. If the client has any medical condition that may be adversely affected by the restraint or seclusion, the client shall be monitored every five minutes, until the medical condition resolves, if applicable.

4. If other clients have access to a client being restrained or secluded or, if the individual ordering the restraint or seclusion determines that one-to-one supervision is clinically necessary according to subsection (O), a staff member shall continuously supervise the client on a one-to-one basis.
5. If a mental health agency maintains a client in a mechanical restraint, a staff member shall loosen the mechanical restraints every 15 minutes.
6. Nutritious meals shall not be withheld from a client who is restrained or secluded, if mealtimes fall during the period of restraint. Staff shall supervise all meals provided to the client while in restraint or seclusion.
7. At least once every two hours, a client who is restrained or secluded shall be given the opportunity to use a toilet.

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

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

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

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

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

U. BHIFs and Mental Health Agencies that are authorized to use seclusion and restraint as specified in A.A.C. R9-21-101, A.A.C. R9-10-225, A.A.C. R9-10-316, and R9-10-1012 shall follow the reporting requirements as specified in the listed statutes. Each BHIF or Mental Health Agency shall submit individual reports of incidents of seclusion or restraint involving AHCCCS members, directly to the Contractor (including reports for AIHP members enrolled for behavioral health services with an ACC-RBHA) within five business days of the incident utilizing AMPM 962, Attachment A or the agency's electronic medical record that includes all elements listed on AMPM 962, Attachment A.

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

W. BHIFs and Mental Health Agencies shall report incidents of SAR that result in an injury or complication requiring medical attention to the Contractor within 24 hours, for every episode of the use of restraint or seclusion to ensure that the agency's use of seclusion or restraint is in full compliance with the rules set forth in this Article.

~~W~~X. Not later than the ~~tenth~~ fifteenth day of every month, the program director shall prepare and file with the Administration and the Office of Human Rights a written report ~~describing~~ documenting the use of any form of restraint or seclusion during the preceding month in the mental health agency or by any employees of the agency. ~~In the case of an inpatient facility, the~~ The report shall also be ~~filed with any patient or made available, by the Administration, to the Independent Oversight human rights committee Committee~~ for that facility.

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

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

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

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

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 AHCCCS Form ~~MH 211~~, ACOM 444, Attachment B "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~~, AHCCCS ACOM 444, Attachment B, set forth in Exhibit ~~B~~ A, 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~~, AHCCCS ACOM 444, Attachment D "Discrimination Prohibited," set forth in Exhibit B.
- D. All notices required ~~under this Section~~ by this rule shall be provided and posted in both English and Spanish.

Exhibit A. AHCCCS ACOM 444, Attachment B. Notice of Legal Rights for Persons ~~Persons~~ People with Serious Mental Illness

If you have a serious or chronic mental illness, you have legal rights under federal and state law. Some of these rights include:

- The right to appropriate mental health services based on your individual needs;
- The right to participate in all phases of your mental health treatment, including individual service plan (ISP) meetings;
- The right to a discharge plan upon discharge from a hospital;
- The right to consent to or refuse treatment (except in an emergency or by court order);

- The right to treatment in the least restrictive setting;
- The right to freedom from unnecessary seclusion or restraint;
- The right not to be physically, sexually, or verbally abused;
- The right to privacy (mail, visits, telephone conversations);
- The right to file an appeal or grievance when you disagree with the services you receive or your rights are violated;
- The right to choose a designated representative(s) to assist you in ISP meetings and in filing grievances;
- The right to a case manager to work with you in obtaining the services you need;
- The right to a written ISP that sets forth the services you will receive;
- The right to associate with others;
- The right to confidentiality of your psychiatric records;
- The right to obtain copies of your own psychiatric records (unless it would not be in your best interests to have them);
- The right to appeal a court-ordered involuntary commitment and to consult with an attorney and to request judicial review of court-ordered commitment every 60 days;
- The right not to be discriminated against in employment or housing.

If you would like information about your rights, you may request a copy of the “Your Rights in Arizona as an Individual with Serious Mental Illness” brochure or you may also call Administration, Office of Human Rights at 1-800-421-2124.

