

NOTICE OF EMERGENCY RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 21. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) -
BEHAVIORAL HEALTH SERVICES FOR PERSONS WITH SERIOUS MENTAL ILLNESS

ARTICLE 5. COURT ORDERED EVALUATION AND TREATMENT

PREAMBLE

- | | |
|---|---------------------------------|
| 1. <u>Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
| R9-21-502 (Exhibit C) | Amend |
- 2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
- Authorizing statute: A.R.S. § 36-520
- Implementing statute: A.R.S. § 36-524 (Session Law 2022, Chapter 299, Senate Bill 1114)
- 3. The effective date of the rule:**
- a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**
- AHCCCS requests an immediate effective date, upon publication with the Secretary of State, due to the immediate nature of Emergency Applications for Evaluation. In addition, an immediate effective date meets the requirements in A.R.S. § 41-1032(A):
- (1) To preserve the public peace, health or safety; and
- (4) To provide a benefit to the public and a penalty is not associated with a violation of the rule.
- 4. Citations to all related emergency rulemaking notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of this notice of emergency rulemaking:**
- Notice of Emergency Rulemaking: (volume #) A.A.R. (page #)
- 5. The agency’s contact person who can answer questions about the rulemaking:**
- Name: Nicole Fries
- Address: AHCCCS

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6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The proposed rulemaking will add two additional options for seeking an Emergency Admission for Evaluation; Persistently or Acutely Disabled, and Gravely Disabled. This rulemaking is requested to align the form with the language in S.B. 1114, that was signed into law by the Governor earlier this year and became effective September 24, 2022. This change is anticipated to be non-controversial but will have a significant impact on members of the Arizona community in need of emergency evaluation for mental/behavioral health conditions. AHCCCS has already received questions from providers and counties regarding the forms and this is the best way to continue to serve the public, while including this change in a subsequent regular rulemaking to allow for public notice and comment.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

Not applicable.

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

The rulemaking will not diminish a previous grant of authority of a political subdivision of the state.

9. A summary of the economic, small business, and consumer impact:

There is not anticipated to be a fiscal impact on small business or consumers since this retains the same process and only adopts the two new bases for evaluation outlined in statute. The state may see an economic impact if there is a much greater number of people who apply for evaluation on these new bases. However any additional cost has been anticipated by the legislature prior to their change in the implementing statutes during the 2022 Session.

10. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include but are not limited to:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable.

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

No material is incorporated by reference.

12. An agency explanation about the situation justifying the rulemaking as an emergency rule:

All providers of emergency evaluations expect to receive emergency applications for evaluation via the form in Exhibit C. In order to make sure individuals may apply for emergency evaluations on all statutory basis it is imperative to get a new version of Exhibit C out to the public. AHCCCS plans to follow the emergency rule with a regular rulemaking also making this change but that change will not be soon enough to allow those individuals who meet the Persistently or Acutely Disabled and Gravely Disabled categories that the legislature also intended to apply. The multiple month gap between the effective date of the statute and the effective date of a regular rulemaking would cause many individuals who are actually eligible for emergency evaluation to go untreated, causing serious hard to their health. Therefore, AHCCCS believes this emergency rulemaking would be necessary to preserve public health and as a benefit to the public that the legislature intended.

13. The date the Attorney General approved the rule:

14. The full text of the rules follows:

R9-21-502. Emergency Admission for Evaluation
Exhibit C. Application for Emergency Admission for Evaluation

APPLICATION FOR EMERGENCY ADMISSION FOR EVALUATION

(Pursuant to A.R.S. § 36-524)

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

The undersigned applicant, being first duly sworn/affirmed, hereby requests that _____ (Evaluation Agency) admit the person named herein for evaluation.

1. The undersigned applicant alleges that there is now in the County a person whose name and address are:

_____ (Name) _____ (Address)

and that s/he believes that the person has a mental disorder and, as a result of said mental disorder, is:

A danger to self; A danger to others; Persistently or Acutely Disabled; Gravely Disabled;

and that, during the time necessary to complete pre-petition screening under A.R.S. §§ 36-520 and 36-521, the person is likely without immediate hospitalization to suffer serious physical harm or serious illness or is likely to inflict serious physical harm up on another person.

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

3. The specific nature of the danger posed by this person is:

4. A summary of the personal observations upon which this statement is based is as follows:

