

**BEHAVIORAL HEALTH RESIDENTIAL FACILITIES
WORKGROUP MEETING NOTES**

August 28, 2012

Regular text = paraphrased discussion

Italics=Department's response

Bold, italics and indented=rule change

R9-10-701(6)

Is supervision different from direct overseeing?

Supervision means direct overseeing and inspection of the act of accomplishing a function or activity.

A BHPP may perform licensed behavioral health services only while being supervised by a behavioral health professional. This means that a behavioral health professional is physically present observing the BHPP as they perform the licensed behavioral health service.

R9-10-701 Definitions

The personal care definition in rule is not the same as the definition in the Covered Behavioral Health Services Guide?

The Department will coordinate with Behavioral Health Services so that there is no conflict.

Rule's definition of personal care is statutory, 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.

Covered Behavioral Health Services Guide II. D. 2. Personal Care Services--General Definition

Personal care services involve the provision of support activities to assist a person in carrying out daily living tasks and other activities essential for living in a community. May include assistance with homemaking (e.g., cleaning, food preparation in accordance with requirements in A.A.C. R9-20-407, essential errands), personal care (e.g., bathing, dressing, oral hygiene), and general supervision and appropriate intervention (e.g., assistance with self-administration of medications, in accordance with requirements in A.A.C. R9-20-408, and monitoring of individual's condition and functioning level). Services may involve hands-on assistance, such as performing the task for the person or cueing the person to perform the task. These services are provided to maintain or increase the self-sufficiency of the person. For DD/ALTCS enrolled persons Personal Care Services includes general supervision; however, providers must document the need for general supervision.

Can you provide clarification of the term "scope-of-service" for health-care services? Can you define nursing services, assisted living, etc.?

"Nursing services" and "assisted living facility" are defined in A.R.S. § 36-401. The definition of "assisted living facility" includes a list of services a facility may provide or contract to provide. Article 1 will also provide additional clarification.

Can a residential facility provide care similar to assisted living?

Residential facilities may provide personal care services, but not other services. Personal care services will be called out on a facility's license. Remember, a resident's acuity matters. A behavioral health professional will have to be brought in to deal with high acuity residents. The Department will try to allow for residents to age in place.

R9-10-715. Physical Health Services

An administrator shall ensure that if a facility is licensed to provide personal care services:

- 1. Medical services are provided under the direction of a physician;***
- 2. Nursing services are provided under the direction of a registered nurse;***

1. **Personnel members who provide personal care services comply with the training requirements in R9-10-707(B) and R9-10-722(B); and**
2. **Residents receive personal care services according to the requirements in R9-10-722(A), (C), (D), and (E).**

If a resident has diabetes and needs medication, is that personal care service or intermittent nursing service under personal care service?

Yes and personal care services would need to be added to your license.

If a facility has only one resident needing one injection a week, do they need to employ a nurse? 40 hours a week?

If the facility is licensed to provide personal care services and a resident requires injections, the facility could employ or contract with a nurse to provide the service.

R9-10-709(G)(2)(a)

Can a BHT complete/provide the information required in (a) rather than a BHP? A BHT can complete an assessment, including a treatment plan, and provide services; they should be able to complete and sign a discharge summary.

The Department believes that because of liability, a BHP is the licensed individual responsible for ensuring that a resident may be discharged.

R9-10-710

Transfer and transport are very broad. Please provide more information to assist us in identifying/determining an appropriate process.

The difference is whether the service is medical or non-medical. Is the service being provided by another licensed health care institution? Will the resident need to provide their medical records to the individual providing the service? Also, a resident's acuity must be considered. Do they need someone to attend with them? The responsible individual at the facility must decide. A facility's policy should, at a minimum, provide a requirement to document time, date, and name of person whom the resident is with or left with. If the resident is left at another health care institution, once that health care institution receives the resident, they will document time, date, etc. Hence, there is documentation identifying with whom, and where the resident is at all times.