ADHS/BHS Form MH-211 (9/93) (2025)

Exhibit B. ~~Notice of Legal Rights for Persons with Serious Mental Illness~~ AHCCCS ACOM 444, Attachment D. Notice of Discrimination Prohibited

NOTICE

~~Discrimination Prohibited~~

Pursuant to A.R.S. § 36-506 and R9-21-101(B)

- A. Persons undergoing evaluation or treatment pursuant to this Chapter shall not be denied any civil right, including, but not limited to, the right to dispose of property, sue and be sued, enter into contractual relationships and vote. Court-ordered treatment or evaluation pursuant to this Chapter is not a determination of legal incompetency, except to the extent provided in A.R.S. § 36-512.
- B. A person who is or has been evaluated or treated in an agency for a mental disorder shall not be discriminated against in any manner, including but not limited to:
 1. Seeking employment.
 2. Resuming or continuing professional practice or previous occupation.
 3. Obtaining or retaining housing.
 4. Obtaining or retaining licenses or permits, including but not limited to, motor vehicle licenses, motor vehicle operator’s and chauffeur’s licenses and professional or occupational licenses.
- C. “Discrimination” for purposes of this Section means any denial of civil rights on the grounds of hospitalization or outpatient care and treatment unrelated to a person’s present capacity to meet the standards applicable to all persons. Applications for positions, licenses and housing shall contain no requests for information which encourage such discrimination.
- D. Upon discharge from any treatment or evaluation agency, the patient shall be given written notice of the provisions of this Section.

AVISO

Discriminacion Prohibida

Conforme a A.R.S. § 36-506 y R9-21-101(B)

- A.** A las personas que estan bajo evaluacion o tratamiento conforme a este capitulo, no se les negara ningun derecho civil, incluyendo pero no limitado a, el derecho a disponer de propiedad, a demandar y ser demandado, a tomar parte en relaciones contractuales y a votar. El tratamiento o evaluacion ordenado por la corte conforme a este capitulo no es una determinacion de incompetencia legal, excepto hasta el punto proveido en la seccion 36-512.
- B.** No se haran discriminaciones de ninguna clase, en contra de una persona que ha sido o esta siendo evaluada o tratada en una agencia debido a un desorden mental, incluyendo pero no limitado a:
1. Busear trabajo.
 2. Reasumir o continuar una practica profesional u ocupacion previa.
 3. Obtener o retener vivienda.
 4. Obtener o retener licencias o permisos, incluyendo pero no limitado a, licencias para vehiculo de motor, licencias de operador de vehiculo de motor y de chofer, y licencias ocupacionales o profesionales.
- C.** "Discriminacion" para propositos de esta seccion quiere decir cualquier denegacion de derechos civiles por motivos de hospitalizacion o tratamiento externo no relacionado a la capacidad actual de la persona para cumplir con las normas aplicables a toda persona. Las solicitudes para posiciones, licencias y vivienda no contendran peticion de informacion que pueda fomentar tal discriminacion.
- D.** Al ser dado de alta de cualquier agencia de tratamiento o evaluacion, se dara al paciente notificacion por escrito sobre las provisiones de esta seccion.

**ARTICLE 4. APPEALS, GRIEVANCES, AND REQUESTS FOR INVESTIGATION FOR PERSONS PEOPLE 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 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 XIX services shall continue while the appeal is pending~~ behavioral health service according to this Section, the client's service 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, Independent Oversight Committees, State Protection and Advocacy System, and other peer support and advocacy services;
 5. What action the mental health agency or 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 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 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 health plan shall accept a late appeal for good cause. If the health plan refuses to accept a late appeal or determines that the issue is not appealable under subsection (C) of this ~~article~~ Article, 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, 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 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 health plan.

1. Within seven days of receipt of the notice of appeal, the health plan shall hold an informal conference with the client, any designated representative or guardian or both, the case manager and representatives of the clinical team, and a representative of the service provider, if appropriate.

