

Perpetual Licensing Rulemaking
Summary of Changes Affecting Licensed Residential Health Care Institutions
(Effective October 1, 2019)

A.R.S. § 36-405(A) requires the Department to adopt rules to establish minimum standards and requirements for the licensing of health care institutions necessary to assure public health, safety, and welfare. The rules in Arizona Administrative Code (A.A.C.) Title 9, Chapter 10 specify requirements for health care institutions, with requirements affecting more than one class/subclass of health care institution located in Article 1 and requirements specific to a class or subclass of health care institution in other Articles in the Chapter.

Laws 2017, Ch. 122 eliminated renewal licensure for health care institutions and stated that a health care institution license remains valid unless subsequently suspended or revoked by the Department or the health care institution fails to pay a licensing fee by a specified due date. Laws 2017, Ch. 122 also required the Department to establish rules regarding the payment of licensing fees and modified information and documentation required to be submitted as part of a licensing application. Laws 2017, Ch. 134 required the Department to develop rules related to recidivism reduction staff in adult residential care institutions.

In this rulemaking, the Department revised the rules in 9 A.A.C. 10 to comply with Laws 2017, Ch. 122. As part of the rulemaking, the Department made other changes to rules in 9 A.A.C. 10 described in five-year-review reports approved by the Governor's Regulatory Review Council, including the addition of requirements related to recidivism reduction. The new rules are effective on **October 1, 2019**.

Please note that the summary below is an unofficial summary of changes that will affect the rules that govern residential health care institutions only. For an official copy of A.A.C. Title 9, Chapter 10, please visit https://apps.azsos.gov/public_services/Title_09/9-10.pdf.

ARTICLE 1. GENERAL

R9-10-101. Definitions

Removes the following definitions:

- | | |
|--|--|
| <ul style="list-style-type: none">• Behavioral health staff• Patient follow-up instructions | <p>term not used</p> <p>now used as "follow-up instructions"</p> |
|--|--|

Adds the following definitions:

- | | |
|---|--|
| <ul style="list-style-type: none">• Acuity• Adult residential care institution• Alternate licensing fee due date• Follow-up instructions• Infectious tuberculosis | <p>moves from R9-10-201 and revises since used in Articles 1, 2, 3, and 7</p> <p>new definition for including recidivism reduction</p> <p>new definition to clarify the term for perpetual licensing</p> <p>previously "patient follow-up instructions"</p> <p>makes the term consistent with how it is defined in 9</p> |
|---|--|

A.A.C. 6

- Respite capacity Articles 1, 7, and 10 moves from R9-10-1025 and revises since used in

Revises the following definitions:

- Administrative office provided there clarifies that behavioral health services may not be provided there
- Applicant fee due date clarifies to include requests for modification or alternate fee due date
- Application packet fee due date clarifies to include requests for modification or alternate fee due date
- Authorized service clarifies that the term includes behavioral health services
- Behavioral health paraprofessional supervision by BHP clarifies that health-related services do not require supervision by BHP
- Behavioral health professional (BHP) removes “registered nurse”
- Behavioral health technician clinical oversight clarifies that health-related services do not require clinical oversight
- Clinical oversight clarifies what needs to be monitored
- Contracted services clarifies that the term includes behavioral health services
- Detoxification services clarifies the services that are included in the term
- Factory-built building corrects the cross-reference
- Informed consent corrects use of defined term and adds “opioid”
- Medication corrects use of defined term
- Opioid treatment clarifies that the term includes behavioral health services
- Substantial capacity clarifies to include changes of a colocator or respite capacity
- Time-out makes the term consistent

R9-10-102. Health Care Institution Classes and Subclasses; Requirements

Updates and clarifies language

Adds “adult residential care institution” as a subclass of health care institution

Corrects use of a term

Separates requirements for two persons into different subsections

R9-10-104. Approval of Architectural Plans and Specifications

Substitutes the term “Department-provided format” for consistency

Clarifies need for “mailing address”

Adds information about respite capacity

Limits for which modifications the Section is applicable

Moves information previously required in subsection (A)(4) to subsection (A)(1)(f)

Corrects subsection (A)(1)(g/h) to use a defined term

Clarifies that more than “information” is required in subsection (A)(3)

Clarifies that an applicant “provides” rather than “submits” documents for an architectural evaluation

R9-10-105. Initial License Application

Removes references to “initial” licenses

Substitutes the term “Department-provided format” for consistency

Reformats requirements for information to simplify and clarify

Removes exclusion of behavioral health facility from requirements in A.R.S. § 36-421(F), as amended by Laws 2017, Ch. 122

Clarifies need for “mailing address”

Clarifies documentation required if the health care institution must comply with any of the physical plant codes and standards in R9-1-412

Clarifies that not all health care institutions have a licensed capacity

Adds requirement to specify the requested respite capacity, if applicable

Specifies circumstances when a license becomes invalid

R9-10-106. Fees

Corrects terminology for architectural plans and specifications

Removes references to “initial” and “renewal” licenses and adds requirements for a licensee submitting annual health care institution licensing fees

