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CHAPTER 195

SENATE BILL 1257

AN ACT

AMENDING SECTIONS 8-527, 11-297, 15-765, 15-1181, 36-141, 36-189, 36-201, 36-202, 36-203, 36-204, 36-205, 36-206, 36-208, 36-209, 36-210, 36-212 AND 36-213, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-216 AND 36-217; AMENDING SECTIONS 36-501 AND 36-502, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-502.01; REPEALING SECTION 36-503.02, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-504, 36-511, 36-518, 36-520, 36-521, 36-522, 36-523, 36-531, 36-535, 36-540.02, 36-541.01, 36-543, 36-545.01, 36-545.05, 36-545.06, 36-545.07, 36-550, 36-550.01, 36-550.02, 36-550.03, 36-550.04, 36-550.06, 36-550.07, 36-556, 36-2021, 36-2022, 36-2023, 36-2024, 36-2026, 36-2028, 36-2029, 36-2051, 36-2052, 36-2901, 36-2907, 36-2989 AND 36-3401, ARIZONA REVISED STATUTES; REPEALING SECTION 36-3402, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-3403, 36-3404, 36-3405, 36-3406, 36-3407, 36-3408, 36-3409, 36-3410 AND 36-3411, ARIZONA REVISED STATUTES; REPEALING SECTION 36-3412, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 34, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 36-3412; AMENDING SECTION 36-3413, ARIZONA REVISED STATUTES; REPEALING SECTION 36-3414, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-3415, 36-3431, 36-3432, 36-3433, 36-3434, 36-3435, 36-3501, 41-2501, 41-3803, 41-3804 AND 41-3955.01, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO BEHAVIORAL HEALTH SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 8-527, Arizona Revised Statutes, is amended to read:

8-527. Children in out-of-home care; noninterference with regular school activities

The agency, division and ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION in accordance with section 36-3435, subsection B~~,~~ shall make every reasonable effort to not remove a child who is placed in out-of-home care from school during regular school hours for appointments, visitations or activities not related to school.

Sec. 2. Section 11-297, Arizona Revised Statutes, is amended to read:

11-297. Seriously mentally ill; county responsibility; definition

A. Notwithstanding section 11-291:

1. A county that has a population of less than six hundred thousand persons must provide the benefit levels and categories of services for the behavioral health treatment, behavioral health hospitalization and behavioral health medical care of persons who are seriously mentally ill as required by law as of January 1, 2001.

2. A county that has a population of more than six hundred thousand persons but less than two million persons and that has an intergovernmental agreement with the department of health services in effect as of January 1, 2001 for the delivery of behavioral health and mental health care services must ~~annually renew the~~ MAINTAIN AN agreement WITH THIS STATE to provide for the integration of the system at the same funding amount, except for the funding for court-ordered screening and evaluation pursuant to title 36, chapter 5, article 4.

3. A county that has a population of more than two million persons and that has an intergovernmental agreement with the department of health services in effect as of January 1, 2001 for the delivery of services to the seriously mentally ill must ~~annually renew the~~ MAINTAIN AN agreement WITH THIS STATE to provide for the integration of the system at the same terms and funding amount and with a mutually agreed on annual adjustment for inflation.

B. For the purposes of this section, "seriously mentally ill" has the same meaning prescribed in section 36-550.

Sec. 3. Section 15-765, Arizona Revised Statutes, is amended to read:

15-765. Special education in rehabilitation, corrective or other state and county supported institutions, facilities or homes

A. For the purposes of this section and section 15-764, children with disabilities who are being provided with special education in rehabilitation, corrective or other state and county supported institutions or facilities are the responsibility of that institution or facility, including children with disabilities who are not enrolled in a residential program and who are being furnished with daily transportation. Special education programs at the

institution or facility shall conform to the conditions and standards prescribed by the director of the division of special education.

B. Notwithstanding subsection A of this section, the department of economic security, the department of child safety or the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM may request on behalf of a school-age child with a disability residing in a residential facility or foster home operated or supported by the department of economic security, the department of child safety or the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM that the school district in which the facility or home is located enroll the school-age child in the district, subject to section 15-825. The school district, on the request by the department of economic security, the department of child safety or the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM, shall enroll the child and provide any necessary special education and related services, subject to section 15-766. A school district in which a child with a disability is enrolled shall coordinate the development of an individualized education program with the development of an individual program or treatment plan. The provision of special education and related services to a child with a disability may be subject to subsection D of this section.

C. Before any placement is made in facilities described in this section, the school district of residence shall ensure that a full continuum of alternative placements is available to meet the needs of children with disabilities and that the proposed placement is the least restrictive environment in which appropriate education services can be provided to the child.

D. A school district or county school superintendent may contract with, and make payments to, other public or private schools, institutions and agencies approved by the division of special education, within or without the school district or county, for the education of and provision of services to children with disabilities if section 15-766 and the conditions and standards prescribed by the division of special education have been met and if unable to provide satisfactory education and services through its own facilities and personnel in accordance with the rules prescribed by the state board of education as provided in section 15-213. No school district may contract or make payments under the authority of this section or section 15-764 or any other provisions of law for the residential or educational costs of placement of children with disabilities in an approved private special education school, institution or agency unless the children are evaluated and placed by a school district. The following special provisions apply in order to qualify for the group B ED-P weight:

1. If the child is placed in a private special education program, the chief administrative official of the school district or county or other person designated by the school district or county as responsible for special education shall verify that the pupil is diagnosed with an emotional

disability as defined in section 15-761, that no appropriate program exists within the school district or county, as applicable, and that no program can feasibly be instituted by the school district or county, as applicable.

2. If the child is placed in a special program that provides intensive services within a school district, the chief administrative official of the school district or county or other person as designated by the school district or county as responsible for special education shall verify that the pupil placed in such a program is diagnosed with an emotional disability as defined in section 15-761 and that appropriate services cannot be provided in traditional resource and self-contained special education classes.

E. When a state placing agency initially places a pupil in a private residential facility, the home school district must conduct an evaluation pursuant to section 15-766 or review the educational placement of a pupil who has previously been determined eligible for special education services. The school district shall notify the appropriate state placing agency when a child requires an evaluation for possible receipt of services provided by that agency or a residential special education placement. The school district and the state agency shall jointly evaluate the child, including consideration of relevant information from additional sources, including probation or parole officers, caseworkers, guardians ad litem and court appointed special advocates.

F. If the child is not eligible for special education or does not require residential special education placement, sections 15-1182 and 15-1183 apply.

G. If the individualized education program team determines that a residential special education placement is the least restrictive environment in which an appropriate educational program can be provided, the home school district shall submit the following documentation to the department of education:

1. A residential special education voucher application signed by designated representatives of the state placing agency, as defined in section 15-1181, and the home school district, respectively.

2. The educational reasons for recommending the residential special education placement, including an evaluation or addendum to the evaluation that describes the instructional and behavioral interventions that were previously attempted and the educational reasons for recommending the residential special education placement, including documentation that the nature or severity of the disability is such that education in a less restrictive environment is not appropriate.

3. Exit criteria as required in subsection K of this section.

4. That prior written notice for a change in the child's placement was provided.

H. If a residential special education placement is required by the child's individualized education program, the educational component of the

residential facility shall be one that is approved by the department of education for the specific special education services required.

I. The residential component of the facility in which the residential special education placement is made shall be licensed by the department of economic security, the department of child safety or the department of health services, whichever is appropriate.

J. Following and in accordance with the consensus decision of the individualized education program team as prescribed in section 15-766, a residential special education placement shall be made by the school district and the appropriate state agency. The individualized education program team shall determine whether a residential special education placement is necessary. The state placing agency shall consider the recommendations of the individualized education program team in selecting the specific residential facility. The department of education shall enter into interagency services agreements with the department of economic security, the department of child safety or the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM to establish a mechanism for resolving disputes if the school district and the department of economic security, the department of child safety or the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM cannot mutually agree on the specific residential placement to be made. Dispute resolution procedures may not be used to deny or delay residential special education placement.

K. The individualized education program for any child who requires residential special education placement must include exit criteria that indicate when the educational placement of the child shall be reviewed to determine whether the child can be moved to a less restrictive placement.

L. All noneducational and nonmedical costs incurred by the placement of a child with a disability in a private or public school program and concurrent out-of-home care program shall be paid by the department of economic security for those children eligible to receive services through the division of developmental disabilities, by the department of child safety for the children for which it has legal responsibility and by the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM for those children eligible to receive BEHAVIORAL HEALTH OR CHILDREN'S REHABILITATION services through the ~~division of behavioral health in the department of health services or children's rehabilitation services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION. This section does not prevent or limit the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM, the department of child safety and the department of economic security from joint case management of any child who qualifies for services from two or more of these agencies or from sharing the noneducational costs of providing those services. The educational costs incurred by the placement of a child with a disability in an out-of-home care facility shall be paid as follows:

1. Through a residential special education placement voucher as provided in section 15-1184 if the child is determined to require a residential special education placement as defined in section 15-761.

2. Through an initial or continuing residential education voucher if a child is placed in a private residential facility by a state placing agency, as defined in section 15-1181, for care, treatment and safety reasons and the child needs educational services while in that placement.

3. Through a certificate of educational convenience if the child is attending a public school not within the child's school district of residence as provided in section 15-825.

4. By the home school district, pursuant to a contract with a public or private school as provided in subsection D of this section, if the home school district is unable to provide satisfactory education and services through its own facilities and personnel.

M. The department of economic security, the department of child safety or the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM, whichever is appropriate, shall determine if the child placed for purposes of special education in a private or public school and concurrent out-of-home care is covered by an insurance policy that provides for inpatient or outpatient child or adolescent psychiatric treatment. The appropriate state agency may only pay charges for treatment costs that are not covered by an insurance policy. Notwithstanding any other law, the appropriate state agency may pay for placement costs of the child before the verification of applicable insurance coverage. On the depletion of insurance benefits, the appropriate state agency shall resume payment for all noneducational and nonmedical costs incurred in the treatment of the child. The appropriate state agency may request the child's family to contribute a voluntary amount toward the noneducational and nonmedical costs incurred as a result of residential placement of the child. The amount that the appropriate state agency requests the child's family to contribute shall be based on guidelines in the rules of the appropriate state agency governing the determination of contributions by parents and estates. This subsection does not require parents to incur any costs for required special education and related services or shall be construed to result in a reduction in lifetime insurance benefits available for a child with a disability.

N. If appropriate services are offered by the school district and the parent or the child chooses for the child to attend a private facility, either for day care or for twenty-four-hour care, neither the school district nor the respective agency is obligated to assume the cost of the private facility. If residential twenty-four-hour care is necessitated by factors such as the child's home condition and is not related to the special educational needs of the child, the agency responsible for the care of the child is not required to pay any additional costs of room and board and nonmedical expenses pursuant to this section.

Sec. 4. Section 15-1181, Arizona Revised Statutes, is amended to read:

15-1181. Definitions

In this article, unless the context otherwise requires:

1. "Child" means a person who is at least three years of age by September 1 of the current year but who is under twenty-two years of age.

2. "Foster parent" means a person who may serve as the parent of a child with disabilities if that person has an ongoing, long-term parental relationship with the child, is willing to make educational decisions for the child and has no personal interest that would conflict with the interests of the child.

3. "Fund" means the special education fund.

4. "Home school district" has the same meaning prescribed in section 15-761.

5. "Individualized education program" has the same meaning prescribed in section 15-761.

6. "Parent" means the natural or adoptive parent of a child, the legal guardian of a child, a relative with whom a child resides and who is acting as the parent of that child or a surrogate parent who has been appointed for a child pursuant to section 15-763.01. Parent does not mean this state if the child is a ward of the state.

7. "Place" or "placement" means placement of a child in a private residential facility for residential special education placement as defined in section 15-761 or by a state placing agency for care, safety or treatment reasons.

8. "Private residential facility" means a private facility that is licensed by the department of economic security or department of health services and to which one of the following also applies:

(a) For special education placements, the facility has been approved by the division of special education pursuant to section 15-765 for the purpose of providing special education and related services.

(b) For other than special education placements, the facility has been accredited by the north central association of colleges and secondary schools, except that private facilities applying for initial approval as a private school are not required to receive accreditation until three years after the date of initial approval as long as continual progress toward accreditation is maintained.

9. "Related services" means related services as defined in section 15-761.

10. "Residential special education placement" has the same meaning prescribed in section 15-761.

11. "Special education" has the same meaning prescribed in section 15-761.

12. "State placing agency" means the department of juvenile corrections, the department of economic security, the department of child

safety, the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM or the administrative office of the court.

Sec. 5. Section 36-141, Arizona Revised Statutes, is amended to read:

36-141. Authority to contract and pay for alcohol and drug abuse services; services to pregnant women; priority

A. The ~~deputy~~ director of the ~~division of behavioral health with the approval of the director~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION is authorized to contract for the development and maintenance of alcohol and drug abuse services from monies available for such purpose with public or private agencies or organizations engaged in providing such preventive, rehabilitative and research services including educational, counseling and research activities directed toward preventing persons from becoming addicted to the excessive use of alcohol or other drugs and consultative services to relatives or other persons concerned with the care of persons addicted to the excessive use of alcohol or other drugs, in addition to detecting, counseling, referring, caring for and training those afflicted.

B. In allocating any new and existing undedicated monies available to the ~~division of behavioral health~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM for alcohol and substance abuse, the ~~deputy~~ director OF THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION shall give priority to treatment services for pregnant abusers of alcohol and other drugs.

Sec. 6. Section 36-189, Arizona Revised Statutes, is amended to read:

36-189. State participation in establishment and maintenance of local health departments and local health services

A. The department of health services may use ~~funds~~ MONIES at its disposal and not otherwise appropriated to match ~~funds~~ MONIES provided by cities and counties to establish and maintain local health department services for any city or county, on such reasonable terms as it establishes by rule. From the appropriation made for purposes of this section, the department of health services shall reimburse local health departments, which meet minimum standards of personnel and performance established by the director of the department of health services and, ~~upon~~ ON submission and approval of a plan and budget by such local health departments, fifty ~~per cent~~ PERCENT of the portion of the total approved budget not in excess of one dollar twenty-five cents per capita or a prorated portion thereof if sufficient ~~funds~~ MONIES are not available to meet the approved requests. If annual expenditures of the local health department are less than the amount budgeted, the total state reimbursement to such department for the year shall not exceed the appropriate ~~per cent~~ PERCENTAGE of the amount actually expended by such local health department. The department of health services ~~may~~, in addition, MAY provide federal ~~funds~~ MONIES or services for demonstrations, studies and special projects, or for emergencies.

B. The ~~division of behavioral health in the department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM may use ~~funds~~ MONIES at

its disposal, including federal ~~funds~~ MONIES available to the state for this purpose, and not otherwise appropriated to contract for the establishment and maintenance of local mental health facilities and services to be provided by either private or public agencies. ~~Funds~~ MONIES available for this purpose shall be expended only for local mental health facilities and services. The ~~division of behavioral health in the department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION shall advance or reimburse ~~funds~~ MONIES to local agencies that have submitted and obtained approval of an annual plan and budget. The annual amount of state matching funds provided shall not exceed seventy-five ~~per cent~~ PERCENT of the total annual amount of ~~funds~~ MONIES and value of in-kind resources used by the agency to establish and maintain local mental health facilities and services.

Sec. 7. Section 36-201, Arizona Revised Statutes, is amended to read:

36-201. Definitions

In this article, unless the context otherwise requires:

1. "Chief medical officer" means the chief medical officer of the state hospital.

2. "Department" means the department of health services.

~~3. "Deputy director" means the deputy director of the division of behavioral health in the department.~~

~~4.~~ 3. "Director" means the director of the department of health services.

~~5. "Division" means the division of behavioral health in the department of health services.~~

~~6.~~ 4. "Employee" means an officer or employee of the state hospital.

~~7.~~ 5. "State hospital" means Arizona state hospital.

~~8.~~ 6. "Superintendent" means the superintendent of the state hospital.

Sec. 8. Section 36-202, Arizona Revised Statutes, is amended to read:

36-202. State hospital for the mentally disordered; official name; purpose; facilities and equipment

A. A state hospital shall be maintained for the care and treatment of persons with mental disorders~~,~~ and persons with other personality disorders or emotional conditions who will benefit from care and treatment. Admissions to the state hospital shall be in accordance with law. The hospital shall be called the Arizona state hospital.

B. Subject to legislative appropriation, the state hospital may provide services to persons suffering from alcoholism and to persons suffering from drug abuse.

C. The state hospital shall have adequate facilities and equipment for enlightened and scientific treatment of nervous and mental diseases in accordance with approved methods of mental therapeutics. ~~Such~~ THE facilities shall include, among other things:

1. Facilities for medical and psychiatric treatment with special attention to occupational therapy and other special therapies.