- a. The 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 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 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 ~~Section~~ rule.
 4. If the informal conference with the 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 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 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 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 Independent Oversight Committee in the Office of Human Rights.
 6. If, at the informal conference, a client or, if applicable, the client's guardian requests that the health plan file a request for an administrative hearing according to A.R.S. § 41-1092.03 on behalf of the client, the 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 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 health plan according to subsection (E)(4), the 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 health plan, the Administration shall hold an informal conference with the client, any designated representative 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 ~~Section~~ 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 need ~~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 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.~~ 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 Independent Oversight Committee in the Office of Human Rights for all 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 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 state fair 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 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 arguments.

7. The client and any designated representative or guardian shall have the right to examine and copy at a reasonable time prior to the hearing all records held by the Administration, 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 health plan shall inform the client in writing that the appeal has been received.
4. The health plan shall accept an expedited appeal on issues related to crisis or emergency services. The 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 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 health plan accepts the appeal for expedited consideration, the health plan shall hold the informal conference according to R9-21-401(E) within two days of the initiation of the appeal. The 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 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 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 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 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.

8. If, at the informal conference, a client or, if applicable, the client's guardian requests that the 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 health plan, the 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 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.
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 health plan shall implement the final decision and shall notify the client, any designated representative or guardian, and Administration of such action.

K. Appeal log.

1. The Administration and 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.

R9-21-403. 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 health plan,
 3. An inpatient facility, or
 4. The Administration.
- D.** A service provider or 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. Allegations 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 the health plan. 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 health plan; 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. If 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 the health plan. 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 health plan; 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 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 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 to 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 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 Independent Oversight Committee with jurisdiction over the agency.

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 an 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 Independent Oversight Committee for all clients, including clients who are in need of special assistance.

R9-21-408. Further Appeal to ~~Administrative~~ State Fair 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 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 re-hearing 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 ~~this Article.~~ 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, health plan and service provider upon request by any person at any time.
- B. Notice and oversight by the Office of Human Rights and 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 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 or the appropriate Independent Oversight Committee shall assist a client in filing a grievance or request, if necessary. The Office or committee shall use its best efforts to see that such a 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 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 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.~~ file a grievance.
 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~~ AzSH, 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 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 an official. The agency director, investigator, or any other official with authority to act on a grievance or request for investigation shall ~~disqualify himself~~ request to be disqualified from acting, if such official cannot act on the matter impartially and objectively, in fact or in appearance. ~~In the event of such~~ To request disqualification, the official shall forthwith prepare and forward a written, dated memorandum explaining the reasons for the ~~decision~~ request for disqualification to the Administration, as appropriate, ~~who~~ which shall, within 10 days of receipt of the memorandum make a determination ~~upon~~ as to the appropriateness of the disqualification ~~and notify~~. If disqualification is approved by the Administration, it shall take such steps as are necessary to ensure that the grievance is resolved 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 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 ~~Section~~ rule is appealable as provided in R9-21-408.
 4. Nothing in this Article shall prevent the Administration from conducting an investigation independent of ~~this Chapter~~ 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 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 health plan; or
2. If a county has not contracted with a health plan for pre-petition prepetition screening and petitioning for court-ordered evaluation, the county.

Exhibit A. Application for Involuntary Evaluation

APPLICATION FOR INVOLUNTARY EVALUATION

(Pursuant to A.R.S. § 36-520)

STATE OF ARIZONA)
)
COUNTY OF)

To the _____
(Regional or Screening Authority)

- 1. The undersigned applicant requests that the above agency conduct a pre-petition screening of the person named herein.
2. The undersigned applicant alleges that there is now in the County a person whose name and address are:

(Name) (Address)

and that s/he the applicant 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;
__ gravely disabled; __ persistently or acutely disabled

and is:

unwilling Unwilling to undergo voluntary evaluation, as evidenced by the following facts:

unable Unable to undergo voluntary evaluation, as demonstrated by the following facts:

and who Who is believed to be in need of supervision, care, and treatment because of the following facts:

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

4. The conclusion that the person is dangerous or disabled is based on the following facts: _____

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 _____, 1920 _____

Notary Public
My Commission Expires: _____

~~ADHS/BHS~~ Form MH-100 (9/93) (2025)