Keeps/reinstitutes fees adopted in subsections (C)(3), (6), and (7) and (D) in 2014 exempt rulemaking and not remade within two years

Adds requirements related to late fees

~~R9-10-107. Renewal License Application~~

Repeals contents of the Section

R9-10-107. Submission of Health Care Institution Licensing Fees

Adds a new Section specifying requirements for submitting licensing fees

Specifies the time-frame and related fee information for an applicant submitting licensing fees

Requires the Department to notify a licensee that annual licensing fees are due

Specifies the time-frame and requirements related to a licensee submitting annual licensing fees, including fees related to payment by an alternate licensing fee due date or with a late fee

Requires a licensee to comply with requirements in R9-10-109 or R9-10-110, as applicable, if information in the Department’s records about the licensee or facility is not correct, before submitting annual licensing fees

Specifies the process and requirements for requesting an alternate licensing fee due date

R9-10-108. Time-frames

Removes references to “initial” and “renewal” licenses

Adds requirements for review of a request for an alternate licensing fee due date

Clarifies types of application packets

Reduces the time for an applicant to supply missing information or documents before an application or written request is considered withdrawn from 180 to 60 calendar days

Clarifies that an applicant for a license does not receive the license until licensing fees are paid

Clarifies that an applicant has 120 calendar days to submit information or documentation requested during the substantive review time-frame for a licensing application or application for a modification requiring architectural plans and specifications

Clarifies that an applicant has 30 calendar days to submit information or documentation requested during the substantive review time-frame for a modification not requiring architectural plans and specifications or for a request for an alternate fee due date

Corrects cross-references

Table 1.1

Removes references to “initial” and “renewal” licenses

Adds time-frames for review of a request for an alternate licensing fee due date

R9-10-109. Changes Affecting a License

Clarifies that a licensee is required to notify the Department of a change in hours of operation; a change in the address of an administrative office in which medical services, nursing services, behavioral health services, or health-related services are not provided on the premises; or a change in the geographic region to be served by the hospice service agency or home health agency

Requires submission of documentation supporting a change requiring notification

Removes references to the expiration of a license and to initial and renewal licenses

Clarifies the requirement in A.R.S. § 36-425(l) for notification of a change in the chief administrative officer

Adds that a licensee may submit to the Department the health care institution’s current accreditation report, moved from R9-10-107

Corrects cross-references

Removes requirements related to the Department’s approval of a change because no approval is required

R9-10-110. Modification of a Health Care Institution

Clarifies requirements by adding a list of types of modifications

Clarifies for which types of modifications submission of architectural plans and specifications is required

Clarifies the content of an application packet for a modification

Clarifies need for “e-mail address”

Clarifies the documentation required to demonstrate that a requested modification complies with applicable requirements in the Chapter

Adds a requirement for submission, if applicable, of a copy of the written agreement an associated licensed provider or exempt health care provider has with the collaborating outpatient treatment center, moved from R9-10-1031

Corrects cross-references

R9-10-111. Enforcement Actions

Corrects cross-references

R9-10-112. Denial, Revocation, or Suspension of License

Adds that denial, revocation, or suspension of a license do not apply for failure to pay a required licensing fee, because the license just becomes void

Clarifies that the Department may deny, revoke, or suspend a license if a licensee does not comply with the applicable requirements in A.R.S. Title 36, Chapter 4 and this Chapter

Clarifies wording related to license expiration

R9-10-113. Tuberculosis Screening

Clarifies that a health care institution may establish, document, and implement a tuberculosis infection control program that complies with the specified guidelines in lieu of conducting screening tests

R9-10-114. Clinical Practice Restrictions for Hemodialysis Technician Trainees

Corrects a cross-reference

R9-10-115. Behavioral Health Paraprofessionals; Behavioral Health Technicians

Corrects grammatical errors

R9-10-116. Nutrition and Feeding Assistant Training Programs

Substitutes the term “Department-provided format” for consistency

Corrects grammatical errors

R9-10-118. Collaborating Health Care Institution

Corrects grammatical errors and cross-references

ARTICLE 7. BEHAVIORAL HEALTH RESIDENTIAL FACILITIES

R9-10-702. Supplemental Application and Documentation Submission Requirements

Removes a reference to “initial” licenses

Adds whether the applicant is requesting authorization to provide recidivism reduction services, including the requested licensed capacity

Clarifies the number of individuals to be admitted to receive respite services

Removes a reference to “renewal” licenses

Clarifies that a licensee of an outdoor behavioral health care program must submit a copy of the outdoor behavioral health care program’s current accreditation report to the Department with the relevant annual licensing fees

R9-10-703. Administration

Clarifies fingerprinting requirements and requirements for background checks, consistent with statutes

Clarifies that policies and procedures covering respite services must include, as applicable, respite services for individuals staying up to 30 days in the behavioral health residential facility and respite services for those who do not stay overnight