2. Facilities for proper segregation and care of child patients.
3. Facilities for recreation and physical training.
4. An institutional library for the use of patients.
5. A properly equipped dental department.
6. A properly equipped laboratory and X-ray department.
7. A patient tracking system approved by the ~~deputy~~ director ~~which~~ THAT monitors individual progress on an inpatient basis and ~~assures~~ ENSURES suitable aftercare placement.

D. The state hospital shall be under the charge and control of the ~~deputy~~ director of the ~~division of behavioral health of the~~ department of health services, pursuant to ~~the provisions of~~ this article ~~and chapter 34 of this title~~.

Sec. 9. Section 36-203, Arizona Revised Statutes, is amended to read:

36-203. Persons with intellectual disabilities assigned to state hospital; department duties

A. The ~~division~~ DEPARTMENT OF HEALTH SERVICES shall develop and provide, in coordination with the department of economic security, specialized treatment programs for persons with an intellectual disability who have been admitted to the state hospital. The ~~division~~ DEPARTMENT OF HEALTH SERVICES may contract with the department of economic security in providing these programs.

B. The ~~division~~ DEPARTMENT, to the extent practicable, shall provide separate areas at the state hospital for persons diagnosed with intellectual disabilities and, to the extent practicable, shall provide that treatment programs developed pursuant to subsection A of this section are separate from treatment programs for other patients and for separate use of facilities by persons diagnosed with intellectual disabilities.

C. The ~~division~~ DEPARTMENT OF HEALTH SERVICES, on request of a parent or guardian of a minor with an intellectual disability or the guardian of an adult with an intellectual disability or on the request of an adult with an intellectual disability, shall notify the department of economic security before the release of that person from the state hospital and request that the department of economic security provide placement evaluation and case management services for that person. The evaluation shall consider the person's needs for housing, day programs, employment training, employment and support services.

D. The ~~division~~ DEPARTMENT, on the application of a parent or guardian of a minor with an intellectual disability or the guardian of an adult with an intellectual disability or on the request of an adult with an intellectual disability, when the person has been authorized for discharge from the state hospital, may provide interim care and custody for that person pending the availability of intellectual disability programs and services in accordance with section 36-556.

Sec. 10. Section 36-204, Arizona Revised Statutes, is amended to read:

36-204. Duties of director

The ~~deputy~~ director shall:

1. Adopt rules for inpatient services~~, with the approval of the director, which assure~~ THAT ENSURE proper review of treatment and discharge plans, arrangement for aftercare placements, transfer of medical records and assistance with medications.

2. If deemed advisable, establish a nurses' training school in connection with the state hospital, which shall be under the supervision of the superintendent.

3. Prescribe forms of complaints, certificates of mental illness~~,~~ and commitments.

4. Adopt rules~~, with the approval of the director,~~ for THE commitment of mentally ill persons THAT ARE not inconsistent with provisions of law.

5. Adopt rules~~, with the approval of the director,~~ for THE administration of the state hospital and to carry out the purposes of this article.

Sec. 11. Section 36-205, Arizona Revised Statutes, is amended to read:

36-205. Superintendent of state hospital; appointment; qualifications; compensation; chief medical officer

A. There shall be a superintendent of the state hospital who shall be appointed by ~~the deputy director, with final approval of the director,~~ and ~~be~~ under the supervision of the ~~deputy~~ director.

B. The compensation to be paid to the superintendent shall be determined pursuant to section 38-611.

C. The superintendent shall be removed only for cause.

D. The superintendent shall have the following qualifications:

1. Administrative experience in the private sector.

2. An educational background that prepares the superintendent for the administrative responsibilities assigned to the position.

3. Mental health-related experience in both an institutional and community setting.

E. The superintendent, with the approval of the ~~deputy~~ director, shall appoint a chief medical officer of the state hospital who is a physician and who is licensed pursuant to title 32, chapter 13 or 17. The chief medical officer shall have not less than three years' experience in the treatment of psychiatric disorders and shall be board-certified in psychiatry by the board of psychiatry and neurology. The chief medical officer is eligible for compensation pursuant to section 38-611. The chief medical officer is responsible for the clinical administration of the hospital and shall report directly to the superintendent.

Sec. 12. Section 36-206, Arizona Revised Statutes, is amended to read:

36-206. Duties of superintendent; clinical assessment

A. The ~~deputy~~ director has charge of the state hospital and the superintendent shall supervise and direct its activities, subject to the

provisions of law and approval of the ~~deputy~~ director. The superintendent is directly responsible to the ~~deputy~~ director for carrying out the purposes for which the hospital is maintained. Subject to the approval of the ~~deputy~~ director, the superintendent may deputize any qualified officer of the state hospital to do or perform any act the superintendent is empowered to do or charged with the responsibility of doing by law.

B. The ~~deputy director~~ SUPERINTENDENT in December each year shall estimate the probable daily per capita cost of treatment and maintenance of each category of patients for the next ensuing year as determined in accordance with standard accounting practices. A statement of the estimate shall be provided to the director in January of the following year.

C. The superintendent, on request, shall provide to the ~~deputy~~ director a clinical assessment of the state hospital's programs.

D. On or before August 1 of each year, the ~~deputy~~ director shall establish maximum funded capacity and a percentage allocation formula for forensic and civil bed capacity at the Arizona state hospital based on census data collected pursuant to sections 13-3994, 13-4512, 36-202.01 and 36-503.03. By June 1 of each year, the ~~deputy~~ director shall solicit and consider the recommendations of representatives of the county board of supervisors, the Arizona prosecuting attorneys' advisory council and the superior court when establishing this formula. In addition to establishing the formula, the ~~deputy~~ director, the county board of supervisors, the Arizona prosecuting attorneys' advisory council and the superior court shall develop a contingency plan for the placement of patients subject to sections 13-3994, 13-4512, 36-202.01 and 36-503.03 in times of emergency and other unforeseen circumstances. The ~~deputy~~ director shall notify the governor, the president of the senate, the speaker of the house of representatives and the chairman of each county board of supervisors of the funded capacity and allocation formula for the current fiscal year. Thirty days before the notification of the forensic and civil bed funded capacity formula, the ~~deputy~~ director shall provide this information to the representatives of the county board of supervisors, the Arizona prosecuting attorneys' advisory council and the superior court for comment. The ~~deputy~~ director shall include these comments when issuing the formula.

Sec. 13. Section 36-208, Arizona Revised Statutes, is amended to read:

36-208. Employees; compensation

A. Except as otherwise provided by this article, the ~~deputy~~ director shall employ all employees of the state hospital. The ~~deputy~~ director may employ necessary medical consultants ~~upon~~ ON recommendation of the superintendent. The ~~deputy~~ director may permit members of the medical staff to act as consultants in psychiatry.

B. Subject to the laws of this state governing state personnel administration, the superintendent may discharge an employee for cause. An employee so discharged ~~may~~, ~~upon~~ ON request, MAY have the reasons for ~~his~~ THE discharge reviewed and determined by the ~~deputy~~ director. The superintendent

shall file a written report with the ~~deputy~~ director of each discharge setting forth the reasons ~~therefor~~ FOR THE DISCHARGE.

C. The compensation of employees of the state hospital shall be as determined pursuant to section 38-611.

Sec. 14. Section 36-209, Arizona Revised Statutes, is amended to read:

36-209. Reports by superintendent and director

A. At such time as the ~~deputy~~ director designates, the superintendent shall submit to the ~~deputy~~ director a report of the activities of the state hospital during the preceding fiscal year, including:

1. The number of patients received, conditionally discharged and discharged and voluntary patients treated.

2. Methods of treatment used and the results.

3. The total number, including the number of such persons who were committed on a voluntary and involuntary basis, of seriously mentally ill patients as defined in section 36-550 and the place to which each person was discharged.

4. Census data for treatment programs pursuant to sections 13-3994, 13-4512, 36-202.01 and 36-503.03.

5. A complete employment and personnel record.

6. The condition of existing equipment.

7. Recommendations for improvement of the institution.

8. Other matters required by the ~~deputy~~ director or deemed advisable by the superintendent to present a complete description of the condition and activities of the hospital.

B. Not later than the fifteenth day of each month, the ~~deputy~~ director shall prepare in duplicate a financial statement of the affairs of the state hospital, including:

1. The amounts appropriated for the current fiscal year for operation, maintenance and improvement.

2. The amount expended during the preceding calendar month.

3. The balance on hand.

4. The estimated expenditures for the current month.

5. An inventory report.

C. The original report and statements required by this section shall be filed with and retained as records of the ~~deputy~~ director and duplicates filed with the director of the department of administration.

D. At such time as the ~~deputy~~ director designates, the superintendent shall submit to the ~~deputy~~ director a financial statement of the affairs of the state hospital during the preceding fiscal year in a form prescribed by the director of the department of administration.

E. By October 1 of each year, the ~~deputy~~ director~~, with the approval of the director,~~ shall submit to the governor a comprehensive report of the activities of the state hospital during the preceding fiscal year, which shall include the annual reports of the superintendent, and shall contain:

1. An account of the work done.

2. Recommendations for improvements.

3. Financial statements ~~which shall~~ THAT clearly reflect the origin and disposition of all monies ~~which~~ THAT have come into the hands of the ~~deputy~~ director or an employee through appropriations or otherwise.

F. The ~~deputy~~ director~~, with the approval of the director,~~ shall make such supplemental reports as the governor or the legislature requests.

G. The annual report PRESCRIBED BY SUBSECTION E OF THIS SECTION shall be published for the information of the public and five copies shall be delivered to the chief clerk of the house of representatives and the secretary of the senate, respectively, who shall keep them on file for the use of the members of each house.

Sec. 15. Section 36-210, Arizona Revised Statutes, is amended to read:

36-210. Expenditures

A. This article does not give the director or any employee authority to create a debt or obligation in excess of the amount appropriated by the legislature to carry out its provisions. If monies are not appropriated to carry out the purpose of this article, the director shall submit recommendations to the legislature, with a statement of the cost when an improvement is requested.

B. Except as provided by subsection D of this section, the director of the department of administration shall not issue a warrant for expenditures by the state hospital in excess of the estimate contained in the monthly financial statement unless the superintendent submits a written request that is approved in writing by the ~~deputy~~ director OF THE DEPARTMENT OF HEALTH SERVICES and that states the reasons for the request. The director of the department of administration shall not issue warrants in excess of the amount available for the current quarter.

C. If a patient in the state hospital requires a health care service that the state hospital or a facility or provider contracted by the state hospital cannot provide, the department of health services shall pay approved claims from a facility or provider that provides these required services as follows:

1. For inpatient and outpatient hospital services, the state shall reimburse at a level that does not exceed the reimbursement methodology established in section 36-2903.01, subsection G.

2. For health and medical services, the state shall reimburse providers at a level that does not exceed the capped fee-for-service schedule that is adopted by the Arizona health care cost containment system administration pursuant to chapter 29, article 1 of this title and that is in effect at the time the service is delivered.

D. Monies appropriated for capital investment may be expended at any time during the fiscal period for which the monies are appropriated as directed by the director.

Sec. 16. Section 36-212, Arizona Revised Statutes, is amended to read:

36-212. Maximum security area required

The superintendent, under the direction of the ~~deputy~~ director, shall equip, staff and supervise the operation of an area consisting of one or more separate buildings on the state hospital grounds in Phoenix to be designated a maximum security area. The superintendent shall designate which patients shall be confined within a maximum security area, ~~. Such area~~ WHICH shall be equipped, staffed and maintained in order to provide treatment and necessary supervision to prevent the patients from leaving ~~such~~ THE area without authorization.

Sec. 17. Section 36-213, Arizona Revised Statutes, is amended to read:

36-213. Store and canteen; deposit

A. The superintendent, with the approval of the ~~deputy~~ director, may set aside and designate any space on the grounds of the hospital that is not needed for other authorized purposes for the establishment and maintenance of store and canteen facilities for the sale of candies, cigarettes, food, nonalcoholic beverages, sundries and other articles to patients and employees and for the benefit of patients of the state hospital.

B. The superintendent, with the approval of the ~~deputy~~ director, may contract with an outside firm, individual or agency to lease and operate the store and canteen facilities. ~~Such~~ THE outside firm, individual or agency shall provide a bond in an amount set by the superintendent with the approval of the ~~deputy~~ director. The facilities shall be conducted subject to the rules and regulations of the ~~division~~ DEPARTMENT, and rental and service charges shall be established by the superintendent, with the approval of the ~~deputy~~ director, as will reimburse the hospital for the cost thereof.

C. Any profits derived from the operation of such facilities, after reimbursement to the hospital, shall be deposited in the department of health services donations fund created by authority of section 36-132, subsection B. The monies may be expended as the ~~deputy~~ director directs for the benefit of the patients of the state hospital. The provisions of title 35, chapter 1 do not apply to the monies in the fund.

Sec. 18. Title 36, chapter 2, article 1, Arizona Revised Statutes, is amended by adding sections 36-216 and 36-217, to read:

36-216. Budget for state hospital

A. THE DEPARTMENT SHALL PRESENT A BUDGET REQUEST THAT INCLUDES ALL INFORMATION ON THE POTENTIAL AVAILABILITY OF OTHER MONIES, INCLUDING FEDERAL MONIES, THAT MAY BE USED IN THE FOLLOWING FISCAL YEAR TO FUND THE STATE HOSPITAL.

B. THE BUDGET REQUEST PRESENTED PURSUANT TO SUBSECTION A OF THIS SECTION SHALL INCLUDE A PROPOSED BUDGET FOR THE STATE HOSPITAL, WITH A SPECIFIC AMOUNT OF THE TOTAL BUDGET ESTIMATED TO BE USED FOR PATIENTS WHO ARE SERIOUSLY MENTALLY ILL.

C. MONIES APPROPRIATED TO THE DEPARTMENT FOR THE STATE HOSPITAL PROGRAMS, FEES GENERATED BY THE DEPARTMENT FOR THESE PROGRAMS AND GRANTS AND

GIFTS TO THE DEPARTMENT SHALL BE MAINTAINED IN THE APPROPRIATE FUND TO PAY PROGRAM AND ADMINISTRATIVE COSTS. THE ADMINISTRATIVE COSTS OF EACH PROGRAM SHALL BE SEPARATELY IDENTIFIED IN THE ACCOUNTING RECORDS OF THE DEPARTMENT.

36-217. State hospital annual report

ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DIRECTOR SHALL SUBMIT TO THE GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE A FINANCIAL AND PROGRAMMATIC REPORT ON THE STATE HOSPITAL FOR THE PRECEDING FISCAL YEAR. THIS REPORT SHALL INCLUDE ALL REVENUES AND EXPENDITURES OF THE STATE HOSPITAL, INCLUDING SPECIFIC IDENTIFICATION OF ADMINISTRATIVE COSTS FOR AND THE NUMBER OF PERSONS SERVED AT THE STATE HOSPITAL.

Sec. 19. Section 36-501, Arizona Revised Statutes, is amended to read:

36-501. Definitions

In this chapter, unless the context otherwise requires:

1. "ADMINISTRATION" MEANS THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION.

~~1.~~ 2. "Admitting officer" means a psychiatrist or other physician or psychiatric and mental health nurse practitioner with experience in performing psychiatric examinations who has been designated as an admitting officer of the evaluation agency by the person in charge of the evaluation agency.

~~2.~~ 3. "Chief medical officer" means the chief medical officer under the supervision of the superintendent of the state hospital.

~~3.~~ 4. "Contraindicated" means that access is reasonably likely to endanger the life or physical safety of the patient or another person.

~~4.~~ 5. "Court" means the superior court in the county in this state in which the patient resides or was found before screening or emergency admission under this title.

~~5.~~ 6. "Danger to others" means that the judgment of a person who has a mental disorder is so impaired that the person is unable to understand the person's need for treatment and as a result of the person's mental disorder the person's continued behavior can reasonably be expected, on the basis of competent medical opinion, to result in serious physical harm.

~~6.~~ 7. "Danger to self":

(a) Means behavior that, as a result of a mental disorder:

(i) Constitutes a danger of inflicting serious physical harm on oneself, including attempted suicide or the serious threat thereof, if the threat is such that, when considered in the light of its context and in light of the individual's previous acts, it is substantially supportive of an expectation that the threat will be carried out.

(ii) Without hospitalization will result in serious physical harm or serious illness to the person.

(b) Does not include behavior that establishes only the condition of ~~persons with~~ HAVING A grave ~~disabilities~~ DISABILITY.

~~7.~~ 8. "Department" means the department of health services.