Exhibit A: Addendum No. 1 (optional)

- Does the person have a previous mental health diagnosis, when/by whom? _____
- How long have/what is the time frame that the behaviors have been occurring? _____
- Did anything lead up to the behaviors? _____

- Is there a documented history of mental health issues?
- Are these behaviors new or are they ongoing?
- Has the individual been prescribed medications for mental health treatment?
- Are they taking medications currently?
- Are they case managed/getting general mental health services from a clinic?
- How many times has this person been in crisis in the past (defined) days?
- How many times has the person refused voluntary treatment?
- Does the individual have a history of treatment non-adherence or refusal of evaluation and or treatment?

Form MH-100, Addendum No. 1 (2025)

Exhibit B. Petition for Court-ordered Evaluation

**PETITION FOR COURT-ORDERED EVALUATION
(Pursuant to A.R.S. § 36-523)**

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF _____**

In the Matter of)
) **MH**
) _____
) ~~(PETITION FOR COURT-ORDERED-~~
) ~~EVALUATION)-~~
) ~~(Pursuant to A.R.S. § 36-523)~~
)

re: ~~(Mental Health Services)~~

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

Petitioner, _____
 (Medical Director)

being first duly sworn/affirmed, alleges that:

1. There is now in this County a person whose name and address are as follows:

(Name)

(Address)

2. The person may presently be found at: _____

3. There is reasonable cause to believe that the person has a mental disorder and is as a result:

- A danger to self;
- A danger to others;
- Gravely disabled;
- Persistently or acutely disabled and

4. The person is unwilling to undergo voluntary evaluation, as evidenced by the following facts: _____

5. The person is unable to undergo voluntary evaluation, as demonstrated by the following reasons: _____

6. The person is believed to be in need of supervision, care, and treatment because of the following facts: _____

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

8. The conclusion that the person is dangerous or disabled is based on the following facts: _____

9. The conclusion that all available alternatives have been investigated and deemed inappropriate is based on the following facts: _____

10. Applicant information: _____

Name of Applicant: _____

Address of Applicant: _____ Relationship to or Interest in the Proposed Patient: _____

11. In the opinion of the Petitioner, the person is _____ is not _____ in such a condition that, without immediate or continuing hospitalization, s/he is likely to suffer serious physical harm or inflict serious physical harm upon another person.

12. In the opinion of the Petitioner, evaluation should _____ should not _____ take place on an outpatient basis, based upon the following reasons: _____

PETITIONER REQUESTS THAT THE COURT:

Issue an Order requiring the person to be given an _____ Inpatient _____ Outpatient evaluation.

DATE _____ Signature Of Petitioner _____

Printed or Typed Name

SUBSCRIBED AND SWORN to before me this _____ day of _____, 1920.

Notary Public

My Commission Expires: _____

~~ADHS/BHS~~ Form MH-105 (~~993~~) (2025)

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 Administration to provide such services on ~~AHCCCS form~~ Form MH-104, Titled “Application for Emergency Admission for Evaluation,” set forth in Exhibit C.
- B. Prior to admission of an individual under this ~~Section~~ rule, the evaluation agency shall notify the appropriate health plan of the potential admission so that ~~the~~ they health plan may first:
 - 1. Offer and 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 health plan shall not be obligated to pay for the services provided.
- D. Only a mental health agency licensed by the 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; Gravely disabled; Persistently or acutely 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 upon 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 _____, 1920.

Notary Public

My Commission Expires:

Exhibit C: Addendum No. 1 (optional)

- Does the person have a previous mental health diagnosis, when/by whom?

- How long have/what is the time frame that the behaviors have been occurring?

- Did anything lead up to the behaviors?

- Is there a documented history of mental health issues?

- Are these behaviors new or are they ongoing?

- Has the individual been prescribed medications for mental health treatment?

- Are they taking medications currently?

- Are they case managed/getting general mental health services from a clinic?

- How many times has this person been in crisis in the past (defined) days?

- How many times has the person refused voluntary treatment?

- Does the individual have a history of treatment non-adherence or refusal of evaluation and or treatment?

