

**BEHAVIORAL HEALTH RESIDENTIAL FACILITIES
WORKGROUP MEETING NOTES**

July 17, 2012

Regular text = paraphrased discussion

Italics=Department's response

Bold, italics and indented=rule change

R9-10-701(9)

Should the behavioral health services definition specifically call-out “substance abuse treatment”? “Behavioral health services” means the medical services, nursing services, or health-related services provided to an individual to address the individual’s behavioral health issue.

The Department believes that general applicability makes this difficult and would have to call-out “sex offender” and all others. This would exceed minimum standards. In addition, the current draft definition of “behavioral health services” is consistent with the statutory definition of “health care institution” in A.R.S. § 36-401. Adding services that may not fall under “medical services, nursing services, or health-related services” would expand the statutory definition of “health care institution” and the Department does not have the authority to do so.

Will respite care stay in Chapter 20? Is respite services a separate service category for licensing purposes? Should there be a separate respite services section?

No. Short term residential care, such as respite care, is a service provided at a residential facility under this Article. The Department plans to add the following requirements for respite services.

“Respite services” means short-term, temporary care that includes supervision, management of an individual’s behavioral health issue, and assistance in the self-administration of medication provided to:

- a. Allow for relief or rest for the individual’s family or primary caregiver; or***
- b. Stabilize the individual’s behavioral health issue.***

If a facility provides respite services, an administrator shall ensure that:

- 1. Upon admission of a resident for respite services:***
 - a. A medical history and physical examination of the resident that meets the requirements in R9-10-707:***
 - i. Is performed; or***
 - ii. Dated within the previous 12 months, is available in the resident’s medical record from a previous admission to the facility;***
 - b. A treatment plan that meets the requirements in R9-10-708:***
 - a. Is developed; or***
 - b. Dated within the previous 12 months, is available in the resident’s medical record from a previous admission to the facility; and***
 - c. If a treatment plan, dated within the previous 12 months, is available, the treatment plan is reviewed, updated, and documented in the resident’s medical record;***
- 2. The common area required in R9-10-719(C)(2)(b) provides at least 25 square feet for each resident including residents who do not stay overnight; and***
- 3. In addition to the requirements in R9-10-719(D)(1) and (D)(2), toilets and handwashing sinks are available to residents including residents who do not stay overnight as follows:***
 - a. There is at least one working toilet that flushes and one sink with running water, for every 10 residents;***
 - b. There are at least two working toilets that flush and two sinks with running water, if there are 11 to 25 residents; and***
 - c. There is at least one working toilet that flushes and one sink with running water for each additional 20 residents.***

R9-10-719

D. An administrator shall ensure that:

1. *For every six residents who stay overnight at the facility, there is at least one working toilet that flushes and one sink with running water;*
2. *For every eight residents who stay overnight at the facility, there is at least one working bathtub or shower;*

R9-10-701(6)

Does a behavioral health paraprofessional exclude a behavioral health technician?

Yes. Clarification- a behavioral health paraprofessional, providing a behavioral health service that outside of a licensed facility would require the individual to be licensed, is required to be supervised by a behavioral health professional. However, supervision by a behavioral health professional is not required when behavioral health paraprofessional is providing services other than behavioral health services that would require a licensed individual. A behavioral health technician, providing behavioral health services that would require a licensed individual is required to receive clinical oversight by a behavioral health professional. The Department plans to amend rules to make these differences clearer.

6. ***“Behavioral health paraprofessional” means an individual who is qualified according to a facility’s policies and procedures to provide at or for the facility:***
 - a. ***Behavioral health services, that would require an individual to be licensed under A.R.S. Title 32 if the behavioral health services were provided in a setting other than a licensed health care institution, under the supervision of a behavioral health professional; or***
 - b. ***Ancillary services.***
10. ***“Behavioral health technician” means an individual who is qualified according to a facility’s policies and procedures to provide at or for the facility:***
 - a. ***Behavioral health services, that would require an individual to be licensed under A.R.S. Title 32 if the behavioral health services were provided in a setting other than a licensed health care institution, under clinical oversight by a behavioral health professional; or***
 - b. ***Ancillary services.***

R9-10-701(8) and (9)

What is a behavioral health issue?

The Department will define behavioral health issue and add the definition to Article 1.

R9-10-701 Definitions

Should certified nursing assistant (CNA) be defined?

CNA (nursing assistant certified according to A.R.S. Title 32, Chapter 15) is defined in A.R.S. § 32-1601(11). A facility should establish qualifications, training, skills, etc. for a CNA in the facility’s policy and procedures based on the scope of services provided by the facility.