~~8. "Deputy director" means the deputy director of the division of behavioral health in the department of health services.~~

9. "Detention" means the taking into custody of a patient or proposed patient.

10. "Director" means the director of the ~~department~~ ADMINISTRATION.

~~11. "Division" means the division of behavioral health in the department.~~

~~12.~~ 11. "Evaluation" means:

(a) A professional multidisciplinary analysis that may include firsthand observations or remote observations by interactive audiovisual media and that is based on data describing the person's identity, biography and medical, psychological and social conditions carried out by a group of persons consisting of not less than the following:

(i) Two licensed physicians, who shall be qualified psychiatrists, if possible, or at least experienced in psychiatric matters, and who shall examine and report their findings independently. The person against whom a petition has been filed shall be notified that the person may select one of the physicians. A psychiatric resident in a training program approved by the American medical association or by the American osteopathic association may examine the person in place of one of the psychiatrists if the resident is supervised in the examination and preparation of the affidavit and testimony in court by a qualified psychiatrist appointed to assist in the resident's training, and if the supervising psychiatrist is available for discussion with the attorneys for all parties and for court appearance and testimony if requested by the court or any of the attorneys.

(ii) Two other individuals, one of whom, if available, shall be a psychologist and in any event a social worker familiar with mental health and human services that may be available placement alternatives appropriate for treatment. An evaluation may be conducted on an inpatient basis, an outpatient basis or a combination of both, and every reasonable attempt shall be made to conduct the evaluation in any language preferred by the person.

(b) A physical examination that is consistent with the existing standards of care and that is performed by one of the evaluating physicians or by or under the supervision of a physician who is licensed pursuant to title 32, chapter 13 or 17 or a registered nurse practitioner who is licensed pursuant to title 32, chapter 15 if the results of that examination are reviewed or augmented by one of the evaluating physicians.

~~13.~~ 12. "Evaluation agency" means a health care agency that is licensed by the department and that has been approved pursuant to this title, providing those services required of such agency by this chapter.

~~14.~~ 13. "Family member" means a spouse, parent, adult child, adult sibling or other blood relative of a person undergoing treatment or evaluation pursuant to this chapter.

14. "GRAVE DISABILITY" MEANS A CONDITION EVIDENCED BY BEHAVIOR IN WHICH A PERSON, AS A RESULT OF A MENTAL DISORDER, IS LIKELY TO COME TO

SERIOUS PHYSICAL HARM OR SERIOUS ILLNESS BECAUSE THE PERSON IS UNABLE TO PROVIDE FOR THE PERSON'S OWN BASIC PHYSICAL NEEDS.

15. "Health care decision maker" has the same meaning prescribed in section 12-2801.

16. "Health care entity" means a health care provider, the department, the ~~Arizona health care cost containment system~~ administration or a regional behavioral health authority under contract with the ~~department~~ ADMINISTRATION.

17. "Health care provider" means a health care institution as defined in section 36-401 that is licensed as a behavioral health provider pursuant to department rules or a mental health provider.

18. "Independent evaluator" means a licensed physician, psychiatric and mental health nurse practitioner or psychologist selected by the person to be evaluated or by such person's attorney.

19. "Informed consent" means a voluntary decision following presentation of all facts necessary to form the basis of an intelligent consent by the patient or guardian with no minimizing of known dangers of any procedures.

20. "Least restrictive treatment alternative" means the treatment plan and setting that infringe in the least possible degree with the patient's right to liberty and that are consistent with providing needed treatment in a safe and humane manner.

21. "Licensed physician" means any medical doctor or doctor of osteopathy who is either:

(a) Licensed in this state.

(b) A full-time hospital physician licensed in another state and serving on the staff of a hospital operated or licensed by the United States government.

22. "Medical director of an evaluation agency" means a psychiatrist, or other licensed physician experienced in psychiatric matters, who is designated in writing by the governing body of the agency as the person in charge of the medical services of the agency for the purposes of this chapter and may include the chief medical officer of the state hospital.

23. "Medical director of a mental health treatment agency" means a psychiatrist, or other licensed physician experienced in psychiatric matters, who is designated in writing by the governing body of the agency as the person in charge of the medical services of the agency for the purposes of this chapter and includes the chief medical officer of the state hospital.

24. "Mental disorder" means a substantial disorder of the person's emotional processes, thought, cognition or memory. Mental disorder is distinguished from:

(a) Conditions that are primarily those of drug abuse, alcoholism or intellectual disability, unless, in addition to one or more of these conditions, the person has a mental disorder.

(b) The declining mental abilities that directly accompany impending death.

(c) Character and personality disorders characterized by lifelong and deeply ingrained antisocial behavior patterns, including sexual behaviors that are abnormal and prohibited by statute unless the behavior results from a mental disorder.

25. "Mental health provider" means any physician or provider of mental health or behavioral health services involved in evaluating, caring for, treating or rehabilitating a patient.

26. "Mental health treatment agency" means the state hospital or a health care agency that is licensed by the department and that provides those services that are required of the agency by this chapter.

27. "Outpatient treatment" or "combined inpatient and outpatient treatment" means any treatment program not requiring continuous inpatient hospitalization.

28. "Outpatient treatment plan" means a treatment plan that does not require continuous inpatient hospitalization.

29. "Patient" means any person undergoing examination, evaluation or behavioral or mental health treatment under this chapter.

30. "Peace officers" means sheriffs of counties, constables, marshals and policemen of cities and towns.

31. "Persistent or acute disability" means a severe mental disorder that meets all the following criteria:

(a) If not treated has a substantial probability of causing the person to suffer or continue to suffer severe and abnormal mental, emotional or physical harm that significantly impairs judgment, reason, behavior or capacity to recognize reality.

(b) Substantially impairs the person's capacity to make an informed decision regarding treatment, and this impairment causes the person to be incapable of understanding and expressing an understanding of the advantages and disadvantages of accepting treatment and understanding and expressing an understanding of the alternatives to the particular treatment offered after the advantages, disadvantages and alternatives are explained to that person.

(c) Has a reasonable prospect of being treatable by outpatient, inpatient or combined inpatient and outpatient treatment.

~~32. "Persons with grave disabilities" means a condition evidenced by behavior in which a person, as a result of a mental disorder, is likely to come to serious physical harm or serious illness because the person is unable to provide for the person's own basic physical needs.~~

~~33.~~ 32. "Prepetition screening" means the review of each application requesting court-ordered evaluation, including an investigation of facts alleged in such application, an interview with each applicant and an interview, if possible, with the proposed patient. The purpose of the interview with the proposed patient is to assess the problem, explain the

application and, when indicated, attempt to persuade the proposed patient to receive, on a voluntary basis, evaluation or other services.

~~34.~~ 33. "Prescribed form" means a form established by a court or the rules of the ~~division that have been approved by the director or~~ ADMINISTRATION in accordance with the laws of this state.

~~35.~~ 34. "Professional" means a physician who is licensed pursuant to title 32, chapter 13 or 17, a psychologist who is licensed pursuant to title 32, chapter 19.1 or a psychiatric and mental health nurse practitioner who is certified pursuant to title 32, chapter 15.

~~36.~~ 35. "Proposed patient" means a person for whom an application for evaluation has been made or a petition for court-ordered evaluation has been filed.

~~37.~~ 36. "Psychiatric and mental health nurse practitioner" means a registered nurse practitioner as defined in section 32-1601 who has completed an adult or family psychiatric and mental health nurse practitioner program and who is certified as an adult or family psychiatric and mental health nurse practitioner by the state board of nursing.

~~38.~~ 37. "Psychiatrist" means a licensed physician who has completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association.

~~39.~~ 38. "Psychologist" means a person who is licensed under title 32, chapter 19.1 and who is experienced in the practice of clinical psychology.

~~40.~~ 39. "Records" means all communications that are recorded in any form or medium and that relate to patient examination, evaluation or behavioral or mental health treatment. Records include medical records that are prepared by a health care provider or other providers. Records do not include:

(a) Materials that are prepared in connection with utilization review, peer review or quality assurance activities, including records that a health care provider prepares pursuant to section 36-441, 36-445, 36-2402 or 36-2917.

(b) Recorded telephone and radio calls to and from a publicly operated emergency dispatch office relating to requests for emergency services or reports of suspected criminal activity.

40. "REGIONAL BEHAVIORAL HEALTH AUTHORITY" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-3401.

41. "Screening agency" means a health care agency that is licensed by the department and that provides those services required of such agency by this chapter.

42. "Social worker" means a person who has completed two years of graduate training in social work in a program approved by the council of social work education and who has experience in mental health.

43. "State hospital" means the Arizona state hospital.

44. "Superintendent" means the superintendent of the state hospital.

Sec. 20. Section 36-502, Arizona Revised Statutes, is amended to read:

36-502. Powers and duties of the director of AHCCCS; rules; expenditure limitation

A. The ~~deputy~~ director~~, with the approval of the director,~~ shall make rules ~~including~~ THAT INCLUDE standards for agencies OTHER THAN THE STATE HOSPITAL WHEN providing services~~,~~ and ~~prescribing~~ SHALL PRESCRIBE forms as may be necessary~~,~~ for the proper administration and enforcement of this chapter. The rules shall be applicable to patients admitted to or treated in agencies, OTHER THAN THE STATE HOSPITAL, as set forth in this chapter and shall provide for periodic inspections of such agencies.

B. The ~~deputy~~ director~~, with the approval of the director,~~ shall make rules concerning THE admission of patients and the transfer of patients between mental health treatment agencies OTHER THAN THE STATE HOSPITAL. A patient undergoing court-ordered treatment may be transferred from one mental health treatment agency to another in accordance with the rules of the ~~deputy~~ director, subject to the approval of the court.

C. The ~~deputy~~ director~~, with the approval of the director,~~ may make rules concerning leaves, visits and absences of patients from evaluation agencies and mental health treatment agencies OTHER THAN THE STATE HOSPITAL.

D. The total amount of state monies that may be spent in any fiscal year by the ~~department~~ ADMINISTRATION for mental health services pursuant to this chapter ~~shall~~ MAY not exceed the amount appropriated or authorized by section 35-173 for that purpose. This chapter ~~shall~~ DOES not ~~be construed to~~ impose a duty on an officer, agent or employee of this state to discharge a responsibility or ~~to~~ create any right in a person or group if the discharge or right would require an expenditure of state monies in excess of the expenditure authorized by legislative appropriation for that specific purpose.

Sec. 21. Title 36, chapter 5, article 1, Arizona Revised Statutes, is amended by adding section 36-502.01, to read:

36-502.01. Powers and duties of director of the department of health services; rules; expenditure limitation

A. THE DIRECTOR OF THE DEPARTMENT SHALL MAKE RULES THAT INCLUDE STANDARDS FOR THE STATE HOSPITAL WHEN PROVIDING SERVICES AS AN EVALUATION AGENCY OR MENTAL HEALTH AGENCY AND SHALL PRESCRIBE FORMS AS MAY BE NECESSARY FOR THE PROPER ADMINISTRATION AND ENFORCEMENT OF THOSE RESPONSIBILITIES. THE RULES SHALL BE APPLICABLE TO PATIENTS ADMITTED TO, EVALUATED BY OR TREATED IN THE STATE HOSPITAL AS SET FORTH IN THIS CHAPTER AND SHALL PROVIDE FOR PERIODIC INSPECTIONS OF THE STATE HOSPITAL.

B. THE DIRECTOR OF THE DEPARTMENT SHALL MAKE RULES CONCERNING THE ADMISSION OF PATIENTS TO THE STATE HOSPITAL AND THE TRANSFER OF PATIENTS BETWEEN THE STATE HOSPITAL AND OTHER MENTAL HEALTH TREATMENT AGENCIES. A PATIENT UNDERGOING COURT-ORDERED TREATMENT MAY BE TRANSFERRED BETWEEN THE STATE HOSPITAL AND ANOTHER MENTAL HEALTH TREATMENT AGENCY IN ACCORDANCE WITH THE RULES OF THE DIRECTOR OF THE DEPARTMENT, SUBJECT TO THE APPROVAL OF THE

COURT. THE DIRECTOR OF THE DEPARTMENT SHALL CONSULT WITH THE DIRECTOR OF THE ADMINISTRATION ON RULES RELATING TO TRANSFERS TO AND FROM THE STATE HOSPITAL AND OTHER MENTAL HEALTH TREATMENT AGENCIES.

C. THE DIRECTOR OF THE DEPARTMENT MAY MAKE RULES CONCERNING LEAVES, VISITS AND ABSENCES OF PATIENTS FROM THE STATE HOSPITAL.

D. THE TOTAL AMOUNT OF STATE MONIES THAT MAY BE SPENT IN ANY FISCAL YEAR BY THE DEPARTMENT FOR MENTAL HEALTH SERVICES PURSUANT TO THIS CHAPTER MAY NOT EXCEED THE AMOUNT APPROPRIATED OR AUTHORIZED BY SECTION 35-173 FOR THAT PURPOSE. THIS CHAPTER DOES NOT IMPOSE A DUTY ON AN OFFICER, AGENT OR EMPLOYEE OF THIS STATE TO DISCHARGE A RESPONSIBILITY OR CREATE ANY RIGHT IN A PERSON OR GROUP IF THE DISCHARGE OR RIGHT WOULD REQUIRE AN EXPENDITURE OF STATE MONIES IN EXCESS OF THE EXPENDITURE AUTHORIZED BY LEGISLATIVE APPROPRIATION FOR THAT SPECIFIC PURPOSE.

Sec. 22. Repeal; transfer of monies

A. Section 36-503.02, Arizona Revised Statutes, is repealed.

B. All unexpended and unencumbered monies remaining in the serious mental illness services fund established by section 36-503.02, Arizona Revised Statutes, as repealed by subsection A of this section, are transferred to the state general fund on the effective date of this section.

Sec. 23. Section 36-504, Arizona Revised Statutes, is amended to read:

36-504. Notice of patients' rights; notification to family

A. Every person undergoing treatment or evaluation pursuant to this chapter is entitled to the rights set forth in this chapter and to rights that the ~~deputy~~ director~~, with the approval of the director,~~ specifies by rule. A list of patients' rights as required by this chapter and by the ~~division~~ ADMINISTRATION shall be compiled and published by the ~~deputy~~ director~~, with the approval of the director,~~ by rule. The list shall be prominently posted in English and Spanish in all facilities providing evaluation or treatment. A patient's rights shall otherwise be brought to the attention of the patient as this chapter requires or the ~~deputy~~ director~~, with the approval of the director,~~ may direct by rule.

B. An agency ~~which~~ THAT is evaluating, examining or treating a person pursuant to article 4 or 5 of this chapter shall immediately notify the person's guardian or, if none, a member of the person's family that the person is being treated in the agency. If the person has an agent appointed pursuant to chapter 32 of this title, the agency shall notify that agent. If the agency is unable to learn the identity of OR TO CONTACT the guardian or ~~a~~ member of the person's family ~~or is unable to contact them~~, it shall document every attempt that was made to comply with ~~such~~ THE notification. The agency shall release any further information only after the treating professional or that person's designee interviews the person undergoing treatment or evaluation to determine whether or not release is in that person's best interests. A decision to release or withhold information is subject to review pursuant to section 36-517.01. The treating agency shall record the name of a person to whom any information is given.

Sec. 24. Section 36-511, Arizona Revised Statutes, is amended to read:

36-511. Quality of treatment

A. Subject to ~~his~~ THE right to refuse psychiatric and medical treatment pursuant to sections 36-512 and 36-513 and pursuant to rules of the ~~division~~ ADMINISTRATION, every person undergoing evaluation or treatment pursuant to this chapter shall receive physical and psychiatric care and treatment, delivered in a manner that allows the person's family members or guardian to participate in ~~his~~ THE care and treatment when appropriate, for the full period ~~he~~ THE PERSON is detained. The agency providing care and treatment shall keep a clinical record for each person ~~which~~ THAT details all medical and psychiatric evaluations and all care and treatment received by the person.

B. An agency administering the care and treatment shall provide and make available to the guardian, if one exists, ~~upon~~ ON request:

1. A written treatment program based on the individual needs of the person.

2. Careful and periodic reexaminations of each person by appropriate professional persons, including a physician. Reexaminations shall be made once each ninety days, and the results shall be a part of the person's medical record.

3. A full physical examination once a year.

4. Adequate medical treatment in the light of present medical knowledge in accordance with the results of these examinations.

C. An agency administering inpatient care and treatment, in conjunction with the community treatment agency~~, shall, prior to~~ AND BEFORE the release of a patient, SHALL prepare a plan for the patient's care after release, including arrangements for a place to live~~,~~ and an adequate program for necessary treatment and maintenance, and SHALL provide the plan to the patient's guardian if one exists. The community treatment agency shall make a good faith effort to initiate treatment with a patient released from an inpatient facility.

