

ARTICLE 2. RIGHTS OF PERSONS WITH SERIOUS MENTAL ILLNESS

R9-21-201. Civil and Other Legal Rights

- A. Clients shall have all rights accorded by applicable law, including but not limited to those prescribed in 36-514 and in 9 A.A.C. 20. Any individual or agency providing behavioral health services or commu R9-21-101 shall not abridge these rights, including the following:
1. Those civil rights set forth in A.R.S. § 36-506;
 2. The right to acquire and dispose of property, to execute instruments, to enter into contractual relations occupational or vehicle operator's licenses, unless the Client has been adjudicated incompetent or the or finding that such client is unable to exercise the specific right or category of rights. In the c incompetent, these rights may be exercised by the client's guardian, in accordance with applicable law
 3. The right to be free from unlawful discrimination by the Department or by any mental health agency religion, sex, sexual preference, age, physical or mental handicap or degree of handicap; provided, ho on age, sex, category or degree of handicap shall not be considered discriminatory, if based on writte developed by a mental health agency and approved by the Department as necessary to the safe ope agency and in the best interests of the clients involved;
 4. The right to equal access to all existing behavioral health services, community services, and generic serv the state of Arizona;
 5. The right to religious freedom and practice, without compulsion and according to the preference of the c
 6. The right to vote, unless under guardianship, including reasonable assistance when desired in registering and noncoercive manner;
 7. The right to communicate including:
 - a. The right to have reasonable access to a telephone and reasonable opportunities to make and rece have assistance when desired and necessary to implement this right;
 - b. The unrestricted right to send and receive uncensored and unopened mail, to be provided with reasonable amounts, and to assistance when desired and necessary to implement this right;
 8. The right to be visited and visit with others, provided that reasonable restrictions may be placed on the but only to protect the privacy of other clients or to avoid serious disruptions in the normal funct agency;
 9. The right to associate with anyone of the client's choosing, to form associations, and to discuss as a gr for the program, matters of general interest to the client, provided that these do not result in seriou functioning of the mental health agency. Clients shall receive cooperation from the mental healt publicize and hold meetings and clients shall be entitled to invite visitors to attend and participate in s they do not result in serious disruptions in the normal functioning of the mental health agency;
 10. The right to privacy, including the right not to be fingerprinted and photographed without authoriza A.R.S. § 36-507(2);
 11. The right to be informed, in appropriate language and terms, of client rights;
 12. The right to assert grievances with respect to infringement of these rights, including the right to have su

a fair, timely, and impartial procedure, as set forth in Article 4 of these rules, and the right not to be in grievance;

13. The right of access to a human rights advocate in order to understand, exercise, and protect a client's rights;
14. The right to be assisted by an attorney or designated representative of the client's own choice, including a private area at the program or facility with an attorney or designated representative. Nothing in this rule requires the Department or any mental health agency to pay for the services of an attorney who consults with the client;
15. The right to exercise all other rights, entitlements, privileges, immunities provided by law, and the rights of consumers of behavioral health services or community services set forth in A.R.S. §§ 36-504 through 36-509;
16. The same civil rights as all other citizens of Arizona, including the right to marry and to obtain a divorce, to live in the community of their choice without constraints upon their independence, except those constraints that are subject to the rules of this Article.

B. Nothing in this Article shall be interpreted to:

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

Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6 pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Chapter 6 pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Chapter 6 pursuant to Laws 2003, Ch. 3296, effective June 30, 2003 (Supp. 03-2).

R9-21-202. Right to Support and Treatment

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

1. The right to behavioral health services or community services:
 - a. Under conditions that support the client's personal liberty and restrict personal liberty only as provided in this Article;
 - b. From a flexible service system that responds to the client's needs by increasing, decreasing and changing services;
 - c. Provided in a way that:
 - i. Preserves the client's human dignity;
 - ii. Respects the client's individuality, abilities, needs, and aspirations without regard to the client's diagnosis;
 - iii. Encourages the client's self-determination, freedom of choice, and participation in treatment decisions;
 - iv. Ensures the client's freedom from the discomfort, distress and deprivation that arise from an institutional environment;
 - v. Protects and promotes the client's privacy, including an opportunity whenever possible to live in a private living, sleeping and personal care spaces; and
 - vi. Maximizes integration of the client into the client's community through housing and residential services located in residential neighborhoods, rely as much as possible on generic support services and assistance in ordinary community experiences, and utilize specialized mental health programs near generic community services;
 - vii. Offers the client humane and adequate support and treatment that is responsive to the client's needs, which may vary, and is capable of adjusting to the client's changing needs; and
 - d. That provide the client with an opportunity to:
 - i. Receive services that are adequate, appropriate, consistent with the client's individual needs, and respect the client's freedom;
 - ii. Receive treatment and services that are culturally sensitive in structure, process and content;
 - iii. Receive services on a voluntary basis to the maximum extent possible and entirely if possible;
 - iv. Live in the client's own home;
 - v. Undergo normal experiences, even though the experiences may entail an element of risk,

well-being or that of others is unreasonably jeopardized; and

- vi. Engage in activities and styles of living, consistent with the client's interests, which encourage the integration of the client into the community.
2. The right to ongoing participation in the planning of services as well as participation in the development of an individual service plan;
 3. The right to be provided with a reasonable explanation of all aspects of one's condition and treatment;
 4. The right to give informed consent to all behavioral health services and the right to refuse behavioral health services with A.R.S. §§ 36-512 and 36-513, except as provided for in A.R.S. §§ 36-520 through 36-544 and 13-1001;
 5. The right not to participate in experimental treatment without voluntary, written informed consent and the protection associated with such participation; and the right and opportunity to revoke such consent;
 6. The right to a humane treatment environment that affords protection from harm, appropriate privacy, and freedom from physical abuse;
 7. The right to enjoy basic goods and services without threat of denial or delay. For residential service provision, services include at least the following:
 - a. A nutritionally sound diet of wholesome and tasteful food available at appropriate times and in an appropriate setting;
 - b. Arrangements for or provision of an adequate allowance of neat, clean, appropriate, and safe clothing, including individually chosen and owned;
 - c. Assistance in securing prompt and adequate medical care, including family planning services, family planning facilities;
 - d. Opportunities for social contact in the client's home, work or schooling environments;
 - e. Opportunities for daily activities, recreation and physical exercise;
 - f. The opportunity to keep and use personal possessions; and
 - g. Access to individual storage space for personal possessions;
 8. The right to be informed, in advance, of charges for services;
 9. The right to a continuum of care in a unified and cohesive system of community services that is well coordinated, movement of clients among programs, and ensures continuity of care;
 10. The right to a continuum of care that consists of, but is not limited to, clinical case management, outreach services, crisis intervention and resolution services, mobile crisis teams, vocational training and other rehabilitation services, peer support, social support, recreation services, advocacy, family support services, and treatment, transportation, and medication evaluation and maintenance;
 11. The right to a continuum of care with programs that offer different levels of intensity of services in accordance with the needs of each client;
 12. The right to appropriate mental health treatment, based on each client's individual and unique needs, and to receive services from which the client would reasonably benefit;
 13. The right to community services provided in the most normal and least restrictive setting, according to the needs appropriate to the client's needs;
 14. The right to clinical case management services and a case manager. The clinical team negotiates an individualized plan of services and ensures the client's smooth transition with service providers and among agencies;
 15. The right to participate in treatment decisions and in the development and implementation of the client's individual service plan; to participate in choosing the type and location of services, consistent with the ISP;
 16. The right to prompt consideration of discharge from an inpatient facility and the identification of the client's discharge as part of an ISP;
 17. The rights prescribed in Articles 3 and 4 of this Chapter, including the right to:
 - a. A written individual service plan;
 - b. Assert grievances; and
 - c. Be represented by a qualified advocate or other designated representative of the client's choosing in the development of the inpatient treatment and discharge plan and in the grievance process, in order to understand and exercise the client's rights.
- B. Subsection (A) shall not be construed to confer constitutional or statutory rights not already present.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6 pursuant to Laws 1992, Ch. 301, § 61, effective