R9-10-701(8)(a)

“Behavioral health residential facility” means a health care institution residential agency that provides treatment to an individual experiencing a behavioral health issue that: a.) Limits the individual’s ability to be independent

What about providing services in the community?

Services provided by a facility in the community would be considered off-site services and need to comply with the requirements in the Article.

R9-10-701(10)

Is what a behavioral health technician does identified in a facility’s policies and procedures?

Correct. The facility is to take on the responsibility of identifying what employees are needed and what they do.

Is compliance the responsibility of the facility?

Yes. Providers need to define the facility’s scope of services based on the needs of the patients.

What about surveyors? They may not agree; isn’t this subjective?

The Department believes it is more appropriate for facilities to determine personnel qualifications for the specific duties the personnel member provides. The burden of proof is on the provider to establish policies and

procedures that ensure patient needs are met and follow their policies and procedures. A facility is required to have personnel and staff to support the specific services that the facility provides.

Can the Department provide standards, for example, for a caregiver?

The Department only sets minimum standards; contracts can, will be more specific. A facility needs to evaluate the standards necessary for personnel. No training is applicable to all. You must establish standards based on facility's scope of services and to ensure that patient needs are met.

Is anyone from AHCCCS looking at the rules? Scope of service standards may be determined by Federal-CMS and AHCCCS.

Yes. An AHCCCS representative is participating in the workgroups; they will respond when appropriate.

What is the definition of "documentation"? Does it include electronic, scanning?

Yes, the definition is in Article 1.

Was restraint and seclusion removed?

Yes. Restraint and seclusion is not allowed in a residential facility. An emergency safety response is allowed. "Emergency safety response" means physically holding a resident to safely manage a sudden, intense, or out-of-control behavior to prevent harm to the resident or another individual.

R9-10-701(14) and (23)

Was "staff member" removed and are the terms "employee" and "personnel member" being used?

Yes. Personnel member provides behavioral health services. Also, "Volunteer" is defined in Article 1.

R9-10-701 Definitions

Does medical practitioner include psychiatrist?

Yes.

Did assistance in the self-administration of medication go away?

No. Medication services are now included in R9-10-717.

R9-10-701 Definitions

Is there a definition for personal care?

The definition for personal care is in A.R.S. § 36-401(35). "Personal care services" means assistance with activities of daily living that can be performed by persons without professional skills or professional training and includes the coordination or provision of intermittent nursing services and the administration of medications and treatments by a nurse who is licensed pursuant to title 32, chapter 15 or as otherwise provided by law.

R9-10-701 (2)

What are ancillary services? For example: rehab?

Yes, spiritual, acupuncture, and rehabilitation are ancillary services.

R9-10-702. Supplemental Application Requirements

In addition to the requirements in 9 A.A.C. 10, Article 1, an administrator shall submit a request to provide any of the following services with an initial application:

1. Behavioral health residential services to individual under 18 years of age including the licensed capacity requested,
2. Behavioral health residential services to individuals 18 years of age and older including the licensed capacity requested,
3. Residential services to individuals 18 years of age or older whose behavioral health issue limits the individuals' ability to function independently,
4. Personal care services, or
5. Physical health services.

What do we pick?

*The Department requires an initial application to include what services a facility will be providing. You only select those listed in R9-10-701(1-5), that apply. **The Department will look at this and provide clearer instruction.***

In addition to the requirements in 9 A.A.C. 10, Article 1, an administrator shall submit a request with an initial application ~~to provide:~~

~~Behavioral health residential services to individual under 18 years of age including the licensed capacity requested,~~

~~Behavioral health residential services to individuals 18 years of age and older including the licensed capacity requested,~~

1. For the licensed capacity:

- a. The requested licensed capacity for providing behavioral health residential services to individuals under 18 years of age, and*
- b. The requested licensed capacity for providing behavioral health residential services to individuals 18 years of age and older;*

2. For supplemental services, whether the applicant is requesting approval to provide:

- a. Residential services to individuals 18 years of age or older whose behavioral health issue limits the individuals' ability to function independently, or*
- b. Personal care services; and*
- c. ~~Physical health services.~~*

3. For a facility providing respite services, the requested number of individuals the facility plans to admit for respite services who do not stay in the facility overnight.

R9-10-703(B)

Is a clinical director (old rules) the same as an administrator (draft rules)?

No. An administrator will have the responsibility and authority to manage the facility. This individual will ensure that the operations of the facility meet the appropriate requirements to provide for the services provided by or at the facility. If a clinical director is required, one will be appointed by the administrator, see R9-10-703(E).