Sec. 25. Section 36-518, Arizona Revised Statutes, is amended to read:

36-518. Application for voluntary admission; admission to agency; minors; transportation

A. Pursuant to rules of the ~~division~~ ADMINISTRATION, any person who is eighteen years of age or older and who manifests the capacity to give and gives informed consent may be hospitalized for evaluation, care and treatment by voluntarily ~~making written application~~ APPLYING IN WRITING on a prescribed form. The agency to which the person applies may accept and admit the person if the medical director of the agency or the admitting officer believes that the person needs evaluation or will benefit from care and treatment of a mental disorder or other personality disorder or emotional condition in the agency. Informed consent ~~as defined in section 36-501~~ may be given by the person's guardian pursuant to section 14-5312.01 or agent appointed pursuant to chapter 32, article 6 of this title if that agent was granted the

authority to do this by the mental health care power of attorney. If an agent gives informed consent ~~as defined in section 36-501~~, an evaluation shall be conducted pursuant to section 36-3284.

B. Notwithstanding subsection C of this section, and except in the case of an emergency admission, a minor who is in the custody of the juvenile court, who is a ward of the juvenile court as a dependent child or who is adjudicated delinquent or incorrigible shall not be admitted for evaluation or treatment unless approved by the court on application filed by an entity as provided in section 8-272 or 8-273.

C. A minor may be admitted to a mental health agency as defined in section 8-201 by the written application of the parent, guardian or custodian of the minor, or a person designated by the court if the parent, guardian or custodian is without monetary resources to file an application or could not be located after reasonable efforts and the minor is under the supervision of an adult probation department after the following has occurred:

1. A psychiatric investigation by the medical director of the mental health agency that carefully probes the child's social, psychological and developmental background.

2. An interview with the child by the medical director of the mental health agency.

3. The medical director has explained to the child and the child's parent, guardian or custodian or to the person designated by the court pursuant to this subsection the program of evaluation or treatment contemplated and its probable length.

4. The medical director has explored and considered available alternatives to inpatient treatment or evaluation.

5. The medical director of a mental health agency has determined whether the child needs an inpatient evaluation or will benefit from care and treatment of a mental disorder or other personality disorder or emotional condition in the agency and whether the evaluation or treatment goals can be accomplished in a less restrictive setting. A record of the reasons for this determination shall be made.

D. If the child's situation does not satisfy the requirements of subsection C of this section, the application by the parent, guardian or custodian shall be refused.

E. All emergency admissions for mental health evaluation or treatment of children shall be made pursuant to the standards and procedures in article 4 of this chapter.

F. If a parent, guardian or custodian is unavailable after a reasonable effort has been made to locate the parent, guardian or custodian, the court shall appoint a guardian for the child pursuant to title 14, chapter 5.

G. The board of supervisors of the county of residence of a person who has submitted an application for admission to the state hospital pursuant to subsection A of this section shall provide transportation to the state

hospital for the person if it appears that the person is eligible for voluntary admission to the state hospital after consultation between the state hospital and the evaluation or screening agency. The county is responsible for that expense to the extent the expense is not covered by any third-party payor.

Sec. 26. Section 36-520, Arizona Revised Statutes, is amended to read:

36-520. Application for evaluation; definition

A. Any responsible individual may apply for a court-ordered evaluation of a person who is alleged to be, as a result of a mental disorder, a danger to self or to others~~,~~ OR a person with a persistent or acute disability or a grave disability and who is unwilling or unable to undergo a voluntary evaluation. The application shall be made in the prescribed form and manner as adopted by the ~~deputy~~ director.

B. The application for evaluation shall include the following data:

1. The name, and address if known, of the proposed patient for whom evaluation is applied.

2. The age, date of birth, sex, race, marital status, occupation, social security number, present location, dates and places of previous hospitalizations, names and addresses of the guardian, spouse, next of kin and significant other persons and other data that the ~~deputy~~ director may require on the form to whatever extent that this data is known and is applicable to the proposed patient.

3. The name, address and relationship of the person who is applying for the evaluation.

4. A statement that the proposed patient is believed to be, as a result of a mental disorder, a danger to self or to others~~,~~ OR a patient with a persistent or acute disability or a grave disability and the facts on which this statement is based.

5. A statement that the applicant believes the proposed patient is in need of supervision, care and treatment and the facts on which this statement is based.

C. The application shall be signed and notarized.

D. The screening agency shall offer assistance to the applicant in preparation of the application. ~~Upon~~ ON receipt of the application, the screening agency shall act as prescribed in section 36-521 within forty-eight hours of the filing of the application excluding weekends and holidays. If the application is not acted upon within forty-eight hours, the reasons for not acting promptly shall be reviewed by the director of the screening agency or the director's designee.

E. If the applicant for the court-ordered evaluation presents the person to be evaluated at the screening agency, the agency shall conduct a prepetition screening examination. Except in the case of an emergency evaluation, the person to be evaluated shall not be detained or forced to undergo prepetition screening against the person's will.

F. If the applicant for the court-ordered evaluation does not present the person to be evaluated at the screening agency, the agency shall conduct the prepetition screening at the home of the person to be evaluated or any other place the person to be evaluated is found. If prepetition screening is not possible, the screening agency shall proceed as in section 36-521, subsection B.

G. If a person is being treated by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner of that church or denomination, such person may not be ordered evaluated, detained or involuntarily treated unless the court has determined that the person is, as a result of mental disorder, a danger to others or to self.

H. Court-ordered evaluation or treatment pursuant to this chapter ~~shall~~ DOES not operate to change the legal residence of a patient.

I. If the application is not acted ~~upon~~ ON because it has been determined that the proposed patient does not need an evaluation, the agency after a period of six months shall destroy the application and any other evidence of the application.

J. For the purposes of this section, "person" includes a person who:

1. Is under eighteen years of age.

2. Has been transferred to the criminal division of the superior court pursuant to section 8-327 or who has been charged with an offense pursuant to section 13-501.

3. Is under the supervision of an adult probation department.

Sec. 27. Section 36-521, Arizona Revised Statutes, is amended to read:

36-521. Preparation of petition for court-ordered evaluation; procedures for prepetition screening

A. ~~Upon~~ ON receiving the application for evaluation, the screening agency, ~~shall, prior to~~ BEFORE filing a petition for court-ordered evaluation, SHALL provide prepetition screening within forty-eight hours excluding weekends and holidays when possible to determine whether there is reasonable cause to believe the allegations of the applicant for the court-ordered evaluation, whether the person will voluntarily receive evaluation at a scheduled time and place and whether ~~he~~ THE PERSON has a persistent or acute disability~~,~~ OR a grave disability or IS likely to present a danger to self or others until the voluntary evaluation.

B. After prepetition screening has been completed, the screening agency shall prepare a report of opinions and conclusions. If prepetition screening is not possible, the screening agency shall prepare a report giving reasons why the screening was not possible and including opinions and conclusions of staff members who attempted to conduct prepetition screening or otherwise investigated the matter.

C. If the prepetition screening report indicates that there exists no reasonable cause to believe the allegations of the applicant for the

court-ordered evaluation, it shall be reviewed by the medical director of the screening agency or ~~his~~ THE MEDICAL DIRECTOR'S designee.

D. If, based ~~upon~~ ON the allegations of the applicant for the court-ordered evaluation and the prepetition screening report or other information obtained while attempting to conduct a prepetition screening, the agency determines that there is reasonable cause to believe that the proposed patient is, as a result of mental disorder, a danger to self or to others~~,~~ OR has a persistent or acute disability or a grave disability and that the proposed patient is unable or unwilling to voluntarily receive evaluation or is likely to present a danger to self or to others, has a grave disability or will further deteriorate before receiving a voluntary evaluation, ~~it~~ THE AGENCY shall prepare a petition for court-ordered evaluation and shall file the petition, which shall be signed by the person who prepared the petition unless the county attorney performs these functions. If the agency determines that there is reasonable cause to believe that the person is in such a condition that without immediate hospitalization he is likely to harm himself or others, ~~it~~ THE AGENCY shall take all reasonable steps to procure such hospitalization on an emergency basis.

E. The agency may contact the county attorney in order to obtain ~~his~~ assistance in preparing the petition for court-ordered evaluation, and the agency may request the advice and judgment of the county attorney in reaching a decision as to whether the court-ordered evaluation is justified.

F. The county attorney may prepare or sign or file the petition if a court has ordered the county attorney to prepare the petition.

G. If a petition for court-ordered evaluation alleges danger to others as described in section 36-501, the screening agency, ~~shall, prior to~~ BEFORE filing such A petition, SHALL contact the county attorney for a review of the petition. The county attorney shall examine the petition and make one of the following written recommendations:

1. That a criminal investigation is warranted.

2. That the screening agency shall file the petition.

3. That no further proceedings are warranted. The screening agency shall consider ~~such~~ THE recommendation in determining whether a court-ordered evaluation is justified and shall include ~~such~~ THE recommendation with the petition if ~~it~~ THE AGENCY decides to file the petition with the court.

H. The petition shall be made in the form and manner prescribed by the ~~deputy~~ director.

Sec. 28. Section 36-522, Arizona Revised Statutes, is amended to read:

36-522. Voluntary evaluation

A. If the petition for court-ordered evaluation is not filed because it has been determined that the proposed patient will voluntarily receive an evaluation and is unlikely to present a danger to self or others until the voluntary evaluation, the evaluation agency provided for by the county, or selected by the proposed patient, shall be immediately notified and shall provide evaluation of the proposed patient at a scheduled time and place

within five days of the notice. The voluntary evaluation may be on an inpatient or outpatient basis.

B. Voluntary inpatient evaluation is subject to ~~the provisions of~~ article 3 of this chapter.

C. Voluntary outpatient evaluation shall conform to the requirements of section 36-530, subsection D and section 36-531, subsections B, C and D and shall proceed only after the person to be evaluated has given consent to be evaluated by signing a form prescribed by the ~~deputy~~ director ~~which~~ THAT includes information to the proposed patient that the patient-physician privilege does not apply and that the evaluation may result in a petition for the person to undergo court-ordered treatment or for guardianship. Voluntary evaluation may be carried out only if chosen by the patient during the course of a prepetition screening after AN application for evaluation has been made.

Sec. 29. Section 36-523, Arizona Revised Statutes, is amended to read:

36-523. Petition for evaluation

A. The petition for evaluation shall contain the following:

1. The name, address and interest in the case of the individual who applied for the petition.

2. The name, and address if known, of the proposed patient for whom evaluation is petitioned.

3. The present whereabouts of the proposed patient, if known.

4. A statement alleging that there is reasonable cause to believe that the proposed patient has a mental disorder and is as a result a danger to self or others, has a persistent or acute disability or a grave disability and is unwilling or unable to undergo voluntary evaluation.

5. A summary of the facts ~~which~~ THAT support the allegations that the proposed patient is dangerous, has a persistent or acute disability or a grave disability and is unwilling or unable to be voluntarily evaluated, including the facts ~~which~~ THAT brought the proposed patient to the screening agency's attention.

6. Other information that the ~~deputy~~ director~~, with the approval of the director,~~ by rule or the court by rule or order may require.

B. The petition shall request that the court issue an order requiring that the proposed patient be given an evaluation and shall advise the court of both of the following:

1. That the opinion of the petitioner is either that the proposed patient is or is not in such a condition that without immediate or continuing hospitalization ~~he~~ THE PATIENT is likely to suffer serious physical harm or further deterioration or inflict serious physical harm ~~upon~~ ON another person.

2. If the opinion of the petitioner is that the proposed patient is not in the condition described in paragraph 1 of this subsection, that the opinion of the petitioner is either that the evaluation should or should not take place on an outpatient basis.

C. The petition for evaluation shall be accompanied by the application for evaluation, by the recommendation of the county attorney pursuant to section 36-521 and by a prepetition screening report, unless ~~such~~ THE documents have not been prepared under a provision of law or in accordance with an order of the court. The petition for evaluation shall also be accompanied by a copy of the application for emergency admission if one exists.

D. A petition and other forms required in a court may be filed only by the screening agency ~~which~~ THAT has prepared the petition.

E. If the petition is not filed because it has been determined that the person does not need an evaluation, the agency after a period of six months shall destroy the petition and the various reports annexed to the petition as required by this section.

Sec. 30. Section 36-531, Arizona Revised Statutes, is amended to read:

36-531. Evaluation; possible dispositions; release

A. A person WHO IS being evaluated on an inpatient basis in an evaluation agency shall be released if, in the opinion of the medical director of the agency, further evaluation is not appropriate unless the person ~~makes application~~ APPLIES for further care and treatment on a voluntary basis.

B. If it is determined ~~upon~~ ON an evaluation of the patient's condition that ~~he~~ THE PATIENT is, as a result of a mental disorder, a danger to self or to others~~,~~ OR has a persistent or acute disability or a grave disability, the medical director in charge of the agency ~~which~~ THAT provided the evaluation ~~shall~~, unless the person ~~makes application~~ APPLIES for further care and treatment on a voluntary basis, SHALL prepare, sign and file a petition for court-ordered treatment unless the county attorney performs the functions of preparing, signing or filing the petition as provided in subsection C of this section.

C. The agency may contact the county attorney to obtain ~~his~~ assistance in preparing the petition for court-ordered treatment, and the agency may request the advice and judgment of the county attorney in reaching a decision as to whether court-ordered treatment is justified.

D. A person being evaluated on an inpatient basis in an evaluation agency shall be released within seventy-two hours, excluding weekends and holidays, from the time that ~~he~~ THE PERSON is hospitalized pursuant to a court order for evaluation, unless the person ~~makes application~~ APPLIES for further care and treatment on a voluntary basis or unless a petition for court-ordered treatment has been filed pursuant to subsection B of this section.

E. The ~~department of health services~~ ADMINISTRATION may conduct jointly with a school district, directly or indirectly, an educational evaluation pursuant to sections 15-765 and 15-766 for nonadjudicated youth. The evaluation information may be shared by and among authorized personnel employed by the ~~department of health services~~ ADMINISTRATION and

the department of education, or authorized personnel from the local education agency, for purposes of ensuring the provision of special education and related services as required by the individuals with disabilities education act (20 United States Code sections 1400 through 1415).

Sec. 31. Section 36-535, Arizona Revised Statutes, is amended to read:

36-535. Detention of proposed patient; time of hearing; released patient; intervention by department

A. If, on the filing of a petition for court-ordered treatment, the patient is not then detained in an agency, the court shall order the detention of the patient in the agency that conducted the evaluation if the court determines that the patient is likely to present a danger to self or others before the conclusion of the hearing or is not likely to appear at the hearing on the petition if not detained. The court shall issue such orders as are necessary to provide for the apprehension, transportation and detention of the proposed patient. The court shall appoint counsel for the proposed patient if one has not been previously appointed.

B. The court shall order the hearing to be held within six business days after the petition is filed, except that, on good cause shown, the court may continue the hearing at the request of either party. The hearing may be continued for a maximum of thirty days at the request of the proposed patient. The hearing may be continued for a maximum of three business days at the request of the petitioner. If the hearing is continued at the request of the petitioner and the proposed patient is involuntarily hospitalized, the proposed patient may request a hearing to determine whether the proposed patient should be involuntarily hospitalized during the continuation period.

C. If after reviewing the petition with its attached material and other evidence at hand the court finds that the patient is not, as a result of mental disorder, a danger to self or others~~, a patient with~~ OR DOES NOT HAVE a persistent or acute disability or a grave disability, the patient shall be released.

D. The ~~division~~ DEPARTMENT, acting on behalf of the state hospital, THE ADMINISTRATION OR A REGIONAL BEHAVIORAL HEALTH AUTHORITY, may intervene as a party to the proceedings on any petition for court-ordered treatment and may appear as a party at the hearing on the petition by filing a written notice of intervention with the clerk of the superior court in the county in which the petition was filed, at any time before either the original time set for the hearing or the time to which the hearing is continued. The intervenor at the hearing may cross-examine any witnesses presented by other parties pursuant to section 36-539, may subpoena and present witnesses of its own, including physicians, and may present other evidence. The intervenor, on stipulation with all other parties or on order of the court, may cause physicians to personally conduct mental status examinations of the proposed patient and to testify as to their opinions concerning whether the proposed patient is, as a result of mental disorder, a danger to self or to others~~,~~ OR has a persistent or acute disability or a grave disability and as to

whether the proposed patient requires treatment. This subsection applies in addition to all rules of evidence, the Arizona rules of civil procedure and section 36-539.