What if an ambulance is used?

An ambulance is different. This does not apply.

What if the case manager removes a resident from a facility?

The case manager then becomes responsible for the resident's health and safety.

R9-10-711(B)(2)

If only one resident is being taken out, why do we still need two staff to attend?

A resident's acuity must be a consideration at all time. One resident with high acuity will require two staff. The Department believes that "at least two personnel members" is required. The Department has amended the definition of "outing" to provide clarification to "activity." Since the definition of "outing" has been amended, the Department will not define "activity."

The Department plans to amend the rule as follows:

- 22. "Outing" means a planned social or recreational activity that:**
- a. Occurs away from the facility premises,**
 - b. Is not part of a facility's daily routine, and**
 - c. Lasts longer than four hours.**

If a facility has seven residents and two of the seven have medical appointments at the same medical facility, can the facility take all seven residents to the medical appointments?

No. Residents have the right to stay home. A facility may not force a resident to attend an appointment that does not required that they be present. That is a violation of the resident's rights. The facility should consider hiring additional staff.

R9-10-713(C)

What if a resident's guardian leaves orders to remove/restrict the resident? The Center for Disability Law provided guidance stating that guardians are allowed to restrict a resident's communications.

The Department will amend the rule to allow a guardian (representative) to restrict communications without a court order.

R9-10-713(B)

2. ***Except as provided in subsection (C), and unless restricted by the resident's representative, is allowed to:***

R9-10-714

Why are we required to include a resident's weight? Is there a frequency?

It is usually based on the medication requirement.

Can we have a nurse practitioner issue a medication order?

The focus was that a nurse practitioner is not included in the residential staff.

We have a behavioral health medical professional who comes into our facility to treat residents.

The Department will take out the requirement for weight.

C. An administrator shall ensure that a resident's medical record contains:

2. Medication information that includes:

~~a.~~ ***The resident's weight;***

~~b. a.~~ ***Each medication ~~or biological~~ ordered for the resident; and***

~~e. b.~~ ***Each For each medication administered to the resident ~~including:~~***

i. The date and time of administration;

ii. The name, strength, dosage, amount, and route of administration;

iii. The identification and authentication of the individual administering the medication; and

iv. Any adverse reaction the resident has to the medication;

R9-10-717 Medication Services

Often residents hold their own medication but still need assistance. In addition, training is being provided to other residents to teach them how to take their medication. What is the definition of "support" when used differently from assistance and training?

*You can prompt. Directing is different. Developing life skills is different. It is not necessary to sign-off on or provide attestation that a resident has self-administered a medication. **The Department amended the rules for medication services and included them in the August 7, 2012 Behavioral Health Residential Facilities [Workgroup Meeting Notes](#).***

Do medication services include medical prescriptions or just behavioral?

Medication services includes all medication prescribed for the resident.

Is "nursing services" defined?

A.R.S. 36-401(32) "Nursing services" means those services that pertain to the curative, restorative and preventive aspects of nursing care and that are performed at the direction of a physician by or under the supervision of a registered nurse licensed in this state.

A residential facility with SMI adults has one resident who needs hands-on care. What is required- a nurse on call?

You need to know the scope-of-services the facility provides and the personnel required to provide them. Refer to R9-10-715, Physical Health Services.

R9-10-715

Does a personal care service include intermittent nursing services?

Yes. 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.

Personal care services must be on your license. You may also contract with a nurse to provide limited services.

Doesn't assisted living have to have a nurse present at the facility for at least 40 hours every week?

Assisted living facility rules do not require a facility to have a nurse present for at least 40 hours every week.

R9-10-715(3)(b)

The Department will remove "physical health services."

R9-10-715. Physical Health Services

An administrator shall ensure that:

3. If a facility is licensed to provide:

a. Personal care services:

i. Personnel members who provide personal care services comply with the training requirements in R9-10-707(B) and R9-10-722(B); and

ii. Residents receive personal care services according to the requirements in R9-10-722(A), (C), (D), and (E); or

b. ~~Physical health services, a registered nurse who provides direction for the physical health services provided at the facility is present at the facility at least 40 hours every week.~~

R9-10-716(A)(1)

Could you define limited ability? Does limited ability apply to all?