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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 includes any intentional, reckless or negligent action or omission which exposes a client to a serious risk of 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 prevent 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 I
 9. Commercial exploitation.
- B. The following special sanctions shall be available to the Department, in addition to those set forth in 9 A.A.C. 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 revocation of the license of the mental health agency or the provision of Departmental financial assistance to employees of the Department, grounds for disciplinary action, which may include dismissal.
 2. Failure of an employee of the Department to report to the Department any instance of mistreatment with respect to this Chapter shall be grounds for disciplinary action, which may include dismissal.
 3. Failure of an agency director to report client deaths and allegations of sexual and physical abuse to the Department with the procedures described in Article 4 of this Chapter for the processing and investigation of grievances shall be grounds for suspension of the license of the mental health agency or the provision of Departmental financial assistance to a service provider directly operated by the Department, grounds for disciplinary action, which may include dismissal.
 4. The agency director shall report all allegations of mistreatment and denial of rights to the Office of Human Rights for review and monitoring in accordance with R9-21-105.
- C. An agency director shall report all incidents of abuse, neglect, or exploitation to the appropriate authority in accordance with 46-454 and shall document all such reports in the mental health agency's records.
- D. Where an agency director has reasonable cause to believe that a felony relevant to the functioning of the program is being 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 to the Department, except as necessary to investigate the subject matter of the report.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6 pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1992 received in the Office of the Secretary of State October 14, 1992 (Supp. 92-4). Amended under an exempt rule 3296, effective June 30, 2003 (Supp. 03-2). Amended under an exempt rule 3296, effective June 30, 2003 (Supp. 03-2). Amended at 9 A.A.R. 3296, effective June 30, 2003 (Supp. 03-2).

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 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; 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 wi
- C. A mental health agency shall not use restraint or seclusion as a means of coercion, discipline, convenience, o
- D. A service provider shall at all times have staff qualified according to 9 A.A.C. 20 on duty to provide:
 - 1. Restraint and seclusion according to this Section, and
 - 2. The behavioral health services the mental health agency is authorized to provide according to 9 A.A.C. 2
- E. A mental health agency shall develop and implement written policies and procedures for the use of resti
 - 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 heal
 - 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 sub
- G. A mental health agency shall only use restraint or seclusion according to:
 - 1. A written order given:
 - a. By a physician providing treatment to a client; or
 - b. If a physician providing treatment to a client is not present on the premises or on-call:
 - i. If the agency is licensed as a level 1 psychiatric acute hospital according to R9-20-102, practitioner; or
 - ii. If the agency is licensed as a level 1 subacute agency or a level 1 RTC according to R9-20-102
 - 2. An oral order given to a nurse by:
 - a. A physician providing treatment to a client, or
 - b. If a physician providing treatment to a client is not present on the premises or on-call:
 - i. If the agency is licensed as a level 1 psychiatric acute hospital according to R9-20-102, practitioner; or
 - ii. If the agency is licensed as a level 1 sub-acute agency or a level 1 RTC according to R9-20-10
- H. If a restraint or seclusion is used according to subsection (G)(2), the individual giving the order shall, at t
 - 1. Consultation with the nurse, determine whether, based upon the client's current and past medical, physical is clinically necessary for:
 - 1. If the agency is licensed as a level 1 psychiatric acute hospital according to R9-20-102, a physician to e: possible and, if applicable, the physician shall examine the client as soon as possible; or
 - 2. If the agency is licensed as a level 1 sub-acute agency or a level 1 RTC according to R9-20-102, a med the client as soon as possible and, if applicable, the medical practitioner shall examine the client as so
- 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 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 o
 - 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
 - 5. If the order is for a drug used as a restraint, limit the:
 - a. The dosage to that necessary to achieve the desired effect, and
 - b. Drug ordered to a drug other than a time-released drug designed to be effective for more than three
 - 6. If the individual ordering the use of restraint or seclusion is not a physician providing treatment to the cli
 - a. After ordering the restraint or seclusion, consult with the physician providing treatment as soon as p
 - b. Inform the physician providing treatment of the client's behavior that created the emergency safet 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 condu

- of a client's physical and psychological well-being within one hour after the initiation of restraint or seclusion
1. For a behavioral health agency licensed according to R9-20-102 as a level 1 psychiatric acute hospital practitioner who is either on-site or on-call at the time the mental health agency initiates the restraint or seclusion;
 2. For a behavioral health agency licensed according to R9-20-102 as a level 1 RTC or a level 1 seclusion practitioner or a registered nurse with at least one year of full time behavioral health work experience 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 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 responsible for 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 seclusion or restraint;
 6. The determination and the reasons for the determination made according to subsection (H) above;
 7. The specific and measurable criteria for client release from mechanical restraint or seclusion with documentation 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 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 no later than the end of the period of time for which the seclusion or restraint was ordered, unless 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 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 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 medical 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 examined 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 determines that one-to-one supervision is clinically necessary according to subsection (O), a staff member shall provide one-to-one supervision to 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 restraint 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 or seclusion.

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 the restroom.
- 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.
 - 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 of a designee of the mental health agency in consultation with the client and relevant staff to discuss and evaluate the client's condition. The review and approval, if any, and the reasons justifying any continued restraint or seclusion shall be recorded.
- S. If a client requires the repeated or continuous use of restraint or seclusion during a 24-hour period, a review shall be conducted immediately and shall include the client and all relevant staff persons and clinical consultants who are available for an alternative treatment setting and the needs of the client. The review and its findings and recommendations shall be recorded 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 orders shall require a special meeting of the client's clinical team according to R9-21-314 to determine whether the orders would be useful and whether modifications of the ISP or ITDP are required.
- U. As part of a mental health agency's quality assurance program, an audit will be conducted and a report filed with the program director within 24 hours, or the first working day, for every episode of the use of restraint or seclusion to determine if the use of restraint or seclusion is in full compliance with the rules set forth in this Article.
- V. Not later than the tenth day of every month, the program director shall prepare and file with the Division of Human Rights a written report describing the use of any form of restraint or seclusion during the preceding month or by any employees of the agency. In the case of an inpatient facility, the report shall also be filed with the Human Rights committee for that facility.
- W. The Department's human rights committee, the Office of Human Rights, and any applicable regional human rights committee shall review such reports to determine if there has been any inappropriate or unlawful use of restraint or seclusion and if restraint or seclusion may be used in a more effective or appropriate fashion.
- X. If any human rights committee or the Office of Human Rights determines that restraint or seclusion has been used in violation of applicable law or rule, the committee or Office may take whatever action is appropriate, including investigating the matter and referring the matter to the Division for remedial action.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6 pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Chapter 6 pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Chapter 6 pursuant to Laws 2003, Ch. 301, § 61, effective June 30, 2003 (Supp. 03-2).

R9-21-205. Labor

- A. No client shall be required to perform labor which involves the essential operation and maintenance of the facility, regular care, treatment or supervision of other clients, provided however, that:
1. Only a residential service provider may require clients to perform activities related to maintaining the facility, and their clothing and personal possessions in a neat and clean manner.
 2. Clients may perform labor in accordance with a planned and supervised program of vocational and recreational activities set forth in an ISP or ITDP developed according to Article 3 of this Chapter.
- B. Any client may voluntarily perform any labor available.
- C. The requirements of federal and state laws relating to wages, hours of work, workers' compensation and other benefits shall be met with respect to all labor.

Historical Note

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3296, effective June 30, 2003 (Supp. 03-2).

R9-21-206. Competency and Consent

- A. A client shall not be deemed incompetent to manage the client's affairs, to contract, to hold profession operator's licenses, to make wills, to vote or to exercise any other civil or legal right solely by reason of a agency.
- B. An applicant or client is presumed to be legally competent to conduct the client's personal and financi determined by a court in a guardianship or conservatorship proceeding.
- C. Only an applicant or client who is competent may provide informed consent, authorization, or permission as mental health agency shall use the following criteria to determine if an applicant or client is competent establishing or removing a guardianship, temporary guardianship, conservatorship, or guardianship ad litem
1. An applicant or client shall be determined to be in need of guardianship or conservatorship only if the to make important decisions concerning the applicant or client or the applicant's or client's property is of a person with legal authority to make such decisions for the applicant or client creates a serious risk health, welfare or safety.
 2. Although the capability of the applicant or client to make important decisions is the central factor i guardianship, the capabilities of the applicant's or client's family, the applicant's or client's living cir that available treatment will improve the applicant's or client's ability to make decisions on the appli the availability and utility of nonjudicial alternatives to guardianships such as trusts, representativ programs, or community support services should also be considered.
 3. If the applicant or client has been determined to be incapable of making important decisions with regard personal or financial affairs, and if nonjudicial, less restrictive alternatives such as trusts, representati accounts, and citizen advocates are inadequate to protect the applicant or client from a substantial a applicant's or client's health, safety, welfare, or property, the applicant's or client's nearest living relati accompanying recommendation that a guardian or conservator be appointed.
 4. If the applicant or client is capable of making important decisions concerning the applicant's or client's h either independently or through other less restrictive alternatives such as trusts, representative payees, and citizen advocates, the applicant's or client's nearest living relative shall be notified with an acc that any existing guardian or conservator be removed.
 5. If the client has been determined to require or no longer require assistance in the management of finan the nearest living relative cannot be found or is incapable of or not interested in caring for the client' agency shall assist in the recruitment or removal of a trustee, representative payee, advocate, conserva this Section shall be construed to require the Department or any regional authority or service provide appointment or removal of a trustee, representative payee, advocate, conservator, or guardian.
 6. The assessment or periodic review shall identify the specific area or areas of the client's functioning recommendation for the appointment or removal of a guardian or conservator, such as an inability health problems or consent to medical care, or an inability to manage savings or routine expenses.
- D. Mental health agencies shall devise and implement procedures to ensure that suspected improprieties of a gu representative payee, or other fiduciary are reported to the court or other appropriate authorities.

Historical Note

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R9-21-206.01. Informed Consent

- A. Except in an emergency according to A.R.S. §§ 36-512 or 36-513 or R9-21-204, or a court order according 5, Articles 4 and 5, a mental health agency shall obtain written informed consent in at least the following c
1. Before providing a client a treatment with known risks or side effects, including:
 - a. Psychotropic medication,
 - b. Electro-convulsive therapy, or
 - c. Telemedicine;
 2. Before having a client participate in research activities approved under Department rules or policy; and

36-517.01.

- B. All clients have a right to be free from unnecessary or excessive medication.
- C. Medication shall not be used as punishment, for the convenience of the staff, or as a substitute for other behavior. Medication shall be given in the least amount medically necessary with particular emphasis placed on minimizing side effects that would interfere with aspects of treatment.
- D. Medication administered by a mental health agency shall be prescribed by a licensed physician, certified nurse practitioner, or licensed nurse practitioner.
 - 1. Psychotropic medication shall be prescribed by:
 - a. A psychiatrist who is a licensed physician; or
 - b. A licensed nurse practitioner, certified physician assistant, or physician trained or experienced in the use of psychotropic medication, who has seen the client and is familiar with the client's medical history or, in an emergency, a physician who is familiar with the client's medical history.
 - 2. Each client receiving psychotropic medication shall be seen monthly or as indicated in the client's record by the physician, certified nurse practitioner, certified physician's assistant or physician prescribing the medication, who shall note in the client's record:
 - a. The appropriateness of the current dosage,
 - b. All medication being taken by the client and the appropriateness of the mixture of medications,
 - c. Any signs of tardive dyskinesia or other side effects,
 - d. The reason for the use of the medication, and
 - e. The effectiveness of the medication.
 - 3. When a client on psychotropic medication receives a yearly physical examination, the results of the examination shall be noted by the physician prescribing the medication. The physician shall note any adverse effects of the current psychotropic medication in the client's record.
 - 4. Whenever a prescription for medication is written or changed, a notation of the medication, dosage, frequency, and the reason why the medication was ordered or changed shall be entered in the client's record.
- E. Self-administration of medication by clients shall be permitted unless otherwise restricted by the responsible physician. Such clients shall be trained in self-administration of medication and, if necessary, shall be monitored.
- F. Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security.
- G. PRN orders for medication shall not be given for a drug used as a restraint.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6 pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Chapter 6 pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Chapter 6 pursuant to Laws 2003, Ch. 301, § 61, effective June 30, 2003 (Supp. 03-2).

R9-21-208. Property and Possessions

- A. No mental health agency shall interfere with a client's right to acquire, retain and dispose of personal property, except where:
 - 1. The client is under guardianship, conservatorship, or has a representative payee;
 - 2. Otherwise ordered by court; or
 - 3. A particular object, other than money or personal funds, poses an imminent threat of serious physical injury to the client or others. Any restriction on the client's control of property deemed to pose an imminent threat of serious physical injury to the client or others shall be noted in the client's record together with the reasons the particular object poses an imminent threat of serious physical injury to the client or others.
- B. If a mental health agency, which offers assistance to its clients in managing their funds, takes possession or control of a client's funds, on the request of the client, guardian, or by court order, the mental health agency shall issue a receipt to the client for the transaction involving such funds. If deposited funds in excess of \$250 are held by the mental health agency, and the client's stay will exceed 30 days, an individual bank account or an amalgamated client trust account shall be established for the benefit of the client. All interest shall become the property of the client or the fair allocation of the amalgamated client trust account. The mental health agency shall provide a bond to cover client funds held in trust.
 - 1. Unless a guardian, conservator, or representative payee has been appointed, the client shall have an unrestricted right to spend deposited funds.
 - 2. The mental health agency shall obtain prior written permission from the client, the guardian or conservator before withdrawing funds from the account.

- involving shared or delegated management responsibilities. The permission shall set forth the terms of the arrangement.
3. Where the mental health agency has shared or delegated management responsibilities, the mental health agency shall be subject to the following requirements:
 - a. Client funds shall not be applied to goods or services which the mental health agency is obligated to provide, except as permitted by the client fee schedule authorized by the Department;
 - b. The mental health agency and its staff shall have no direct or indirect ownership or survivorship interest in the client's funds;
 - c. Such arrangements shall be accompanied by a training program, documented in the ISP, to ensure the client's best interests and assistance;
 - d. Staff shall not participate in arrangements for shared or delegated management of the client's funds with the mental health agency;
 - e. Any arrangements made to transfer a client from one mental health agency to another shall include the transfer of shared or delegated management responsibilities to the receiving mental health agency;
 - f. The client shall be informed of all proposed expenditures and any expression of preference within a reasonable time;
 - g. Expenditures shall be made only for purposes which directly benefit the client in accordance with the client's desires.
 4. A record shall be kept of every transaction involving deposited funds, including the date and amount received and the name of the person to or from whom the funds are received or disbursed. The client, guardian, conservator or regional human rights advocate or other representative may demand an accounting at any reasonable time of the client's transfer, discharge or death.
 5. Any funds so deposited shall be treated for the purpose of collecting charges for care the same as any other funds on behalf of the client. The client or guardian shall be informed of any possible charges before the onset of care.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6 pursuant to Laws 1992, Ch. 301, § 61, effective January 1, 1993. Received in the Office of the Secretary of State October 14, 1992 (Supp. 92-4). Amended by exempt rule 3296, effective June 30, 2003 (Supp. 03-2).

R9-21-209. Records

- A. Records of a client who is currently receiving or has received services from a mental health agency are provided only to those individuals authorized according to federal and state law.
- B. Inspection by the client, the client's guardian, attorney, paralegal working under the supervision of an attorney or other representative shall be permitted as follows:
 1. Except as prohibited by federal and state law, the client and, if applicable, the client's guardian shall have the right to inspect and copy the client's record as soon as possible after a request, and no later than 10 working days after a request. If a client record is withheld under federal or state law, the mental health agency shall provide written notice of the reason for withholding. If applicable, the client's guardian including:
 - a. The reason the mental health agency is withholding a portion of the client's record,
 - b. An explanation of the client's right to a review of the decision to withhold a portion of the client's record,
 - c. An explanation of the client's right to file a grievance according to Article 4 of this Chapter.
 2. An attorney, paralegal working under the supervision of an attorney, or other designated representative shall be permitted to inspect and copy the record, if such attorney or representative furnishes written authorization from the client or guardian.
 3. When necessary for the understanding of the client or guardian and, if the client or the client's guardian is unable to understand the records, when necessary for the understanding of an attorney, paralegal working under the supervision of an attorney, or other designated representative, staff of the mental health agency possessing the records shall read or interpret the records to the client or guardian, attorney, paralegal working under the supervision of an attorney, or designated representative.
- C. Inspection by specially authorized persons or entities shall be permitted as follows unless otherwise prohibited:
 1. Records of a client may be available to those individuals and agencies listed in A.R.S. § 36-509.
 2. Records of a client shall be open to inspection upon proper judicial order, whether or not such order is pending judicial proceedings.
 3. Records of a client shall be made available to a physician who requests such records in the treatment of the client provided that the client is given notice of such access as soon as possible.