Form MH-104, Addendum No. 1 (2025)

R9-21-503. Voluntary Admission for Evaluation

- A. An application for voluntary evaluation pursuant to A.R.S. § 36-522 shall be submitted on AHCCCS form MH-103, Titled “Application for Voluntary Evaluation,” set forth in Exhibit D to a mental health agency.
- B. If a health plan receives an application according to subsection (A), the 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 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 health plan for voluntary evaluations, the appropriate 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~~ in 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.

Exhibit D. Application for Voluntary Evaluation

APPLICATION FOR VOLUNTARY EVALUATION

(Pursuant to A.R.S. § 36-522)

The undersigned hereby requests a mental health evaluation to be performed by psychiatrists, psychologists, and social workers at

_____ (Regional Authority)

on the following terms:

INPATIENT. I agree to remain as an inpatient in the above agency for a period of not more than 72 hours. I understand that, at the end of that period, the agency must release me or file a Petition for Court-Ordered Treatment, in which case I may be held until the court holds a hearing, which shall be no longer than six days from the date of filing the petition, excluding weekends and holidays. If such a Petition is filed, I will have the right to representation by a lawyer, and the court will appoint one for me if I cannot afford one.

OUTPATIENT. I agree to keep all scheduled appointments required for a complete evaluation, to the best of my ability. I understand that if I fail to appear, a Petition for Court-Ordered Evaluation or Treatment may be filed, in which case I may be detained and required to undergo involuntary evaluation and treatment. If such a Petition is filed, I will have the right to representation by a lawyer, and the court will appoint one for me if I cannot afford one.

_____ I understand that the physician-patient privilege does not apply, and information I give during this evaluation may be used in court in a civil hearing for court-ordered treatment.

_____ I understand that this evaluation may lead to a court hearing to determine if I need further treatment and that such treatment, or an investigation into the need for a guardianship, may be ordered by a court.

_____ I understand that an application for my examination has been filed and I choose to be evaluated voluntarily rather than by court order.

_____ I understand that my evaluation must take place within five days of my application.

_____ I understand that I have a right to require the person who has applied for my evaluation to present evidence of the need for such evaluation to a court of law for approval or disapproval and I waive my right to require prior court review of the application.

_____ I understand that I have a right, upon written request, to be discharged within 24 hours of that request (excluding weekends and holidays) unless the medical director of the evaluation agency files a petition for court-ordered evaluation.

Presented By _____ Signature of Applicant _____

_____ Printed or Typed Name of Applicant

_____ Date

ADHS/BHS Form MH-103 ~~(9/93)~~ (2025)

A. Psychiatric Examination _____

B. Mental Status:

Emotional Process: _____

Thought: _____

Cognition: _____

Memory: _____

5. The conclusion that the person is dangerous or disabled is based on the following: _____

6. The conclusion that all available alternatives have been investigated and deemed inappropriate is based on the following:

Physician's Signature

SUBSCRIBED AND SWORN to before me this _____ day of _____, 1920.

Notary Public

My Commission Expires: _____

~~ADHS/BHS~~ Form MH-112 (9/93) (2025)

PERSISTENTLY OR ACUTELY DISABLED (EXHIBIT E, ADDENDUM NO. 1)

RE: _____

IF PERSISTENTLY OR ACUTELY DISABLED:

1. Does the person have a severe mental disorder that, if not treated, has a substantial probability of causing the person to suffer or continue to suffer severe and abnormal mental, emotional, or physical harm that significantly impairs judgment, reason, behavior, or capacity to recognize reality?

Yes _____ No _____

If yes, provide the facts that support this conclusion: _____

2. Does the severe mental disorder substantially impair the person's capacity to make an informed decision regarding treatment?

Yes _____ No _____

If yes, provide the facts that support this conclusion: _____

2a. Does this impairment cause the person to be incapable of understanding and expressing an understanding of the advantages and disadvantages of accepting treatment, and understanding and expressing an understanding of the alternatives to the particular treatment offered?

Yes _____ No _____

If yes, provide the facts that support this conclusion: _____

2b. Were the advantages and disadvantages of accepting treatment explained to the person?