Corrects typographical errors

Corrects cross-references

Removes a redundant requirement for documentation

Adds that a personnel member who is able to read, write, understand, and communicate in English must be on the premises of the behavioral health residential facility

R9-10-706. Personnel

Clarifies documentation of fingerprinting requirements and requirements for background checks, consistent with statutes

Adds requirements for a personnel member who is recidivism reduction staff

Corrects a cross-reference

R9-10-707. Admission; Assessment

Clarifies that a resident's primary condition for which the resident is admitted to the behavioral health residential facility is a behavioral health issue

Clarifies that a resident's behavioral health issue and treatment needs must be within the behavioral health residential facility's scope of services

Corrects the inconsistent use of a term

Reduces the time to perform a medical history and physical examination or perform a nursing assessment on a resident after admission and document the results from within seven calendar days to within 72 hours after admission

Clarifies that a resident's assessment information is reviewed before treatment for the resident is initiated

Corrects grammatical errors

Reduces the time to document an interval note from within 48 hours to within 24 hours after the information is obtained

Clarifies requirements for tuberculosis screening for an individual admitted for respite services

R9-10-708. Treatment Plan

Corrects a cross-reference

Corrects a grammatical error

R9-10-711. Resident Rights

Corrects a grammatical error

Clarifies when a resident or resident's representative may refuse or withdraw consent for treatment

R9-10-712. Medical Records

Corrects a grammatical error

R9-10-713. Transportation; Resident Outings

Corrects grammatical errors

R9-10-714. Resident ~~Time-Out~~ Time-Out

Corrects grammatical errors

R9-10-715. Physical Health Services

Clarifies that a behavioral health residential facility must be authorized to provide personal care services

Corrects cross-references

R9-10-716. Behavioral Health Services

Clarifies requirements related to a resident admitted to the behavioral health residential facility with limited ability to function independently or who needs behavioral health services to maintain or enhance the resident's ability to function independently

Clarifies requirements related to a resident participating in behavioral health services provided in a setting or activity with more than one resident participating

Corrects grammatical errors

R9-10-717. Outdoor Behavioral Health Care Programs

Clarifies that a behavioral health residential facility must be authorized to provide an outdoor behavioral health care program

Updates the reference to the current dietary guidelines

R9-10-717.01. Recidivism Reduction Services

Adds a new Section specifying requirements related to recidivism reduction

R9-10-718. Medication Services

Corrects the use of defined terms

Corrects a grammatical error

R9-10-719. Food Services

Updates the reference to the current dietary guidelines

Corrects a grammatical error

R9-10-720. Emergency and Safety Standards

Corrects a grammatical error

R9-10-722. Physical Plant Standards

Corrects the use of a defined term

ARTICLE 8. ASSISTED LIVING FACILITIES

R9-10-801. Definitions

Clarifies that "assisted living services" includes "behavioral care" and not all "behavioral health services," for which authorization would need to be received

R9-10-802. Supplemental Application Requirements

Removes a reference to "initial" licenses

R9-10-803. Administration

Clarify that policies and procedures for termination of residency should include both termination by the facility and termination by a resident/resident's representative

Clarify that vaccination for both influenza and pneumonia should be made available to residents, consistent with statute

Adds a requirement for policies and procedures to cover methods by which an assisted living facility is aware of the general or specific whereabouts of a resident, based on the level of assisted living services provided to the resident and the assisted living services the assisted living facility is authorized to provide

R9-10-806. Personnel

Adds requirements related to documenting the caregivers and assistant caregivers working each day, including the hours worked by each

Adds a requirement for an assisted living home to ensure there is back-up if a manager or caregiver assigned to work is not available or not able to provide the required assisted living services

R9-10-807. Residency and Residency Agreements

Clarifies that a manager may not accept or retain an individual:

- Whose primary condition for which the individual needs assisted living services is a behavioral health issue
- Needing services not within the scope of services of the assisted living facility, and a home health agency or hospice service agency is not involved in the care of the individual

Corrects grammatical errors

Clarifies requirements related to termination of residency by a facility

R9-10-808. Service Plans

Clarifies the intent for the requirement for reading materials to be available to residents and allows for internet sources to be included

R9-10-810. Resident Rights

Clarifies that an individual is accepted as a resident, not admitted

R9-10-814. Personal Care Services

Corrects a cross-reference

R9-10-815. Directed Care Services

Corrects a cross-reference

R9-10-817. Food Services

Updates the reference to the current dietary guidelines

R9-10-818. Emergency and Safety Standards

Corrects a typographical error

Removes a reference to "initial" licenses

R9-10-820. Physical Plant Standards

Clarifies that there are different physical plant health and safety codes and standards applicable for different levels of service

ARTICLE 11. ADULT DAY HEALTH CARE FACILITIES

R9-10-1102. Supplemental Application Requirements

Removes a reference to “initial” licenses