4. Records of a client shall be made available to Division staff authorized by the Department to monitor t provided by the mental health agency to the client.
5. Records of a client shall be made available to guardians and family members actively participating in tl supervision as provided by A.R.S. §§ 36-504, 36-509(A)(8) and (B). Except when inspection of a clie a proper judicial order or by a physician in a medical emergency, a client, guardian or family member to allow or deny inspection of the record by filing a request for administrative and judicial revi provisions of A.R.S. § 36-517.01 or other applicable federal or state law. Once a request is filed, no t shall be made until the review has been completed.
- D. Unless otherwise permitted by federal or state law, records shall be open to inspection by other third parties of the client or guardian. Before authorization is given, the client or guardian shall be offered an c information to be disclosed and be provided with the name of the recipient and uses to be made of the info
- E. The fee for copying records obtained under this rule shall be no more than the actual expense of reproducing parts and may be limited further by A.R.S. § 12-2295.
- F. A client or guardian shall be informed of a court order or subpoena commanding production of a client's rec in any event prior to the date for production and of the client's or guardian's right to request the court to q subpoena.
- G. The records maintained by the mental health agency shall contain accurate, complete, timely, pertinent, and r
 1. If a client or guardian believes that the record contains inaccurate or misleading information, the clier with assistance if requested, a statement of disagreement which shall be entered in the record.
 2. If a client or guardian objects to the collection of the information in the record, the client or guardian ma to Article 4 of this Chapter.
- H. A list shall be kept of every person or organization who inspects the client's records, other than the client's r made of that information, and the person authorizing access. A list of such access shall be placed in the made available to the client or other designated representative.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6 pursuant to Laws 1992, Ch. 301, § 61, effective received in the Office of the Secretary of State October 14, 1992 (Supp. 92-4). Amended under an exempt 41, Chapter 6 pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended at 9 A.A.R. 3296, effective June 30, 2003 (Supp. 03-2).

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 are consistent with Articles 1 through 5 of these rules and with all other requirements of Arizona law. N 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's guardian giving informed consent to the client's admission to the program according to R9-21-206f
- C. If a client acts in a manner that is seriously in disregard of a reasonable policy, the agency director shall m respond to the situation, including making reasonable accommodation to the program's policy if the clie reasonable policy is due to the client's disability.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6 pursuant to Laws 1992, Ch. 301, § 61, effective received in the Office of the Secretary of State October 14, 1992 (Supp. 92-4). Amended by exempt rule 3296, effective June 30, 2003 (Supp. 03-2).

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 post MH-211, "Notice of Client's Rights," set forth in Exhibit A, in one or more areas of the agency so that it is visitors.
- B. In addition to posting as required by subsection (A), a copy of ADHS Form MH-211, set forth in Exhibit B, s or guardian if any, at the time of admission to the agency for evaluation or treatment. The person receiving to acknowledge in writing receipt of the notice and the acknowledgment shall be retained in the client's reo
- C. Every mental health agency shall provide written notice of the terms of A.R.S. § 36-506 to each client up

client a copy of ADHS Form MH-209, "Discrimination Prohibited".

D. All notices required by this rule shall be provided and posted in both English and Spanish.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6 pursuant to Laws 1992, Ch. 301, § 61, effective received in the Office of the Secretary of State October 14, 1992 (Supp. 92-4).

Exhibit A. Notice of Legal Rights for Persons 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:

- 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)
- 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
- 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
- The right to appeal a court-ordered involuntary commitment and to consult with an attorney and to 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 Mental Illness" brochure or you may also call the Arizona Department of Health Services, Office of Human Rig

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

Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6 pursuant to Laws 1992, Ch. 301, § 61, effective received in the Office of the Secretary of State October 21, 1992 (Supp. 92-4). Amended under an exempt 41, Chapter 6 pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp.

Exhibit B. Notice of Legal Rights for Persons with Serious Mental Illness

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 the right to dispose of property, sue and be sued, enter into contractual relationships and vote. Court-ordered treatment pursuant to this Chapter is not a determination of legal incompetency, except to the extent provided in A.R.S.
- B. A person who is or has been evaluated or treated in an agency for a mental disorder shall not be discriminated against, 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, motorist'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 treatment unrelated to a person's present capacity to meet the standards applicable to all persons. Applications for admission 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 prov

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 de no limitado a, el derecho a disponer de propiedad, a demandar y ser demandado, a tomar parte en relacione tratamiento o evaluacion ordenado por la corte conforme a este capitulo no es una determinacion de in 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 evalua debido a un desorden mental, incluyendo pero no limitado a:
1. Buscar 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 mota 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 r tratamiento externo no relacionado a la capacidad actual de la persona para cumplir con las normas apl solicitudes para posiciones, licencias y vivienda no contendran peticion de informacion que pueda fomenta
- D. Al ser dado de alta de cualquier agencia de tratamiento o evaluacion, se dara al paciente notificacion por esc: esta seccion.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6 pursuant to Laws 1992, Ch. 301, § 61, effective received in the Office of the Secretary of State October 14, 1992 (Supp. 92-4).