Sec. 32. Section 36-540.02, Arizona Revised Statutes, is amended to read:

36-540.02. Transfer of a person with a grave disability without a guardian from a mental health treatment agency to another health care facility

A. A person who does not have a guardian under ~~the provisions of~~ section 14-5312.01 and who has been found by the court to ~~be a person with~~ HAVE a grave disability and ordered to undergo treatment pursuant to this article may receive care in another health care institution licensed by the department during the course of the person's court-ordered treatment in accordance with ~~department~~ ADMINISTRATION rules.

B. The ~~deputy~~ director~~, with the approval of the director,~~ shall adopt rules pertaining to persons described in subsection A of this section to provide for their alternative care in another health care institution licensed by the department during the course of court-ordered treatment. The rules shall allow transfer of patients from a mental health treatment agency to another health care institution, transfer from one such institution to another and return to a mental health treatment agency.

Sec. 33. Section 36-541.01, Arizona Revised Statutes, is amended to read:

36-541.01. Release or discharge from treatment before expiration of period ordered by court; notification of intent to release or discharge; hearing

A. A patient WHO IS ordered to undergo treatment pursuant to this article may be released from treatment before the expiration of the period ordered by the court if, in the opinion of the medical director of the mental health treatment agency, the patient no longer is, as a result of a mental disorder, a danger to others~~,~~ OR a danger to self~~,~~ OR NO LONGER has a persistent or acute disability or a grave disability. A person WHO IS ordered to undergo treatment as a danger to others may not be released or discharged from treatment before the expiration of the period for treatment ordered by the court unless the medical director first gives notice of intention to do so as provided by this section.

B. Before the release or discharge of a patient WHO IS ordered to undergo treatment, the medical director of the mental health treatment agency shall notify the following of the medical director's intention to release or discharge the patient:

1. The presiding judge of the court that entered the order for treatment.

2. Any relative or victim of the patient who has filed a demand for notice with the treatment agency.

3. Any person found by the court to have a legitimate reason for receiving notice.

C. If criminal charges against a patient involving death or serious physical injury or a violation of title 13, chapter 14 are dismissed pursuant to section 13-4517, the medical director shall notify the prosecuting agency if a civil commitment order issued pursuant to this chapter expires or is terminated, or if the patient is discharged to outpatient treatment. The medical director shall provide this notice by mail at least five days before the anticipated date of the expiration, termination or discharge.

D. If the director of the mental health treatment agency is unable to determine, based on the information submitted pursuant to subsection E OF THIS SECTION, that a person who has filed a demand for notice is a victim, the director shall inform that person that that person's demand for notice is denied and that notice will not be given unless ordered by the court pursuant to subsection F OF THIS SECTION.

E. A demand for notice by a relative or victim, and a petition for notice by other persons, shall be on a form prescribed by the ~~department~~ ADMINISTRATION and shall include the following information:

1. The full name of the person to receive notice.

2. The address to which notice is to be mailed.

3. The telephone number of the person to receive notice.

4. The relationship to the patient, if any, or the reasons why the person believes the person has a legitimate reason to receive notice.

5. A statement that the person will advise the treatment agency in writing by certified mail, return receipt requested, of any change in the address to which notice is to be mailed.

6. The full name of the patient ordered to undergo treatment as a danger to others.

7. The mental health number assigned to the case by the superior court.

F. If the court receives a demand for notice by a relative or victim, the court shall order the medical director of the mental health treatment agency not to release or discharge the patient before the expiration of the period of court-ordered treatment without first giving notice to the relative or victim as provided in subsection G OF THIS SECTION. After considering a petition for notice, if the court finds that the petitioner has a legitimate reason for receiving prior notice, the court may order the medical director of the mental health treatment agency not to release or discharge the patient from inpatient treatment before the expiration of the period of court-ordered treatment without first giving notice to the petitioner as provided in subsection G OF THIS SECTION. Any order for notice shall be delivered to the mental health treatment agency and shall be filed with the patient's clinical

record. If the patient is transferred to another agency or institution, any orders for notice shall be transferred with the patient.

G. A notice of intention to release or discharge shall include the following information:

1. The name of the patient to be released or discharged.

2. The type of release or discharge.

3. The date of anticipated release or discharge. Notices shall be placed in the mail, postage prepaid and addressed to the court and to each person for whom notice has been ordered, at least ten days before the date of intended release or discharge, except THAT notice shall be sent to the prosecuting agency at least five days before the date of intended release or discharge. For purposes of computing the notice requirement, the day of mailing shall not be counted.

H. Any person for whom prior notice is required pursuant to this section, or the court, may make a motion within the notification period that requires the court to determine whether the standard for release of the patient before the expiration of the period for court-ordered treatment has been met. A determination that the standard for release has been met may be made by the court based on a review of the record and any affidavits submitted without further hearing. For good cause, the court may order an evidentiary hearing. Whether or not a hearing is held, the court shall make a determination at the earliest possible time but no longer than three weeks after the anticipated date of release pursuant to subsection G OF THIS SECTION, and the patient shall be retained for the additional time required for the court's determination. In making its determination the court may order an independent examination of the patient. If a motion is not made, the patient may be released in accordance with the terms set forth in the notice without further court order.

I. If a motion has not been made pursuant to subsection H OF THIS SECTION, the patient may be released or discharged and the medical director of the mental health treatment agency shall send to the court a certificate that the patient is no longer a danger to others~~,~~ OR a danger to self~~,~~ OR NO LONGER has a persistent or acute disability or a grave disability as the result of a mental disorder and therefore is released before the expiration of the period ordered for treatment. The court shall enter an order terminating the patient's court-ordered treatment.

J. The medical director of the mental health treatment agency shall not be held civilly liable for any acts committed by a patient WHO IS released before the expiration of the period of court-ordered treatment if the medical director has in good faith followed the requirements of this section.

Sec. 34. Section 36-543, Arizona Revised Statutes, is amended to read:

36-543. Release from treatment of a patient with a grave disability or a persistent or acute disability; annual review; court order for continued treatment; rules

A. A patient WHO IS found to have a grave disability or a persistent or acute disability and ordered to undergo treatment may be released from inpatient treatment when, in the opinion of the medical director of the mental health treatment agency, the level of care offered by the agency is no longer required. The patient may agree to continue treatment voluntarily. If the patient is to be released, the medical director shall arrange for an appropriate alternative placement.

B. If a patient WHO IS to be released from inpatient treatment is under guardianship, the medical director of the mental health treatment agency shall notify the guardian and any relevant regional behavioral health authority ten days before the intended release date that the ward no longer requires the level of care offered by the agency. The guardian and, if relevant, the regional behavioral health authority shall arrange alternative placement with the advice and recommendations of the medical director of the mental health treatment agency.

C. The medical director of the mental health treatment agency is not civilly liable for any acts committed by the released patient if the medical director has in good faith complied with the requirements of this article.

D. Within ninety days before the expiration of a court order for treatment, the medical director of the mental health treatment agency shall conduct an annual review of a patient who has been found to have a grave disability or a persistent or acute disability and is undergoing court-ordered treatment to determine whether the continuation of court-ordered treatment is appropriate and to assess the needs of the patient for guardianship or conservatorship, or both. The annual review shall consist of the mental health treatment and clinical records contained in the patient's treatment file. The mental health treatment agency shall keep a record of the annual review. If the medical director believes that a continuation of court-ordered treatment is appropriate, the medical director of the mental health treatment agency shall appoint one or more psychiatrists to carry out a psychiatric examination of the patient. In any proceeding conducted pursuant to this section, a patient has the right to have an analysis of the patient's mental condition by an independent evaluation pursuant to section 36-538.

E. Each examiner participating in the psychiatric examination of the patient shall submit a report to the medical director of the mental health treatment agency that includes the following:

1. The examiner's opinions as to whether the patient continues to have a grave disability or a persistent or acute disability as the result of a mental disorder and BE in need of continued court-ordered treatment. In

evaluating the patient's need for continued court-ordered treatment, the examiner must consider, along with all other evidence, the patient's history before and during the current period of court-ordered treatment, the patient's compliance with recommended treatment and any other evidence relevant to the patient's ability and willingness to follow recommended treatment with or without a court order.

2. A statement as to whether suitable alternatives to court-ordered treatment are available.

3. A statement as to whether voluntary treatment would be appropriate.

4. A review of the patient's status as to guardianship or conservatorship, or both, the adequacy of existing protections of the patient and the continued need for guardianship or conservatorship, or both. If the examiner concludes that the patient's needs in these areas are not being adequately met, the examiner's report shall recommend that the court order an investigation into the patient's needs.

5. If the patient has an existing guardian who does not have the mental health powers authorized pursuant to section 14-5312.01, a recommendation as to whether the additional mental health powers authorized by section 14-5312.01 should be imposed on the existing guardian and whether the patient's needs can be adequately addressed by a guardian with mental health powers without the need for a court order for treatment or whether the court order for treatment should continue regardless of the additional mental health powers imposed on the guardian.

6. The results of any physical examination conducted during the period of court-ordered treatment if relevant to the psychiatric condition of the patient.

F. After conducting the annual review as prescribed in this section, if the medical director believes that continued court-ordered treatment is necessary or appropriate, not later than thirty days before the expiration of the court order for treatment, the medical director shall file with the court an application for continued court-ordered treatment alleging the basis for the application and shall file simultaneously with the application any psychiatric examination conducted as part of the annual review. If the patient is under guardianship, the medical director shall mail a copy of the application to the patient's guardian.

G. If an application for continued court-ordered treatment is filed, all of the following apply:

1. If the patient does not have an attorney, the court shall appoint an attorney to represent the patient.

2. Within ten days after appointment, an attorney appointed pursuant to this subsection, to the extent possible, shall fulfill the duties imposed pursuant to section 36-537, review the medical director's report and the patient's medical records, interview any physician who prepared a report on the annual review and file a response requesting a hearing or submitting the matter to the court for a ruling based on the record without a hearing.

3. If a hearing is not requested, the court shall rule on the application or set the matter for hearing. If a hearing is requested, the hearing shall be held within three weeks after the request for hearing is filed. The hearing may be continued for good cause on motion of a party or on the court's own motion, and the expiration of the current court order for treatment may be extended until a ruling by the court on an application filed pursuant to this subsection.

4. The patient's attorney must be present at all hearings and may subpoena and cross-examine witnesses and present evidence. The patient has the right to attend all hearings, but may choose not to attend a hearing. The patient's attorney may waive the patient's presence after speaking with the patient and confirming that the patient understands the right to be present and does not desire to attend. If the patient is unable to be present at the hearing for medical or psychiatric reasons and the hearing cannot be conducted where the patient is being treated or confined, or the patient cannot appear by another reasonably feasible means, the court shall require clear and convincing evidence that the patient is unable to be present at the hearing and on such a finding may proceed with the hearing in the patient's absence.

5. The evidence presented by the applicant includes the testimony of one or more witnesses acquainted with the patient during the period of court-ordered treatment, which may be satisfied by a statement agreed on by the parties, and the testimony of any physician who performed an annual review of the patient, which may be satisfied by stipulating to the admission of the examining physicians' written report prepared pursuant subsection E of this section. The court may waive the need for the applicant to present the testimony of witnesses acquainted with the patient as required by this subsection, if it finds that the need for a continued court order for treatment has been established by clear and convincing evidence from the other testimony and evidence presented at the hearing.

6. At a hearing held pursuant to this subsection, the court, with notice, may impose on an existing guardian additional powers pursuant to section 14-5312.01. If the court finds that the patient's needs can be adequately met by an existing guardian with the additional powers pursuant to section 14-5312.01 and that a court order for treatment is not necessary to ensure compliance with necessary treatment, the court may terminate the court order for treatment or decline to issue an order continuing court-ordered treatment. The court may also order an investigation into the need for guardianship or conservatorship, or both, and may appoint a suitable person or agency to conduct the investigation. The appointee may include a court-appointed guardian ad litem, a court-appointed investigator pursuant to section 14-5308 or the public fiduciary if there is no person willing and qualified to act in that capacity. The court shall give notice of the appointment to the appointee within three days after the appointment. The appointee shall submit the report of the investigation to the court within

twenty-one days. The report shall include recommendations as to who should be guardian or conservator, or both, and the findings and reasons for the recommendation. If the investigation and report so indicate, the court may authorize an appropriate person to file a petition for appointment of a guardian or conservator for the patient.

H. If a hearing is held pursuant to subsection G of this section, the party seeking the renewal of the court order must prove all of the following by clear and convincing evidence:

1. The patient continues to have a mental disorder and, as a result of that disorder, has either a persistent or acute disability or a grave disability.

2. The patient is in need of continued court-ordered treatment.

3. The patient is either unwilling or unable to accept treatment voluntarily.

I. After a hearing held pursuant to subsection G of this section, the court may order the patient to be released from court-ordered treatment or to undergo continued court-ordered treatment for a period not to exceed the time periods prescribed in section 36-540, subsection D.

J. The ~~deputy~~ director shall create and operate a program to ensure that the examination and review of persons with grave disabilities or persistent or acute disabilities under court order are carried out in an effective and timely manner. The ~~deputy~~ director~~, with the approval of the director,~~ shall adopt rules needed to operate this program.

Sec. 35. Section 36-545.01, Arizona Revised Statutes, is amended to read:

36-545.01. Payment of costs and expenses; ability to pay; power and duty of court; acceptance of other benefits; per capita cost limitation; guardians; parental liability; lien; duty of county attorney

A. When a patient is admitted to the state hospital for court-ordered treatment pursuant to article 5 of this chapter or pursuant to section 13-3994, the business manager of the state hospital shall inquire into the ability of the patient to pay the costs of examination, maintenance and treatment. The business manager shall file with the clerk of the court a written report of the manager's findings and the basis of those findings.

B. If the patient is able to pay all or any portion of the charges, the court shall order the payment of the amount the patient can afford of the per capita cost for examination, treatment and maintenance as estimated by the ~~deputy director~~ SUPERINTENDENT. The court, ~~may, upon~~ ON petition of an interested person~~,~~ and at a hearing of which all concerned parties have received notice, MAY increase or decrease the maintenance charge payable by the patient or the patient's estate.

C. Notwithstanding subsection B of this section, any federal, state, public or private medical benefits ~~which~~ THAT are payable to the state hospital where the patient is receiving care and treatment or ~~which~~ THAT are

payable to the patient may be accepted by the state hospital without a court order, except that the state hospital shall not accept any such benefits ~~which~~ THAT alone or in addition to any amounts payable pursuant to subsection B of this section exceed the per capita cost for the patient.

D. The court ~~may~~, if necessary, MAY appoint a conservator of the patient to carry out this section. If a conservator is appointed, the clerk of the court shall file a certificate so stating. All proceedings relating to ~~such~~ THAT conservatorship shall be had as provided by law for conservators of estates. The conservator shall pay the amount ordered by the court pursuant to subsection B of this section.

E. If the patient is a minor, the business manager of the state hospital shall inquire into the ability of the minor's parents to bear charges pursuant to this section. All obligations, charges and liens that may be imposed on a patient pursuant to this section shall be imposed on the minor's parents if it is determined that the parents have the ability to pay.

F. The charges fixed by the court as provided by this section and ordered paid by the patient or the patient's estate, ~~shall, upon~~ ON filing with the county recorder, become a lien ~~upon~~ ON THE property of the patient or the patient's estate.

G. The county attorney of each county, ~~shall, upon~~ ON an order of a judge of the superior court, SHALL enforce the lien and collect the charges from the person ordered to pay if the charges become delinquent.

H. Costs of examination, treatment and maintenance shall not be charged to any patient found by a court of competent jurisdiction to be unlawfully detained.

I. Notwithstanding section 36-545.02, the department shall deposit, pursuant to sections 35-146 and 35-147, monies collected through contracts entered into pursuant to section 36-3410 in the Arizona state hospital fund established by section 36-545.08. The department shall use these monies for the treatment of patients at the state hospital or for the placement of clients in the community.

Sec. 36. Section 36-545.05, Arizona Revised Statutes, is amended to read:

36-545.05. <u>Charges for treatment by agencies under administration contract; charges for prepetition screening and court-ordered evaluation prohibited</u>

A. When a person is given a prepetition screening, or a court-ordered evaluation by a screening agency or evaluation agency pursuant to ~~the provisions of~~ article 4 of this chapter, the person shall not be charged.

B. When a patient is given voluntary treatment pursuant to ~~the provisions of~~ article 3 of this chapter or court-ordered treatment pursuant to ~~the provisions of~~ article 5 of this chapter, the patient or proposed patient ~~will~~ SHALL pay all or such portion of the established charges as the patient can afford. If the patient is indigent, no charges shall be made against ~~him~~ THE PATIENT.