No. (A)(1) represents Level 2 and (A)(2) represents Level 3.

Can a facility have both levels at the same facility setting?

Yes.

Should (A)(1) include children? How are these being applied in (A)(1)(b) and (c)?

The Department discussed and amended rules.

R9-10-716. Behavioral Health Services

A. An administrator shall ensure that:

1. ~~If a facility is licensed to provide behavioral health services to individuals 18 years of age or older whose behavioral health issues limits the individuals' ability to function independently, a resident, admitted to the facility with limited ability to function independently, receives in addition to behavioral health services, physical health personal care services and ancillary services as indicated in the resident's treatment plan, the following as stated in the resident's treatment plan: including~~

~~a. Continuous continuous protective oversight;~~

~~b. Age-appropriate training or skill building in:~~

~~i. Communication, and~~

~~ii. The development and maintenance of productive interpersonal relationships, and~~

~~e. Occupational or recreational activities to prepare the resident to function independently;~~

2. A resident admitted to the facility who needs behavioral health services to maintain or enhance the resident's ability to function independently participates, in addition to receiving behavioral

health services, physical health services, and ancillary services as indicated in the resident's treatment plan, in activities designed to maintain ~~and~~ or enhance the resident's ability to function independently while caring for the resident's health, safety or personal hygiene or performing homemaking functions;

3. Rule unchanged

4. Rule unchanged

5. Rule unchanged

B. Rule unchanged

C. An administrator shall ensure that:

1. A personnel member providing counseling that addresses a specific type of behavioral health issue has the skills and knowledge necessary to provide the counseling that addresses the specific type of behavioral health issue, and

~~2. The personnel member's skills and knowledge are verified and documented in the personnel member's personnel record.~~

~~D. An administrator shall ensure that each~~ 2. Each counseling session is documented in ~~the a~~ resident's medical record to include:

~~1.a.~~ The date of the counseling session;

~~2.b.~~ The amount of time spent in the counseling session;

~~3.c.~~ Whether the counseling was individual counseling, family counseling, or group counseling;

~~4.d.~~ The treatment goals addressed in the counseling session; and

~~5.e.~~ The signature of the personnel member who provided the counseling and the date signed.

~~E.D.~~ An administrator of a facility that provides resident services to individuals under the 18 years of age:

1. May continue to provide behavioral health services to a resident who is 18 years of age ~~or older~~ but not older than 21 years of age:

a. If the resident was admitted to the facility before the resident's 18th birthday and is:

i. Attending classes or Completing completing coursework to obtain a high school or a high school equivalency diploma, or

ii. Participating in a job training program; or

b. Through the last day of the month of the resident's 18th birthday; and

2. Shall ensure that:

a. A resident does not receive the following from other residents at the facility:

i. Threats,

ii. Ridicule,

iii. Verbal harassment,

iv. Punishment, or

v. Abuse;

b. The interior of the facility has furnishings and decorations appropriate to the ages of the residents receiving services at the facility;

c. A resident older than three years of age does not sleep in a crib;

d. Clean and non-hazardous toys, educational materials, and physical activity equipment are available and accessible to residents on the premises in a quantity sufficient to meet each ~~individual's~~ resident's needs and are appropriate to each resident's age, developmental level, and treatment needs; and

e. A resident's educational needs are met by establishing and providing an educational component, approved in writing by the Arizona Department of Education.