Yes _____ No _____

2c. Were the alternatives to treatment and the advantages and disadvantages of such alternatives explained to the person?

Yes _____ No _____

2d. Explain the specific reasons why the person is incapable of understanding and expressing an understanding of the explanations described in 2a, 2b, and 2c: _____

3. Is there a reasonable prospect that the severe mental disorder is treatable by outpatient, inpatient, or combined inpatient and outpatient treatment?

Yes _____ No _____

If yes, please provide the facts that support this conclusion: _____

re: Mental Health Services) PETITION FOR COURT-ORDERED TREATMENT
) (Pursuant to A.R.S. § 36-533)
) ~~Danger to Self/Others or Persistently or Acutely Disabled or~~
) ~~Gravely Disabled~~

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

Petitioner _____, being first duly sworn/affirmed, alleges
(Medical Director)

that:

1. _____ is, as a result of a mental disorder:
O a danger to self; O a danger to others;
O persistently or acutely disabled,
O gravely disabled and in need of treatment
2. The court-ordered treatment alternatives that are appropriate and available are:
O outpatient treatment [A.R.S. § 36-540(A)(1)] _____
O combined inpatient and outpatient treatment [A.R.S. § 36-540(A)(2)] _____
O inpatient treatment [A.R.S. § 36-540(A)(3)] at _____
3. The person is unwilling or is unable to accept treatment voluntarily.
4. A summary of the facts supporting the above allegations is in the attached reports of examining physicians.
5. The person is residing or present in this county, or is admitted to an institution pursuant to an order of a court of competent jurisdiction sitting in this county, or who was committed by an Arizona tribal court, which order of commitment was duly domesticated pursuant to A.R.S. § 12-1702 et seq.
6. The person is entitled to notice of hearing of the petition and may be found at _____
(location)
7. Petitioner believes the person requires a:
_____ Title 14 guardian; _____ Conservator; _____ Title 36 guardian
and requests the Court to order an investigation and report to be made to the Court regarding this need.
Said need exists because: _____

8. Petitioner believes the proposed person needs the immediate services of a temporary ___ guardian ___ conservator and requests that the Court appoint the same because: _____

9. Petitioner believes that _____ address: _____, is the person's guardian/conservator, who should receive notice of any hearing.
10. A copy of this Petition has been mailed to the Public Fiduciary of _____ County and (other guardian, if any) _____

PETITIONER requests that the Court:

1. Set a date for a hearing; and
2. After notice and hearing find that the person is suffering from a mental disorder the result of which renders him/her dangerous to self or others, persistently or acutely disabled, or gravely disabled and order a period of treatment, all as set forth in paragraphs (1) and (2) above.
3. Check if applicable;
 - Order an independent investigation and report to the Court regarding the need for a Title 14 guardian or conservator or Title 36 guardian.
 - Appoint the following-named person as temporary guardian or conservator of the person, who Petitioner believes to be a fit and proper person to serve in that capacity:

 (Proposed Temporary Guardian/Conservator) (Relation to Patient)

 (Address of Proposed Temporary Guardian/Conservator)

- Impose the duties of a Title 36 guardian upon the person’s A.R.S. Title 14 guardian who is _____

 DATE Signature of Petitioner Medical Director

SUBSCRIBED AND SWORN to before me this _____ day of _____, 1920.

 NOTARY PUBLIC OR DEPUTY CLERK OF THE SUPERIOR COURT

My Commission Expires: _____

Form MH-112 (2025)

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

- A. For the purpose of this Section, “non-client” means an individual who may have a qualifying serious mental illness diagnosis but is not currently being evaluated or treated for a mental disorder by or through a health plan; or does not have a formal serious mental illness designation.
- 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 a 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 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 AHCCCS form MH-128 in Exhibit H.