Sec. 37. Section 36-545.06, Arizona Revised Statutes, is amended to read:

36-545.06. County services

A. Each county, or any combination of counties, shall provide directly or by contract the services of a screening agency and an evaluation agency for the purposes of this chapter.

B. ~~Upon~~ ON a request made by a resident of the county pursuant to this chapter, a county shall be required to provide screening or evaluation.

C. Each county shall coordinate the provision of mental health services required pursuant to this section with the ~~division of behavioral health in the department of health services~~ ADMINISTRATION OR AS DELEGATED BY THE ADMINISTRATION TO A REGIONAL BEHAVIORAL HEALTH AUTHORITY.

Sec. 38. Section 36-545.07, Arizona Revised Statutes, is amended to read:

36-545.07. Contracts between the administration and screening agencies, evaluation agencies and mental health treatment agencies; services; plan

A. The ~~division, with the approval of the director,~~ ADMINISTRATION may enter into contracts with screening agencies, evaluation agencies and mental health treatment agencies to provide prepetition screenings, court-ordered evaluations, voluntary evaluations, treatment of voluntary patients and treatment of patients under ~~the provisions of~~ section 36-524 regardless of the ability of the patient or proposed patient to pay. A county may be a party to a contract as a provider of services or as a party making payments to an agency to provide services on the part of the county. The state hospital may be included in the contract as a provider of services and may receive consideration not inconsistent with law.

B. Contracts to provide services as in subsection A of this section shall be entered into in accordance with a plan of the ~~division, with the approval of the director~~ ADMINISTRATION. This plan shall be developed in accordance with the state comprehensive health plan and in accordance with a plan of the local health planning agency submitted to and approved by the ~~deputy~~ director, except as provided in subsection C of this section.

C. If there is no recognized local health planning agency or if the local health planning agency does not submit a plan ~~which~~ THAT will, in the judgment of the ~~deputy~~ director, fulfill the requirements for services of subsection A of this section, the ~~deputy~~ director may develop a plan and require that it be followed in lieu of a plan of the local health planning agency. The plan of the ~~deputy~~ director shall be adopted after holding a hearing and fulfilling the requirements of title 41, chapter 6.

D. If ~~funds~~ MONIES at the disposal of the ~~division~~ ADMINISTRATION are used for services as in subsection A of this section, the contract shall conform to the requirements of section 36-189, subsection B.

E. A contract to provide services as in subsection A of this section shall specify the services to be provided as to their nature, quality,

purpose, number, extent and limitations, if any, or any other requirements the ~~deputy director~~ ADMINISTRATION deems necessary for the proper administration of services under the plan of the ~~division~~ ADMINISTRATION.

F. A contract may specify that the county's participation fulfills in full or in part the requirements of the county to provide services under section 36-545.06 and the requirements of the county to pay the cost of services under section 36-545.04.

Sec. 39. Section 36-550, Arizona Revised Statutes, is amended to read:

36-550. Definitions

In this article, unless the context otherwise requires:

1. "ADMINISTRATION" MEANS THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION.

~~1.~~ 2. "Community residential treatment system" means a statewide system of community-based residential treatment programs for the seriously mentally ill ~~which~~ THAT provides a wide range of services as alternatives to institutionalization and in the least restrictive setting.

~~2. "Deputy director" means the deputy director of the division of behavioral health in the department of health services.~~

~~3. "Division" means the division of behavioral health in the department of health services.~~

3. "DIRECTOR" MEANS THE DIRECTOR OF THE ADMINISTRATION.

4. "Seriously mentally ill" means persons~~,~~ who as a result of a mental disorder as defined in section 36-501 exhibit emotional or behavioral functioning ~~which~~ THAT is so impaired as to interfere substantially with their capacity to remain in the community without supportive treatment or services of a long-term or indefinite duration. In these persons mental disability is severe and persistent, resulting in a long-term limitation of their functional capacities for primary activities of daily living such as interpersonal relationships, homemaking, self-care, employment and recreation.

Sec. 40. Section 36-550.01, Arizona Revised Statutes, is amended to read:

36-550.01. Statewide plan for community residential treatment

A. The ~~deputy~~ director shall establish a statewide plan for a community residential treatment system ~~by July 1, 1983~~. ~~Such~~ THE plan shall provide for a statewide system of mental health residential treatment programs ~~which~~ THAT provides to the seriously mentally ill a wide range of programs and services, as identified in section 36-550.05, as alternatives to institutional care.

B. ~~In addition to the provisions in subsection A of this section,~~ The statewide plan shall include the following elements:

1. A description on a county-by-county basis of the current programs and service delivery mechanisms providing services to the seriously mentally ill.

2. An identification of areas within the state where multiple jurisdictions could participate in program delivery utilizing intergovernmental contracts.

3. Goals, objectives and priorities for the delivery of such services and methods to evaluate program effectiveness of goals, objectives and priorities.

4. Cooperation with the counties to develop and maintain a coordinated system for delivery of residential care.

5. Methods for estimating the need for community residential treatment services and for allocating state ~~funds~~ MONIES according to that need.

C. The ~~deputy~~ director may establish ~~such~~ rules ~~and regulations, with the approval of the director,~~ as are necessary for the implementation of this article.

Sec. 41. Section 36-550.02, Arizona Revised Statutes, is amended to read:

36-550.02. <u>County responsibilities in statewide planning process</u>

A. Each county shall be responsible for developing an individual county profile of existing programs, needs and goals for consideration by the director for inclusion within the statewide plan as required in section 36-550.01.

B. The ~~deputy~~ director, ~~upon~~ ON receipt of the county profile required in subsection A of this section, shall incorporate those portions compatible with the statewide plan, and, in cooperation with the county, modify those portions of the profile determined by the ~~deputy~~ director to be incompatible with the statewide plan.

Sec. 42. Section 36-550.03, Arizona Revised Statutes, is amended to read:

36-550.03. <u>Statewide plan implementation; contract requirements; exception</u>

A. ~~Upon~~ ON establishment of the statewide plan for a community residential treatment system as required in section 36-550.01, the ~~deputy~~ director shall provide for the delivery of such programs and services, utilizing all ~~funds~~ MONIES identified and available for the seriously mentally ill, in the following manner:

1. Provide such programs and services directly through the ~~division~~ ADMINISTRATION or by contract with other public or private agencies.

2. Contract with individual counties to provide programs and services directly or by contract with other public or private agencies.

3. Provide for programs and services by any combination of service delivery mechanisms as prescribed in paragraphs 1 and 2 of this subsection.

B. The ~~deputy~~ director may use any ~~funds~~ MONIES available to the ~~division~~ ADMINISTRATION for the purposes of this article to provide for the establishment and maintenance of community residential treatment programs and services. If the ~~deputy~~ director contracts with a county as prescribed in

subsection A of this section, the ~~deputy~~ director may require not more than a twenty-five ~~per cent~~ PERCENT match of local or other ~~funds~~ MONIES. The matching requirement for local or other ~~funds~~ MONIES may be provided by either direct funding or by in-kind services.

C. If the programs and services prescribed in subsection A of this section are provided through a contract with a private agency, the ~~deputy~~ director shall not require matching ~~funds~~ MONIES as a condition for a contract to provide services.

Sec. 43. Section 36-550.04, Arizona Revised Statutes, is amended to read:

36-550.04. Evaluation system; contract requirements

A. The ~~deputy~~ director shall develop and implement an evaluation system ~~which shall include, but not be limited to,~~ THAT INCLUDES program planning and development, fiscal and data management and contract administration.

B. A county ~~which~~ THAT desires to contract with the ~~deputy director~~ ADMINISTRATION to deliver programs and services as provided by this article may initiate such A contract ~~upon~~ ON a majority vote of the COUNTY'S board of supervisors. ~~Such~~ THE contract may be implemented directly by the county or indirectly by contract with other public or private nonprofit agencies.

C. Any county contracting with the ~~division~~ ADMINISTRATION shall meet the evaluation requirements established by the ~~deputy~~ director pursuant to subsection A OF THIS SECTION.

Sec. 44. Section 36-550.06, Arizona Revised Statutes, is amended to read:

36-550.06. Client eligibility

A. The seriously mentally ill are eligible for services under this article if they comply with the eligibility screening and application process prescribed in section 36-3408, and under any of the following circumstances:

1. They voluntarily seek the services.

2. The ~~department~~ REGIONAL BEHAVIORAL HEALTH AUTHORITY receives a request for these services from a guardian who is authorized to consent to inpatient treatment pursuant to section 14-5312.01.

3. A court orders that they receive the services.

4. The chief medical officer of the Arizona state hospital recommends they receive such services.

B. Programs and services identified in section 36-550.05 may include purchase of care support payments to persons to supplement social security, supplemental security income or ~~veterans administration~~ UNITED STATES DEPARTMENT OF VETERANS AFFAIRS disability payments, and client fees when available.

Sec. 45. Section 36-550.07, Arizona Revised Statutes, is amended to read:

36-550.07. Community residential treatment system planning grants

A. The ~~deputy~~ director may award grants to counties to facilitate the planning of community residential treatment systems for the seriously mentally ill at the local level. ~~Such~~ THE grants shall be used to compensate personnel for the preparation of a written plan ~~which shall include~~ THAT INCLUDES the following information:

1. An estimate of the need for residential treatment services in the area.

2. A survey of all existing residential treatment and day or socialization programs in the area to be served by the system.

3. An identification of those residential treatment programs needed to provide the continuum of residential treatment programs described in this article and strategy to encourage their development.

4. A statement on the relationship of the proposed services to the long-range behavioral health development plans.

5. A financial estimate of the costs for system planning, development and operation.

6. An estimate of the availability of resources, including health manpower and management personnel.

7. An analysis of the availability of alternative, less costly or more effective methods to provide the services.

B. The ~~deputy~~ director shall establish criteria for determining the eligibility of county applicants for community residential treatment system planning grants. ~~Such~~ THE criteria may include requiring each county applicant to provide local matching ~~funds~~ MONIES for community residential treatment system planning. If local matching ~~funds~~ MONIES are required, the matching requirement for state ~~funds~~ MONIES is seventy-five ~~per cent~~ PERCENT state and twenty-five ~~per cent~~ PERCENT from local or other sources.

Sec. 46. Section 36-556, Arizona Revised Statutes, is amended to read:

36-556. Coordination with department of health services; duties of department

The department OF ECONOMIC SECURITY shall coordinate with the ~~division of behavioral health in the~~ department of health services in:

1. The development of specialized programs for persons with developmental disabilities at the state hospital.

2. Planning and providing residential care services and related child, adult and resource services for persons with developmental disabilities ~~upon~~ ON their discharge from the state hospital, in accordance with section 36-560. The ~~division of behavioral health~~ DEPARTMENT OF HEALTH SERVICES shall provide THE DEPARTMENT OF ECONOMIC SECURITY WITH notice fifteen days ~~prior to~~ BEFORE discharge.

Sec. 47. Section 36-2021, Arizona Revised Statutes, is amended to read:

36-2021. Definitions

In this chapter, unless the context otherwise requires:

1. "ADMINISTRATION" MEANS THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION.

~~1.~~ 2. "Alcoholic" means a person who habitually lacks self-control with respect to the use of alcoholic beverages or who uses alcoholic beverages to the extent that ~~his~~ THE PERSON'S health is substantially impaired or endangered or ~~his~~ social or economic functions are substantially disrupted.

~~2.~~ 3. "Approved private treatment facility" means a private agency meeting the standards established by the ~~division~~ DEPARTMENT and approved pursuant to sections 36-2023 and 36-2029.

~~3.~~ 4. "Approved public treatment facility" means a treatment agency operating under the directions and control of a county, providing treatment through a contract with a county, meeting the standards established by the ~~division~~ DEPARTMENT and approved pursuant to sections 36-2023 and 36-2029.

~~4.~~ 5. "Chronic alcoholic" means an alcoholic who is incapacitated by alcohol and who during the preceding twelve months has been admitted to a local alcoholism reception center on ten or more occasions or has been admitted for three or more episodes of inpatient or residential alcoholism treatment.

~~5.~~ 6. "Court" means a court of record, a justice of the peace court, a police court or a city court authorized by charter.

~~6.~~ 7. "Department" means the department of health services.

~~7. "Deputy director" means the deputy director of the division of behavioral health in the department of health services.~~

8. "Director" means the director of the ~~department of health services~~ ADMINISTRATION.

~~9. "Division" means the division of behavioral health in the department of health services.~~

~~10.~~ 9. "Evaluation" means A multidisciplinary professional analysis of a person's medical, psychological, social, financial and legal conditions. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an approved treatment facility providing evaluation services or may be part-time employees or may be employed on a contractual basis.

~~11.~~ 10. "Incapacitated by alcohol" means that a person as a result of the use of alcohol is unconscious or has ~~his~~ judgment otherwise so impaired that ~~he~~ THE PERSON is incapable of realizing and making a rational decision with respect to ~~his~~ THE PERSON'S need for evaluation and treatment, is unable to take care of ~~his~~ basic personal needs or safety such as food, clothing, shelter or medical care or lacks sufficient understanding or capacity to make or communicate rational decisions ~~concerning himself~~.

~~12.~~ 11. "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the immediate effects of alcohol in ~~his~~ THE PERSON'S system.

~~13.~~ 12. "Local alcoholism reception center" or "center" means an initial reception agency for a person who is intoxicated or who is incapacitated by alcohol to receive initial evaluation and processing for assignment for further evaluation or into a treatment program.

~~14.~~ 13. "Treatment" means the broad range of emergency, outpatient, intermediate and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological and social service care, vocational rehabilitation and career counseling, which may be extended to alcoholics and intoxicated persons.

Sec. 48. Section 36-2022, Arizona Revised Statutes, is amended to read:

36-2022. Establishment of facilities

A. The ~~division, with the approval of the director,~~ ADMINISTRATION shall develop, encourage and foster statewide, county and local plans and programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons in cooperation with public and private agencies, organizations and individuals and provide technical assistance and consultation services for these purposes.

B. Counties may establish a public treatment facility or facilities for the evaluation and treatment of alcoholics and intoxicated persons by resolution of the board of supervisors.

C. Counties may contract with other counties for the services of a public treatment facility or may contract with a private treatment facility.

Sec. 49. Section 36-2023, Arizona Revised Statutes, is amended to read:

36-2023. Rules

A. The department shall adopt and enforce rules to establish standards for approved public and private treatment facilities that must be met for a treatment facility to be approved. The department periodically shall inspect approved facilities at reasonable times and in a reasonable manner. Each approved public and private treatment facility shall file with the department on request information the department requires pursuant to rule. The department shall remove from the list of approved treatment facilities ~~an approved~~ A facility that without good cause fails to furnish information as requested or that files fraudulent information.

B. The department in compliance with subsection A OF THIS SECTION shall adopt and may amend or repeal rules for the acceptance of persons into a treatment program, in light of the available treatment resources and facilities, with a view to the early and effective provision of evaluation and treatment for alcoholics and intoxicated persons. In establishing the rules, the department shall be guided by the following standards:

1. An intoxicated person or person incapacitated by alcohol, who voluntarily seeks treatment or who is transported to an approved facility by a peace officer or other person, shall be initially brought to and evaluated at a local alcoholism reception center.

2. A person shall receive an initial evaluation.

3. A patient shall be initially assigned or transferred to outpatient treatment or intermediate treatment, unless the person is found to require inpatient treatment.

4. A person shall not be denied treatment solely because the person has withdrawn from treatment against medical advice on a prior occasion or because the person has relapsed after earlier treatment.

5. An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

6. Provision shall be made for a continuum of coordinated treatment services, so that a person who leaves the facility or another form of treatment will have available and use other appropriate treatment.

C. The ~~department~~ ADMINISTRATION shall:

1. Enlist the assistance of all public and private agencies, organizations and individuals engaged in the prevention of alcoholism and treatment of alcoholics and intoxicated persons at approved public and private facilities.

2. Cooperate with the state department of corrections in establishing and conducting programs to provide treatment for alcoholics in penal institutions and alcoholics on parole or community supervision from penal institutions at approved public and private facilities.

3. Cooperate with the department of education, schools, police departments, courts and other public and private agencies, organizations and individuals in establishing programs for the prevention of alcoholism and treatment of alcoholics and intoxicated persons and in preparing curriculum materials for use at all levels of school education.

4. Specify a uniform method for keeping statistical information by approved public and private treatment facilities and collect and make available relevant statistical information, including the number of persons treated, frequency of admission, and readmission and frequency and duration of treatment.

5. Cooperate with the department of transportation in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated.

6. Prepare an annual report on drug abuse treatment programs in this state that receive ~~funds~~ MONIES from the ~~department~~ ADMINISTRATION to be submitted by January 1 of each year to the governor, the president of the senate and the speaker of the house of representatives and to be made available to the general public through the Arizona drug and gang prevention resource center. The report shall include:

(a) The name and location of each program.