~~F.E.~~ An administrator shall ensure that an emergency safety response is:

1. Only used:

a. By a personnel member trained to use an emergency safety response,

b. For the management of a resident's violent or self-destructive behavior; and

b.c. When less restrictive interventions have been determined to be ineffective;

- e. ~~To ensure the immediate physical safety of the resident or to stop physical harm to another individual;~~
 - 2. *Rule unchanged*
 - 3. *Rule unchanged*
- F. An administrator shall ensure that:**
- 1. A personnel member whose job description includes the ability to use an emergency safety response:**
 - a. Completes training in crisis intervention that includes:**
 - i. Techniques to identify personnel member and resident behaviors, events, and environmental factors that may trigger the need for the use of an emergency safety response;**
 - ii. The use of nonphysical intervention skills, such as de-escalation, mediation, conflict resolution, active listening, and verbal and observational methods; and**
 - iii. The safe use of an emergency safety response including the ability to recognize and respond to signs of physical distress in a client who is receiving an emergency safety response; and**
 - b. Completes training required in subsection (F)(1)(a):**
 - i. Before providing behavioral health services, and**
 - ii. At least once every 12 months after the date the personnel member completed the initial training;**
 - 2. Documentation of the completed training in subsection (F)(1)(a) includes:**
 - a. The name and credentials of the individual providing the training,**
 - b. Date of the training, and**
 - c. Verification of a personnel member's ability to use the training; and**
 - 3. The materials used to provide the completed training in crisis intervention, including handbooks, electronic presentations, and skills verification worksheets, are maintained for 12 months after each personnel member who received training using the materials no longer provides services at the facility.**

Is the use of "physical health services" correct?

The Department will change to "personal care services" and will look at the entire rule for consistency.

Are we still using Level 2 and Level 3 classifications?

The rules do not call out Level 2 and Level 3, and they do still exist. When you apply for licensure and if you plan to provide care for Level 2 residents, you will need to indicate that on your application. Level 3 (lowest level of care) is assumed, so if you do not indicate Level 2, you will be issued a license for only Level 3.

Is this a real step down? How does a facility account for Level 2 rooms and Level 3 rooms, long term and short term, and differences in reimbursement and services?

The Department discussed these questions. You have to look at the resident's needs and not just reimbursement. Maybe, a resident doesn't move from a Level 2 room to a Level 3 room. Maybe, a resident stays in the same room. A facility might consider separating residents based on acuity. You have to identify who you are serving and the services you will provide. Residents can stay in place. If a resident is admitted as a Level 2 and responds well to treatment, such that the resident is re-assessed and it is determined that the resident is functioning as a Level 3, they can stay. Moving a resident too soon has created problems. The Department has received many complaints regarding issues that could have been averted had the resident not been moved so soon. These rules give you independence and allow you the opportunity to provide care to a resident for a longer period of time. When a resident's needs are met, there are good outcomes. Good outcomes are the best indicator that we have achieved our objective to ensure public health and safety. Reimbursement is not a licensing issue.

R9-10-716(A)(5)(b)

This is ambiguous: “interact with any other resident that may present a threat to the resident’s health and safety based on the other resident’s documented diagnosis, treatment needs, developmental levels, social skills, verbal skills, and personal history.” How do we determine history?

Your policies and procedures should include the process for obtaining a resident’s history. It is understandable that a resident’s history may not always be available. However, the more history you have, the better you are able to serve the resident and their needs.

R9-10-716(B)

Is counseling required?

No, counseling is not required and counseling services will not be listed on your license. However, if you provide counseling services, counseling services should be included in the resident’s assessment and in your scope-of-services.

Can a person who was under the age of 18 and a previous resident at a residential facility come back to that same residential facility for adult respite care?

No, they must seek out respite care from a facility that provides adult respite care services.

R9-10-716(C)(2)

How do we verify a “personnel member’s skills and knowledge are verified and documented in the personnel member’s personnel record”?

Facility policies and procedures should include methods used for verification; for example, observation. An appropriate individual may observe a personnel member performing a specific skill, then, document the observation and indicate in the personnel member’s personnel file whether the personnel member performed the skill successfully.

R9-10-716(A)(4)(a)

Should I include ancillary services that are provided off premises in the scope-of-services?