R9-10-703(C)(1)(e)

Clarify how to do this...include a method to identify a resident to ensure the resident receives physical health services and behavioral health services as ordered.

An administrator is required to establish policies and procedures that will provide instructions to staff on how to identify a resident prior to receiving service(s) to ensure that the resident receives only services intended for the resident.

R9-10-703(C)(2)(e)

Is this the standard for medication?

The Department plans to change the rule as follows:

Cover ~~dispensing, administering,~~ assistance in the self-administration of medication, and disposing of medication, including provisions for inventory control and preventing diversion of controlled substances;

R9-10-703(C)(2)(h)

What is an example of environmental services?

Examples would be trash, cleaning, equipment, hazards, heating, cooling, water, etc., please reference R9-10-719, Environmental Standards.

R9-10-703(C)(2)(m)

Does this exclude children?

Children will have a parent or other adult representative who will oversee funds. The Department will amend the rule as follows:

Cover the process for receiving a fee ~~from~~ and refunding a fee ~~to an adult resident or the resident's representative;~~

R9-10-703(E)

E. If an applicant requests or a facility has a licensed capacity of 10 or more residents, an administrator shall designate a clinical director who:

What does “under 10 residents” mean?

It means that for a facility with a licensed capacity of fewer than 10 residents, the behavioral health professional will decide the most appropriate action to take based on resident’s needs unless the facility chooses to designate a clinical director. A facility with a licensed capacity of 10 residents or more is required to have a clinical director to provide direction for behavioral health services provided at the facility.

Page 2, R9-10-701(6), behavioral health professional (BHP)

Is a nurse no longer a BHP?

According to the Nursing Care Act, a nurse cannot act as a counselor or social worker. If a psychiatric nurse practitioner is licensed under Title 32, s/he can be a BHP.

R9-10-703(G)(4),(5), and (6)

Is this training plan new?

This is less prescriptive. This does not require a training plan for each individual, but does require a general plan based on scope of services and personnel member’s skills and qualifications established in the facility’s scope of services.

R9-10-703(H)(4)

Will the incident report be included in a client’s record?

Yes, in the client’s record. However, a facility may have other requirements beyond these.

R9-10-703(H)(5)

Why forty-eight hours? Why more stringent than skilled nursing?

Long term care doesn’t investigate every report. There is no report upfront to the Department. The AG has interpreted federal law covered as in (2)(b)(i) and (ii)- that is why we do not have an initial report.

The Department plans to change the rule as follows:

Submit a copy of the investigation report required in subsection (H)(4) to the Department within ~~48 hours~~ 5 working days after submitting the report in subsection (H)(2); and

R9-10-703(I)

Is fingerprinting for staff caring for children still required?

Yes. Fingerprinting is required in A.R.S. § 36-405.03 for all individuals at a facility that provides services to children.

R9-10-703(I)(5)

Is an incident report required for an AWOL?

No, an incident report submitted to the Department is no longer required for an AWOL. An AWOL should be addressed as part of the facility’s quality management program. In addition, if there is not a court order requiring a resident to stay, an adult resident may leave.

R9-10-703(M)(1)(c)

The Department has reduced requirements for managing resident funds. A facility will deal with incidents regarding resident funds. No report is required to be sent to the Department.

R9-10-704(1)(c)

Are these “concerns” generated as a result of an incident report?

Yes. A facility is expected to change the delivery of service(s), as needed, based on concern(s) identified during the evaluation process.

R9-10-704(2)

Does everyone have to document an incident and submit a report to the governing authority?

All licensed facilities are required to document incidents and submit reports to the governing authority as part of a quality management program as stated in the draft rules.

R9-10-705(2)

Can you add “or administrative office”?

The Department plans to amend the rule as follows:

An administrator shall ensure that:

- 2. A copy of the contract is maintained ~~at the facility~~,***

R9-10-706(A)(3)

Does a volunteer have to be 21? Can we have some clarification? Can we use teens?

Does this mean a CNA has to be 21?

For a skilled nursing services facility that is providing behavioral health services with the same staff, how do you track a CNA who is not 21 and the scope of services that they may provide, and a CNA who is 21 and the scope of services that they may provide? This will be difficult. Can we still have children who volunteer to read to our clients?

The Department will not allow for anyone under the 18 years of age because of the individual’s access to medical reports and residents. This is consistent with other rules. If you provide behavioral health services, you have to meet the requirement. The requirement for personnel in behavioral health inpatient facilities is 21 years of age. The Department plans to amend the rule as follows:

A. An administrator shall ensure that:

- 1. A personnel member is at least 21 years old,***
- 2. An employee is at least 18 years old,***
- 3. An intern is at least 18 years old, and***
- 4. A volunteer is at least ~~21~~ 18 years old.***

In addition, the Department plans to amend the definition of personnel member as follows:

- 23. “Personnel member” means an individual who provides behavioral health services ~~or physical health services~~ at or on behalf of a facility.***

R9-10-706(C)

Are these individuals behavioral health professionals?

Yes.

Do these individuals require oversight?

An administrator is responsible for ensuring that a BHP (professional) complies with applicable licensing requirements for “clinical supervision” in A.R.S. Title 32, Chapter 33.

Can you add “licensed” individual?

The definition of behavioral health professional includes “licensed.”

R9-10-706(D)

Do volunteers and apprentices have to have a TB test every 12 months?

Yes. This will be included in Article 1. Article 1 will also include exceptions for an individual starting employment or being admitted to a facility who has had TB testing within 6 or 12 months of starting employment or admission. Department TB personnel are reviewing the issue to determine the appropriate time frame.

R9-10-706(G)(1)

Is there no longer a list of orientation and training requirements?

No. An administrator will ensure facility policies and procedures are established for orientation and training requirements based on the facility’s scope of services.

R9-10-706(I)(6)

What about a nurse practitioner? Can we use a NP?

Yes.

R9-10-706(I)(8)

This is hard, this could be several hospitals?

The Department plans to remove the rule.

~~*The facility has a written agreement with a hospital near the facility's location to provide medical services for residents who require medical services that the facility is not licensed or able to provide.*~~

R9-10-707(5)

Is 48 hours locked in? It is 7 days now?

The Department plans to amend the rule as follows:

A medical practitioner performs a medical history and physical examination or a registered nurse performs a nursing assessment on a resident within 30 days before admission or within ~~48 hours~~ 7 days after admission and documents the medical history and physical examination or nursing assessment in the resident's medical record within ~~48 hours~~ 7 days after admission;

R9-10-707(5)

Can a discharge plan count as an assessment?

No.

R9-10-707(6)

Can we use a nurse instead? Medical practitioner is not available to us for a new assessment or a nursing assessment.

The Department plans to amend the rule as follows:

If a medical practitioner performs a medical history and physical examination or a nurse performs a nursing assessment on a resident before admission, the medical practitioner enters an interval note into or the nurse updates the nursing assessment in the resident's medical record at the time of admission.

Question: Is TB testing required for clients/respite?

Yes. The Department will add TB testing requirements for residents/respite. The specific requirements for TB testing will be in both Article 1, and a reference to the applicable requirements in Article 1 will be included in this Article.

R9-10-707(8)(b)

Department will revise "physical health" to "behavioral health."

R9-10-707 Resident Admission; Assessment

Will we no longer be able to accept other BHPs' (other facility) assessments?

The Department plans to amend the rule as follows:

- 7. Except as provided in subsection (8), an assessment for a resident is completed before treatment for the resident is initiated;*
- 8. If an assessment that complies with the requirements in this Section is received from a behavioral health provider other than the facility or the facility has a medical record for the resident that contains an assessment that was completed within 12 months before the date of the resident's current admission:*
 - a. The resident's assessment information is reviewed and updated if additional information that affects the resident's assessment is identified, and*
 - b. The review and update of the resident's assessment information is documented in the resident's medical record within 48 hours after the review is completed.*

R9-10-707(F)(1)

Will you clarify "updating an assessment"? Are we adding additional information?

The language in the rule states that the assessment information is updated. The assessment itself is not changed. The updated information is added to the resident's medical record but the assessment is not altered.

Behavioral Health Residential Workgroup Meeting Schedule

August 7, 2012

9:00 a.m. – 12:00 p.m.

150 N. 18th Avenue, 4th Floor Training Room

Phoenix, Arizona 85007

Review Article 7:

- R9-10-708. Treatment Plan
- R9-10-709. Discharge
- R9-10-710. Transport; Transfer
- R9-10-711. Resident Outings
- R9-10-712. Resident Time Out
- R9-10-713. Resident Rights
- R9-10-714. Resident Records

August 28, 2012

9:00 a.m. – 12:00 p.m.

150 N. 18th Avenue, 4th Floor Training Room

Phoenix, Arizona 85007

Review Article 7:

- R9-10-715. Physical Health Services
- R9-10-716. Behavioral Health Services
- R9-10-717. Medication Services
- R9-10-718. Food Services
- R9-10-719. Environmental Standards
- R9-10-720. Fire and Safety Requirements
- R9-10-721. Physical Plant Requirements