Exhibit G. DEMAND FOR NOTICE BY RELATIVE OR VICTIM

DEMAND FOR NOTICE BY RELATIVE OR VICTIM

(Pursuant to A.R.S. § 36-541.01)

REGARDING: _____

(Full Name of Patient)

Pursuant to A.R.S. § 36-541.01, with respect to the above-named patient, a person who was ordered to undergo treatment for a mental disorder as a danger to others pursuant to A.R.S. § 36-540 by a court order of the Superior Court of _____ County, Case Number _____, or who was committed by an Arizona tribal court, which order of commitment was duly domesticated pursuant to A.R.S. §§ 12-1702 et seq., the undersigned _____ relative _____ victim does hereby demand that the medical director of _____, the mental health treatment agency providing court-ordered treatment for said person, provide the undersigned with written notice of intention to release or discharge said person prior to the expiration of the period for treatment ordered by the Court, as provided for in A.R.S. § 36-541.01(D). The undersigned person demanding

notice hereby agrees to advise the treatment agency in writing, by certified mail, return receipt requested, of any change in the address to which notice is to be mailed.

Signature of Applicant

Printed or Typed Name of Applicant

Date

Address to Mail Notice

Telephone Number of Applicant

ADHS/BHS Form MH-127 ~~(9/93)~~ (2025)

Exhibit H. Petition for Notice

PETITION FOR NOTICE

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA IN AND FOR THE COUNTY OF _____

In the matter of)
) MH
) PETITION FOR NOTICE
) (Pursuant to A.R.S. § 36-541.01)
re: Mental Health Services)
_____)

REGARDING: _____
(Full Name of Patient)

Pursuant to A.R.S. § 36-541.01, with respect to the above-named patient, a person who was ordered to undergo treatment for a mental disorder as a danger to others pursuant to A.R.S. § 36-540 by a court order of the Superior Court of _____ County, Case Number _____, the undersigned, a person other than a relative or victim of the person hereby asserting a legitimate reason for receiving such notice, does hereby petition the Court to require that the medical director of _____, the mental health treatment agency providing court-ordered treatment for said person, provide the undersigned with written notice of intention to release or discharge said person prior to the expiration of the period for treatment ordered by the Court, as provided for in A.R.S. § 36-541.01, and does hereby provide the following information required by A.R.S. § 36-541.01(D):

Legitimate reason for receiving notice: _____

The undersigned person demanding notice hereby agrees to advise the treatment agency in writing, by certified mail, return receipt requested, of any change in the address to which notice is to be mailed.

Signature of Person Petitioning

Printed or Typed Name of Petitioner

Date

Address to Send Notice

Telephone Number of Applicant

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF _____

In the Matter of _____)

_____) ~~MH-~~

_____) ~~ORDER FOR NOTICE-~~

_____)

re: Mental Health Services _____)

1. ~~The Court having received a demand by _____, a relative or victim of _____, a patient ordered by the Court to undergo treatment for a mental disorder as a danger to others, for written notice from the medical director of _____, the mental health treatment agency providing court ordered treatment for said patient, of intention to release or discharge said patient prior to the expiration of the period ordered by the Court, as provided for in A.R.S. § 36-541.01, which demand included all information required by A.R.S. § 36-541.01(D);~~

2. ~~The Court having received a petition by _____, a person other than a relative or victim of _____, a patient ordered by this Court to undergo treatment for a mental disorder as a danger to others, asserting that the petitioner has a legitimate reason for receiving such notice and petitioning the Court to require that the medical director of _____, the mental health treatment agency providing court ordered treatment for said patient, provide the petitioner with written notice of intention to release or discharge said patient prior to the expiration of the period for treatment ordered by the Court, as provided for in A.R.S. § 36-541.01, which petition included all information required by A.R.S. § 36-541.01(D); and the Court, after considering said petition, having found that the petitioner has a legitimate reason for receiving prior notice.~~

~~THEREFORE IT IS ORDERED that the medical director of _____, a mental health treatment agency, shall not release or discharge the above named patient from court ordered inpatient treatment without first giving written notice of the intention to do so, in accordance with A.R.S. § 36-541.01(F), to:~~

~~_____ The above named relative of the patient~~

~~_____ The above named victim of the patient~~

~~_____ The above named petitioner found by the Court to have a legitimate reason for receiving prior notice.~~