No. Transportation to the ancillary services may be included in the scope of services.

What if the services provider is credentialed?

For ancillary services, the Department’s jurisdiction is limited to the licensed facility’s premises. It may be better to have ancillary services provided at the residential facility.

R9-10-716(E)(2)(a)(i-iv)

We have staff, but cannot ensure that a resident does not experience threats, ridicule, verbal harassment, punishment, or abuse. We cannot ensure continuous, ongoing coverage. Ensure is too high of a standard. We can only intervene.

The Department understands and this is the same language that is in the rules now. Intervene is not the same as ensure.

The Department is on the right track with this. In addition, an incident has to be documented, investigated, and if corrective actions are required, the facility has to make appropriate changes.

R9-10-716(E)(1)

What does completing education mean? Should there be an individual education plan?

The Department amended, see page 5.

R9-10-717 Rewritten and discussed in previous meeting notes-medication services.

R9-10-718

If a facility has less than 10 residents, they are exempt and are not required to have a food establishment permit. If a facility has 10 or more residents, they are required to have a food establishment permit.

R9-10-718. Food Services

A. An administrator shall ensure that:

1. ***If the facility has more than 10 residents, Food food services are provided in compliance with 9 A.A.C. 8, Article 1;***
2. ***A copy of the facility's food establishment permit required in subsection (A)(1) is provided to the Department for review upon the Department's request;***
3. ***If a facility contracts with a food establishment as defined in 9 A.A.C. 8, Article 1, to prepare and deliver food to the facility, a copy of the contracted food establishment's permit is:***
 - a. ***Maintained on the facility's premises, and***
 - b. ***Provided to the Department for review upon the Department's request;***

R9-10-719(A)(2)(a)

Would you clarify "good repair"?

Not hazardous, used for the purpose intended. (A)(2)(d) is clearer. The Department will change as follows:

R9-10-719. Environmental Standards

A. An administrator shall ensure that:

1. ***The facility premises and equipment are sufficient to accommodate the activities, treatment, and ancillary services stated in the facility's scope of services;***
2. ***The facility premises and equipment are:***
 - a. ***Maintained in good repair a condition that allows the premises and equipment to be used for the original purpose of the premises and equipment;***
 - b. ***Clean,***
 - c. ***Free of insects and rodent; and***
 - d. ***Free from a condition or situation that may cause a resident or other individual to suffer physical injury or illness;***

R9-10-719(A)(4)(b)

Does tested and calibrated equipment used at the facility include air conditioners or was this intended for medical equipment related to resident's care?

This is intended for medical equipment used during a medical service that is provided to a resident.

R9-10-719(B)(1)

Not allowing smoking or tobacco products at a facility seems too restrictive?

The Department will change this as follows:

B. An administrator shall ensure that:

1. ***Smoking or the use of tobacco products is not permitted within a facility; and***
2. ***Smoking or the use of tobacco products may be permitted on the premises outside a facility if:***
 - a. ***Signs designating smoking areas are conspicuously posted, and***
 - b. ***Smoking is prohibited in areas where combustible materials are stored or in use.***

R9-10-719(E) Swimming pool

Do at least two employees need to be present at all time in the pool area when two or more residents are in the pool area?

Yes. This is not new; this is the same as in the current rules.

R9-10-720(6)

Does the disaster plan have to be tested?

No, the requirement is that a facility has a disaster plan. The Department will add that the disaster plan shall be review annually.

R9-10-721(B)

What is the frequency for inspections?

The local municipal fire code should determine the frequency. You should document that you are in compliance with requirements of the local jurisdiction, including frequency.

R9-10-721. Physical Plant Requirements

- A. Rule unchanged**
- B. An administrator shall obtain a fire inspection of the facility conducted according to the time-frame established by the local fire department or the State Fire Marshal of a facility, ~~according to the following schedules,~~ and make any repairs or corrections stated on an inspection report.**
- C. Rule unchanged**