(b) The amount and sources of funding for each program.

(c) The number of clients who received services during the preceding fiscal year.

(d) A description of the demographic characteristics of the client population served by each program, including age groups, gender and ethnicity.

(e) A description of client problems addressed by the programs, including the types of substances abused.

(f) A summary of the numbers and types of services available and provided during the preceding fiscal year.

(g) An evaluation of the results achieved by the programs.

Sec. 50. Section 36-2024, Arizona Revised Statutes, is amended to read:

36-2024. Treatment of alcoholics

A. An alcoholic may apply for evaluation and treatment directly to any approved public or private treatment facility. If the applicant is a minor or incompetent person, either ~~he~~ THE APPLICANT or a parent, legal guardian or other legal representative OF THE APPLICANT shall ~~make the application~~ APPLY for evaluation and treatment.

B. Subject to rules adopted by the ~~division, with the approval of the director~~ DEPARTMENT, the administrator in charge of any approved public or private treatment facility may determine who shall be admitted for evaluation and treatment. If a person is refused admission to an approved private treatment facility because of financial reasons, the administrator in charge, subject to rules established by the ~~division, with the approval of the director~~ DEPARTMENT, shall refer the person to an approved public treatment facility for treatment, if possible and appropriate.

C. If a patient WHO IS receiving inpatient care leaves an approved treatment facility, ~~he~~ THE PATIENT shall be encouraged to consent to appropriate outpatient treatment or intermediate treatment.

Sec. 51. Section 36-2026, Arizona Revised Statutes, is amended to read:

36-2026. Emergency admission

A. A publicly intoxicated person may be brought by a peace officer or any other person to an approved local alcoholism reception center for emergency evaluation and treatment if the intoxicated person:

1. Has threatened, attempted or inflicted physical harm on self or others, and is likely to inflict physical harm on self or others unless admitted.

2. Is incapacitated by alcohol.

B. A peace officer who has reasonable cause to believe that a person is intoxicated in a public place and ~~such~~ THAT THE person is or may be a danger to self or others may transport ~~such~~ THE person to a local alcoholism reception center. Unnecessary or unreasonable force shall not be used in transporting the person, and the person shall not be subjected to any greater

restraint than is necessary to transport the person to the local alcoholism reception center.

C. A peace officer~~,~~ who has reasonable cause to believe that a person is intoxicated in a public place or a place open to the public, ~~and~~ THAT the person is or may be a danger to self or others and THAT there is no responsible person immediately available to assist the intoxicated person~~,~~ may transport the person to a detention facility if both of the following ~~circumstances exist~~ APPLY:

1. A local alcoholism reception center or other approved facility is not available within ten miles or the peace officer has determined that the local alcoholism reception center or other approved facility is filled to capacity and has no further capacity at the present time to provide evaluation and treatment services to additional persons.

2. The peace officer has been informed by the governing body of the city or town or the board of supervisors of the county in which the peace officer is employed that the ~~deputy director of the division of behavioral health~~ DEPARTMENT has determined that ~~such~~ THE city, town or county has made a reasonable effort to provide adequate local alcoholism reception services for persons incapacitated by alcohol and, based on that determination, has issued a renewable three-month temporary waiver to allow the transportation of certain intoxicated persons in the city, town or county to detention facilities pursuant to this section. The determination may be made by the ~~deputy~~ director OF THE DEPARTMENT on application by the governing body of the city or town or the board of supervisors of a county.

D. An intoxicated person WHO IS received or accepted by a local alcoholism reception center or detention facility shall not be subject to unnecessary or unreasonable force. The local alcoholism reception center or detention facility shall use such methods and exercise such restraint of the intoxicated person as is reasonably necessary for the safety of ~~such~~ THE person and others and consistent with ~~the provisions of~~ this section.

E. The administrator in charge of an approved local alcoholism reception center shall discharge any person admitted pursuant to this section not more than twenty-four hours, excluding weekends and holidays, after the person requests to be discharged or after the administrator on advice of the medical staff determines that the grounds for admission no longer exist.

F. Any person WHO IS transported to a detention facility pursuant to this section may be held in protective custody until the person is no longer intoxicated, until released to a responsible person or for a period not exceeding twelve hours, whichever occurs first.

G. Any person WHO IS released from protective custody pursuant to this section may BE TRANSPORTED at that person's request ~~be transported~~ to a local alcoholism reception center or approved facility for evaluation and treatment ~~provided~~ IF such facilities are available.

H. A person WHO IS held in protective custody pursuant to this section is not considered to have been arrested or to have been charged with any crime and may not be fingerprinted or photographed for any reason.

Sec. 52. Section 36-2028, Arizona Revised Statutes, is amended to read:

36-2028. Payment for treatment; financial ability of patient or guardian

A. A patient WHO IS being treated by an approved treatment facility or the estate of the patient, or a person WHO IS obligated to provide the cost of the evaluation and treatment and having sufficient financial ability, is liable to the approved treatment facility for the cost of evaluation and treatment of the patient. FOR A PERSON WHO IS DETERMINED TO BE ELIGIBLE FOR COVERAGE THROUGH THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM, FINANCIAL LIABILITY SHALL BE ESTABLISHED in accordance with the ~~rates~~ RULES established by the ~~division~~ ADMINISTRATION.

B. The ~~division, with the approval of the director,~~ ADMINISTRATION shall adopt rules governing financial ability that take into consideration the income, savings and other personal and real property of the person required to pay as well as any support being furnished by ~~him~~ THAT PERSON to any person ~~whom he may be~~ AS required by law ~~to support~~. THE RULES SHALL COMPLY WITH APPLICABLE FEDERAL REQUIREMENTS FOR COST SHARING.

C. Each approved treatment facility shall furnish the ~~division~~ ADMINISTRATION with such information as it requires to enable it to establish and maintain a cost reporting system of the cost of the evaluation and treatment. Each approved treatment facility shall ~~insure~~ ENSURE that records are maintained containing such information and in such form as the ~~division shall require~~ ADMINISTRATION REQUIRES for the purposes of this section.

D. The ~~division~~ ADMINISTRATION shall prepare and adopt patient fee schedules to be used by approved treatment facilities for services rendered to each patient WHO IS DETERMINED TO BE ELIGIBLE FOR COVERAGE THROUGH THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM AND WHO IS afflicted with alcoholism. In preparing ~~such~~ patient fee schedules, the ~~division~~ ADMINISTRATION shall take into account the existing charges for available services. The ~~division~~ ADMINISTRATION is not prohibited from including the amount of expenditures for capital outlay in its determination of the fee schedules.

Sec. 53. Section 36-2029, Arizona Revised Statutes, is amended to read:

36-2029. Funding of facilities; contracts; limitations

A. The ~~division~~ ADMINISTRATION may use municipal, county, state and federal monies appropriated or otherwise available for the evaluation and treatment of alcoholics to assist in the establishment and maintenance of approved public or private treatment facilities. ~~Such~~ THE monies may be expended for professional fees for services at an approved treatment facility or in contract for advancement or reimbursement of services provided at an

approved treatment facility or any other appropriate manner and may be used for any purpose necessary to provide evaluation and treatment at approved treatment facilities. These monies may not be used for ~~division~~ salaries or any other purpose within the ~~division~~ ADMINISTRATION but may be used for consultation ~~to the division~~ SERVICES in the interest of approved treatment facilities.

B. A public or private treatment facility providing or intending to provide evaluation and treatment and desiring to contract with the ~~division~~ ADMINISTRATION for the furnishing of such services shall submit a program, plan and budget to the ~~division~~ ADMINISTRATION on the forms and in the manner required by the ~~division~~ ADMINISTRATION. If such A facility is approved, the ~~division~~ ADMINISTRATION may contract with the facility for services as required and ~~upon~~ ON such terms and conditions as the ~~division shall require~~ ADMINISTRATION REQUIRES.

C. Each approved treatment facility shall provide the ~~division~~ ADMINISTRATION with a record of all federal, state, county, city and private monies received for the previous year and an estimate of monies to be received by the facility for the following year.

D. An approved private or public treatment facility providing evaluation and treatment may receive state funding ~~upon~~ ON complying with the rules ~~and regulations~~ established by the ~~division~~ DEPARTMENT. Any such facility is not eligible for state funding until approved by the ~~deputy director~~ ADMINISTRATION.

E. ~~The provisions of~~ This article ~~shall not be construed to~~ DOES NOT place ~~upon~~ ON the ~~division~~ ADMINISTRATION or the state any liability for the well-being and care of alcoholics or persons incapacitated by alcohol in a public or private treatment facility or the responsibility for funding such programs beyond the limits of legislative appropriation therefor.

Sec. 54. Section 36-2051, Arizona Revised Statutes, is amended to read:

36-2051. Definition of federal act

In this article, ~~unless the context otherwise requires:~~

~~1. "Deputy director" means the deputy director of the division of behavioral health in the department of health services.~~

~~2. "Division" means the division of behavioral health in the department of health services.~~

~~3.~~ "federal act" means the drug abuse office and treatment act of 1972 and regulations adopted ~~thereunder~~ PURSUANT TO THAT ACT.

Sec. 55. Section 36-2052, Arizona Revised Statutes, is amended to read:

36-2052. Designation of state agency

The ~~division~~ ADMINISTRATION is designated as the state authority for the purposes of exercising authority under the federal act.

Sec. 56. Section 36-2901, Arizona Revised Statutes, is amended to read:

36-2901. Definitions

In this article, unless the context otherwise requires:

1. "Administration" means the Arizona health care cost containment system administration.

2. "Administrator" means the administrator of the Arizona health care cost containment system.

3. "Contractor" means a person or entity that has a prepaid capitated contract with the administration pursuant to section 36-2904 OR CHAPTER 34 OF THIS TITLE to provide health care to members under this article OR PERSONS UNDER CHAPTER 34 OF THIS TITLE either directly or through subcontracts with providers.

4. "Department" means the department of economic security.

5. "Director" means the director of the Arizona health care cost containment system administration.

6. "Eligible person" means any person who is:

(a) Any of the following:

(i) Defined as mandatorily or optionally eligible pursuant to title XIX of the social security act as authorized by the state plan.

(ii) Defined in title XIX of the social security act as an eligible pregnant woman with a family income that does not exceed one hundred fifty ~~per cent~~ PERCENT of the federal poverty guidelines, as a child under the age of six years and whose family income does not exceed one hundred thirty-three ~~per cent~~ PERCENT of the federal poverty guidelines or as children who have not attained nineteen years of age and whose family income does not exceed one hundred thirty-three ~~per cent~~ PERCENT of the federal poverty guidelines.

(iii) Under twenty-six years of age and who was in the custody of the department of child safety pursuant to title 8, chapter 4 when the person became eighteen years of age.

(iv) Defined as eligible pursuant to section 36-2901.01.

(v) Defined as eligible pursuant to section 36-2901.04.

(vi) Defined as eligible pursuant to section 36-2901.07.

(b) A full-time officer or employee of this state or of a city, town or school district of this state or other person who is eligible for hospitalization and medical care under title 38, chapter 4, article 4.

(c) A full-time officer or employee of any county in this state or other persons authorized by the county to participate in county medical care and hospitalization programs if the county in which such officer or employee is employed has authorized participation in the system by resolution of the county board of supervisors.

(d) An employee of a business within this state.

(e) A dependent of an officer or employee who is participating in the system.

(f) Not enrolled in the Arizona long-term care system pursuant to article 2 of this chapter.

(g) Defined as eligible pursuant to section 1902(a)(10)(A)(ii)(XV) and (XVI) of title XIX of the social security act and who meets the income requirements of section 36-2929.

7. "Graduate medical education" means a program, including an approved fellowship, that prepares a physician for the independent practice of medicine by providing didactic and clinical education in a medical discipline to a medical student who has completed a recognized undergraduate medical education program.

8. "Malice" means evil intent and outrageous, oppressive or intolerable conduct that creates a substantial risk of tremendous harm to others.

9. "Member" means an eligible person who enrolls in the system.

10. "Modified adjusted gross income" has the same meaning prescribed in 42 United States Code section 1396a(e)(14).

11. "Noncontracting provider" means a person who provides health care to members pursuant to this article but not pursuant to a subcontract with a contractor.

12. "Physician" means a person licensed pursuant to title 32, chapter 13 or 17.

13. "Prepaid capitated" means a mode of payment by which a health care contractor directly delivers health care services for the duration of a contract to a maximum specified number of members based on a fixed rate per member notwithstanding:

(a) The actual number of members who receive care from the contractor.

(b) The amount of health care services provided to any member.

14. "Primary care physician" means a physician who is a family practitioner, general practitioner, pediatrician, general internist, or obstetrician or gynecologist.

15. "Primary care practitioner" means a nurse practitioner certified pursuant to title 32, chapter 15 or a physician assistant certified pursuant to title 32, chapter 25. This paragraph does not expand the scope of practice for nurse practitioners as defined pursuant to title 32, chapter 15, or for physician assistants as defined pursuant to title 32, chapter 25.

16. "REGIONAL BEHAVIORAL HEALTH AUTHORITY" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-3401.

~~16.~~ 17. "Section 1115 waiver" means the research and demonstration waiver granted by the United States department of health and human services.

~~17.~~ 18. "Special health care district" means a special health care district organized pursuant to title 48, chapter 31.

~~18.~~ 19. "State plan" has the same meaning prescribed in section 36-2931.

~~19.~~ 20. "System" means the Arizona health care cost containment system established by this article.

1 Sec. 57. Section 36-2907, Arizona Revised Statutes, is amended to
2 read:
3 36-2907. Covered health and medical services; modifications;
4 related delivery of service requirements; definition
5 A. Subject to the limitations and exclusions specified in this
6 section, contractors shall provide the following medically necessary health
7 and medical services:
8 1. Inpatient hospital services that are ordinarily furnished by a
9 hospital for the care and treatment of inpatients and that are provided under
10 the direction of a physician or a primary care practitioner. For the
11 purposes of this section, inpatient hospital services exclude services in an
12 institution for tuberculosis or mental diseases unless authorized under an
13 approved section 1115 waiver.
14 2. Outpatient health services that are ordinarily provided in
15 hospitals, clinics, offices and other health care facilities by licensed
16 health care providers. Outpatient health services include services provided
17 by or under the direction of a physician or a primary care practitioner.
18 3. Other laboratory and x-ray services ordered by a physician or a
19 primary care practitioner.
20 4. Medications that are ordered on prescription by a physician or a
21 dentist licensed pursuant to title 32, chapter 11. Persons who are dually
22 eligible for title XVIII and title XIX services must obtain available
23 medications through a medicare licensed or certified medicare advantage
24 prescription drug plan, a medicare prescription drug plan or any other entity
25 authorized by medicare to provide a medicare part D prescription drug
26 benefit.
27 5. Medical supplies, durable medical equipment, insulin pumps and
28 prosthetic devices ordered by a physician or a primary care practitioner.
29 Suppliers of durable medical equipment shall provide the administration with
30 complete information about the identity of each person who has an ownership
31 or controlling interest in their business and shall comply with federal
32 bonding requirements in a manner prescribed by the administration.
33 6. For persons who are at least twenty-one years of age, treatment of
34 medical conditions of the eye, excluding eye examinations for prescriptive
35 lenses and the provision of prescriptive lenses.
36 7. Early and periodic health screening and diagnostic services as
37 required by section 1905(r) of title XIX of the social security act for
38 members who are under twenty-one years of age.
39 8. Family planning services that do not include abortion or abortion
40 counseling. If a contractor elects not to provide family planning services,
41 this election does not disqualify the contractor from delivering all other
42 covered health and medical services under this chapter. In that event, the
43 administration may contract directly with another contractor, including an
44 outpatient surgical center or a noncontracting provider, to deliver family

planning services to a member who is enrolled with the contractor that elects not to provide family planning services.

9. Podiatry services ordered by a primary care physician or primary care practitioner.

10. Nonexperimental transplants approved for title XIX reimbursement.

11. Ambulance and nonambulance transportation, except as provided in subsection G of this section.

12. Hospice care.

B. The limitations and exclusions for health and medical services provided under this section are as follows:

1. Circumcision of newborn males is not a covered health and medical service.

2. For eligible persons who are at least twenty-one years of age:

(a) Outpatient health services do not include occupational therapy or speech therapy.

(b) Prosthetic devices do not include hearing aids, dentures, bone-anchored hearing aids or cochlear implants. Prosthetic devices, except prosthetic implants, may be limited to twelve thousand five hundred dollars per contract year.

(c) Percussive vests and orthotics are not covered health and medical services.