~~IT IS FURTHER ORDERED that a copy of this Order for Notice shall be delivered to the above named mental health treatment agency and shall be filed with the patient's clinical record, and if the patient is transferred to another agency or institution, any orders for notice shall be transferred with the patient.~~

~~DATED this _____ day of _____, 1920 _____~~

~~SUPERIOR COURT JUDGE/COMMISSIONER~~

~~ADHS/BHS Form MH-128 (9/93) (2025)~~

Exhibit I. Order for Notice

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF**

In the Matter of _____)
_____) MH
_____) ORDER FOR NOTICE
_____)
re: Mental Health Services _____)

1. The Court having received a demand by _____, a relative or victim of _____, a patient ordered by the Court to undergo treatment for a mental disorder as a danger to others, for written notice from the medical director of _____, the mental health treatment agency providing court-ordered treatment for said patient, of intention to release or discharge said patient prior to the expiration of the period ordered by the Court, as provided for in A.R.S. § 36-541.01, which demand included all information required by A.R.S. § 36-541.01(D);

2. The Court having received a petition by _____, a person other than a relative or victim of _____, a patient ordered by this Court to undergo treatment for a mental disorder as a danger to others, asserting that the petitioner has a legitimate reason for receiving such notice and petitioning the Court to require that the medical director of _____, the mental health treatment agency providing court-ordered treatment for said patient, provide the petitioner with written notice of intention to release or discharge said patient prior to the expiration of the period for treatment ordered by the Court, as provided for in A.R.S. § 36-541.01, which petition included all information required by A.R.S. § 36-541.01(D); and the Court, after considering said petition, having found that the petitioner has a legitimate reason for receiving prior notice.

THEREFORE IT IS ORDERED that the medical director of _____, a mental health treatment agency, shall not release or discharge the above-named patient from court-ordered inpatient treatment without first giving written notice of the intention to do so, in accordance with A.R.S. § 36-541.01(F), to:

- _____ The above-named relative of the patient
- _____ The above-named victim of the patient
- _____ The above-named petitioner found by the Court to have a legitimate reason for receiving prior notice.

IT IS FURTHER ORDERED that a copy of this Order for Notice shall be delivered to the above-named mental health treatment agency and shall be filed with the patient’s clinical record, and if the patient is transferred to another agency or institution, any orders for notice shall be transferred with the patient.

DATED this _____ day of _____, 1920 _____

SUPERIOR COURT JUDGE/COMMISSIONER

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 ~~AHCCCS form~~ Form MH-210, Titled “Application for Voluntary Treatment,” in Exhibit ~~I~~ J, 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 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 health plan for treatment as provided under this ~~Section 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 ~~Section rule~~, the agency shall notify the appropriate health plan of the potential admission and treatment so that the 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 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 health plan shall prepare one in accordance with Article 3 of this Chapter. If the client already has an ISP, the 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.

Exhibit J. Application for Voluntary Treatment

APPLICATION FOR VOLUNTARY TREATMENT
(Pursuant to A.R.S. § 36-518)

I, _____, hereby
(Person's Name)

request that the _____ place me in a program or agency for mental health treatment.
(Mental Health Agency)

I understand that my capacity to give informed consent to treatment will be determined before I am allowed to voluntarily consent to treatment. My informed consent to treatment will be given on a separate form. Further, I am aware that I am entitled to:

1. Withdraw or modify my consent to treatment at any time.
2. Receive a booklet explaining my rights under Arizona law and assistance from a human rights advocate if I desire.
3. A fair explanation of the treatment I am to receive and the purposes of that treatment.
4. A description of any material and substantial risk reasonably to be expected as a result of the treatment.
5. An answer to my inquiries concerning treatment.
6. Revoke my consent to treatment at any time.
7. Discharge within 24 hours of my written request (excluding weekends and holidays) unless the medical director of the treatment agency files a petition for court-ordered treatment.

Person's Signature

Date

~~ADHS/BHS~~ Form MH-210 (~~9/93~~) (2025)

Exhibit I. Renumbered

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

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

Exhibit J. ~~Repealed~~ Renumbered