(d) Durable medical equipment is limited to items covered by medicare.

(e) Podiatry services do not include services performed by a podiatrist.

(f) Nonexperimental transplants do not include pancreas-only transplants.

(g) Bariatric surgery procedures, including laparoscopic and open gastric bypass and restrictive procedures, are not covered health and medical services.

C. The system shall pay noncontracting providers only for health and medical services as prescribed in subsection A of this section and as prescribed by rule.

D. The director shall adopt rules necessary to limit, to the extent possible, the scope, duration and amount of services, including maximum limitations for inpatient services that are consistent with federal regulations under title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42 United States Code section 1396 (1980)). To the extent possible and practicable, these rules shall provide for the prior approval of medically necessary services provided pursuant to this chapter.

E. The director shall make available home health services in lieu of hospitalization pursuant to contracts awarded under this article. For the purposes of this subsection, "home health services" means the provision of nursing services, home health aide services or medical supplies, equipment and appliances that are provided on a part-time or intermittent basis by a licensed home health agency within a member's residence based on the orders

of a physician or a primary care practitioner. Home health agencies shall comply with the federal bonding requirements in a manner prescribed by the administration.

F. The director shall adopt rules for the coverage of behavioral health services for persons who are eligible under section 36-2901, paragraph 6, subdivision (a). ~~The administration shall contract with the department of health services for the delivery of all medically necessary behavioral health services to persons who are eligible under rules adopted pursuant to this subsection. The division of behavioral health in the department of health services~~ THE ADMINISTRATION ACTING THROUGH THE REGIONAL BEHAVIORAL HEALTH AUTHORITIES shall establish a diagnostic and evaluation program to which other state agencies shall refer children who are not already enrolled pursuant to this chapter and who may be in need of behavioral health services. In addition to an evaluation, the ~~division of behavioral health~~ ADMINISTRATION ACTING THROUGH REGIONAL BEHAVIORAL HEALTH AUTHORITIES shall also identify children who may be eligible under section 36-2901, paragraph 6, subdivision (a) or section 36-2931, paragraph 5 and shall refer the children to the appropriate agency responsible for making the final eligibility determination.

G. The director shall adopt rules for the provision of transportation services and rules providing for copayment by members for transportation for other than emergency purposes. Subject to approval by the centers for medicare and medicaid services, nonemergency medical transportation shall not be provided except for stretcher vans and ambulance transportation. Prior authorization is required for transportation by stretcher van and for medically necessary ambulance transportation initiated pursuant to a physician's direction. Prior authorization is not required for medically necessary ambulance transportation services rendered to members or eligible persons initiated by dialing telephone number 911 or other designated emergency response systems.

H. The director may adopt rules to allow the administration, at the director's discretion, to use a second opinion procedure under which surgery may not be eligible for coverage pursuant to this chapter without documentation as to need by at least two physicians or primary care practitioners.

I. If the director does not receive bids within the amounts budgeted or if at any time the amount remaining in the Arizona health care cost containment system fund is insufficient to pay for full contract services for the remainder of the contract term, the administration, on notification to system contractors at least thirty days in advance, may modify the list of services required under subsection A of this section for persons defined as eligible other than those persons defined pursuant to section 36-2901, paragraph 6, subdivision (a). The director may also suspend services or may limit categories of expense for services defined as optional pursuant to title XIX of the social security act (P.L. 89-97; 79 Stat. 344; 42 United

States Code section 1396 (1980)) for persons defined pursuant to section 36-2901, paragraph 6, subdivision (a). Such reductions or suspensions do not apply to the continuity of care for persons already receiving these services.

J. Additional, reduced or modified hospitalization and medical care benefits may be provided under the system to enrolled members who are eligible pursuant to section 36-2901, paragraph 6, subdivision (b), (c), (d) or (e).

K. All health and medical services provided under this article shall be provided in the geographic service area of the member, except:

1. Emergency services and specialty services provided pursuant to section 36-2908.

2. That the director may permit the delivery of health and medical services in other than the geographic service area in this state or in an adjoining state if the director determines that medical practice patterns justify the delivery of services or a net reduction in transportation costs can reasonably be expected. Notwithstanding the definition of physician as prescribed in section 36-2901, if services are procured from a physician or primary care practitioner in an adjoining state, the physician or primary care practitioner shall be licensed to practice in that state pursuant to licensing statutes in that state similar to title 32, chapter 13, 15, 17 or 25 and shall complete a provider agreement for this state.

L. Covered outpatient services shall be subcontracted by a primary care physician or primary care practitioner to other licensed health care providers to the extent practicable for purposes including, but not limited to, making health care services available to underserved areas, reducing costs of providing medical care and reducing transportation costs.

M. The director shall adopt rules that prescribe the coordination of medical care for persons who are eligible for system services. The rules shall include provisions for the transfer of patients, the transfer of medical records and the initiation of medical care.

N. For the purposes of this section, "ambulance" has the same meaning prescribed in section 36-2201.

Sec. 58. Section 36-2989, Arizona Revised Statutes, is amended to read:

36-2989. <u>Covered health and medical services; modifications; related delivery of service requirements</u>

A. Except as provided in this section, health and medical services prescribed in section 36-2907 are covered services and include:

1. Inpatient hospital services that are ordinarily furnished by a hospital for the care and treatment of inpatients, that are medically necessary and that are provided under the direction of a physician or a primary care practitioner. For the purposes of this paragraph, inpatient hospital services exclude services in an institution for tuberculosis or mental diseases unless authorized by federal law.

2. Outpatient health services that are medically necessary and ordinarily provided in hospitals, clinics, offices and other health care facilities by licensed health care providers. For the purposes of this paragraph, "outpatient health services" includes services provided by or under the direction of a physician or a primary care practitioner.

3. Other laboratory and x-ray services ordered by a physician or a primary care practitioner.

4. Medications that are medically necessary and ordered on prescription by a physician, a primary care practitioner or a dentist licensed pursuant to title 32, chapter 11.

5. Medical supplies, equipment and prosthetic devices.

6. Treatment of medical conditions of the eye, including eye examinations for prescriptive lenses and the provision of prescriptive lenses for members.

7. Medically necessary dental services.

8. Well child services, immunizations and prevention services.

9. Family planning services that do not include abortion or abortion counseling. If a contractor elects not to provide family planning services, this election does not disqualify the contractor from delivering all other covered health and medical services under this article. In that event, the administration may contract directly with another contractor, including an outpatient surgical center or a noncontracting provider, to deliver family planning services to a member who is enrolled with a contractor who elects not to provide family planning services.

10. Podiatry services that are performed by a podiatrist licensed pursuant to title 32, chapter 7 and that are ordered by a primary care physician or primary care practitioner.

11. Medically necessary pancreas, heart, liver, kidney, cornea, lung and heart-lung transplants and autologous and allogeneic bone marrow transplants and immunosuppressant medications for these transplants ordered on prescription by a physician licensed pursuant to title 32, chapter 13 or 17.

12. Medically necessary emergency and nonemergency transportation.

13. Inpatient and outpatient behavioral health services that are the same as the least restrictive health benefits coverage plan for behavioral health services that are offered through a health care services organization for state employees under section 38-651.

14. Hospice care.

B. The administration shall pay noncontracting providers only for health and medical services as prescribed in subsection A of this section.

C. To the extent possible and practicable, the administration and contractors shall provide for the prior approval of medically necessary services provided pursuant to this article.

D. The director shall make available home health services in lieu of hospitalization pursuant to contracts awarded under this article.

E. Behavioral health services shall be provided to members through the administration's ~~intergovernmental agreement with the division of behavioral health in the department of health services~~ CONTRACTORS. The ~~division of behavioral health in the department of health services~~ ADMINISTRATION ACTING THROUGH REGIONAL BEHAVIORAL HEALTH AUTHORITIES AS DEFINED IN SECTION 36-3401 shall use its established diagnostic and evaluation program for referrals of children who are not already enrolled pursuant to this article and who may be in need of behavioral health services. In addition to an evaluation, the ~~division of behavioral health~~ ADMINISTRATION ACTING THROUGH REGIONAL BEHAVIORAL HEALTH AUTHORITIES AS DEFINED IN SECTION 36-3401 shall also identify children who may be eligible under section 36-2901, paragraph 6, subdivision (a) or section 36-2931, paragraph 5 and shall refer the children to the appropriate agency responsible for making the final eligibility determination.

F. The director shall adopt rules for the provision of transportation services for members. Prior authorization is not required for medically necessary ambulance transportation services rendered to members initiated by dialing telephone number 911 or other designated emergency response systems.

G. The director may adopt rules to allow the administration to use a second opinion procedure under which surgery may not be eligible for coverage pursuant to this article without documentation as to need by at least two physicians or primary care practitioners.

H. All health and medical services provided under this article shall be provided in the geographic service area of the member, except:

1. Emergency services and specialty services.

2. The director may permit the delivery of health and medical services in other than the geographic service area in this state or in an adjoining state if it is determined that medical practice patterns justify the delivery of services or a net reduction in transportation costs can reasonably be expected. Notwithstanding section 36-2981, paragraph 8 or 11, if services are procured from a physician or primary care practitioner in an adjoining state, the physician or primary care practitioner shall be licensed to practice in that state pursuant to licensing statutes in that state that are similar to title 32, chapter 13, 15, 17 or 25.

I. Covered outpatient services shall be subcontracted by a primary care physician or primary care practitioner to other licensed health care providers to the extent practicable for purposes of making health care services available to underserved areas, reducing costs of providing medical care and reducing transportation costs.

J. The director shall adopt rules that prescribe the coordination of medical care for members and that include a mechanism to transfer members and medical records and initiate medical care.

K. The director shall adopt rules for the reimbursement of specialty services provided to the member if authorized by the member's primary care physician or primary care practitioner.

Sec. 59. Heading change

The chapter heading of title 36, chapter 34, Arizona Revised Statutes, is changed from "DIVISION OF BEHAVIORAL HEALTH" to "BEHAVIORAL HEALTH SERVICES".

Sec. 60. Section 36-3401, Arizona Revised Statutes, is amended to read:

36-3401. Definitions

In this chapter, unless the context otherwise requires:

1. "ADMINISTRATION" MEANS THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION.

~~1.~~ 2. "Advisory council" means the Arizona state advisory council on the seriously mentally ill.

~~2.~~ 3. "Children" means persons who are under the age of nineteen years or persons who are under the age of twenty-two years and enrolled in an educational facility.

~~3.~~ 4. "Clean claim" means a claim that can be processed without obtaining additional information from the service provider or from a third party. Clean claim does not include claims under investigation for fraud or abuse or claims under review for medical necessity.

~~4. "Department" means the department of health services.~~

~~5. "Deputy director" means the deputy director of the division of behavioral health in the department of health services.~~

~~6.~~ 5. "Director" means the director of the ~~department of health services~~ ADMINISTRATION.

~~7. "Division" means the division of behavioral health in the department of health services.~~

~~8.~~ 6. "Regional behavioral health authority" means an organization under contract with the ~~department~~ ADMINISTRATION to coordinate the delivery of mental health services in a geographically specific service area of the state for eligible persons.

~~9.~~ 7. "Service provider" means an organization or mental health professional that meets the criteria established by the ~~department~~ ADMINISTRATION and has a contract with the ~~department~~ ADMINISTRATION or a regional behavioral health authority.

Sec. 61. Repeal

Section 36-3402, Arizona Revised Statutes, is repealed.

Sec. 62. Section 36-3403, Arizona Revised Statutes, is amended to read:

36-3403. Powers and duties of the director; study; capitation rates

A. IN ADDITION TO THE POWERS AND DUTIES PRESCRIBED IN CHAPTER 29 OF THIS TITLE, IN CARRYING OUT THE DUTIES OF THIS CHAPTER, the ~~deputy~~ director may~~, on approval of the director~~:

1. Employ professional, secretarial and clerical staff as are determined necessary by the director to carry out the functions and duties of the ~~division~~ ADMINISTRATION, subject to legislative appropriation.

2. Contract for the services of consultants and other persons ~~which~~ THAT are reasonably necessary to enable the ~~division~~ ADMINISTRATION to carry out its functions and duties, subject to legislative appropriation.

3. Contract and incur obligations ~~which~~ THAT are reasonably necessary within the general scope of the ~~division~~ ADMINISTRATION.

4. Adopt rules ~~which~~ THAT are necessary to carry out the requirements of the ~~division~~ ADMINISTRATION.

5. Contract or enter into intergovernmental agreements with other public and private nonprofit agencies and entities.

6. Use monies, facilities or services to provide matching contributions under federal or other programs ~~which~~ THAT further the objectives and programs of the ~~division~~ ADMINISTRATION.

7. Accept gifts, grants, matching monies or direct payments from public or private agencies or private persons and enterprises for the conduct of programs ~~which~~ THAT are consistent with the general purposes and objectives of the ~~division~~ ADMINISTRATION.

~~8. Lease at fair market value real property currently occupied by the southern Arizona mental health center for the purposes of operating a private nonprofit behavioral health care facility. Monies collected from the lease of the real property shall be deposited into the building renewal fund established pursuant to section 36-545.09.~~

B. The ~~deputy~~ director shall administer:

1. Unified mental health programs, ~~to include~~ EXCLUDING the functions of the state hospital ~~and~~ BUT INCLUDING community mental health.

2. Addictive behavior programs to include alcohol and drug abuse.

C. Notwithstanding any other law, the ~~deputy~~ director may waive or reduce the requirements for local match.

~~D. The superintendent of the Arizona state hospital shall be appointed by the deputy director, subject to the approval of the director, and shall report directly to the deputy director.~~

D. EXCEPT AS OTHERWISE REQUIRED BY THIS CHAPTER, THE DIRECTOR SHALL CARRY OUT THE DUTIES OF THIS CHAPTER SUBJECT TO AND CONSISTENT WITH CHAPTER 29 OF THIS TITLE.

E. The ~~department~~ ADMINISTRATION shall contract with an independent consulting firm for an annual study of the adequacy and appropriateness of title XIX reimbursement rates to providers of behavioral health services. The ~~department~~ ADMINISTRATION may require~~,~~ and ~~the department's contracted providers~~ THE REGIONAL BEHAVIORAL HEALTH AUTHORITIES AND SERVICE PROVIDERS shall provide~~, financial data~~ to the ~~department~~ ADMINISTRATION FINANCIAL DATA in the format prescribed by the ~~department~~ ADMINISTRATION to assist in the study. A complete study of reimbursement rates shall be completed ~~no less than~~ AT LEAST once every five years. The ~~department~~ ADMINISTRATION shall

provide the report to the joint legislative budget committee ~~and the Arizona health care cost containment system administration by October 1, 2002 and by~~ ON OR BEFORE October 1 of each year ~~thereafter~~. ~~The department shall include the results of the study in its yearly capitation request to the Arizona health care cost containment system administration.~~ If results of the study are not completely incorporated into the capitation rate, the ~~Arizona health care cost containment system~~ administration shall provide a report to the joint legislative budget committee within thirty days of setting the final capitation rate, including reasons for differences between the rate and the study.

F. Capitation rate adjustments shall be limited to utilization of existing services and inflation unless policy changes, including creation or expansion of programs, have been approved by the legislature or are specifically required by federal law or court mandate.

Sec. 63. Section 36-3404, Arizona Revised Statutes, is amended to read:

36-3404. Administration budget for behavioral health; funds

A. The ~~department~~ ADMINISTRATION SHALL PRESENT A budget ~~for the division shall include~~ REQUEST THAT INCLUDES all information on THE potential availability of other monies, including federal monies, ~~which~~ THAT may be used in the following fiscal year to fund ~~the~~ behavioral health services OTHER THAN WITH RESPECT TO THE OPERATION of the Arizona state hospital.

B. The budget request presented pursuant to subsection A of this section shall be divided as follows:

1. A proposed budget for the administration of ~~the division~~ BEHAVIORAL HEALTH SERVICES.

~~2. A proposed budget for the Arizona state hospital, with a specific amount of the total budget estimated to be used for patients who are seriously mentally ill.~~

~~3.~~ 2. A proposed budget for services for each behavioral health program.

C. The ~~deputy~~ director shall establish funds for each behavioral health program. Monies appropriated to the ~~division~~ ADMINISTRATION for these programs, ~~and grants, gifts and~~ fees generated by the ~~division,~~ PROVISION OF THESE PROGRAMS AND GRANTS AND GIFTS TO THE ADMINISTRATION shall be maintained in the appropriate fund to pay program and administrative costs. The administrative costs of each program shall be separately identified in the accounting records of the ~~division~~ ADMINISTRATION.

Sec. 64. Section 36-3405, Arizona Revised Statutes, is amended to read:

36-3405. Annual report; reports

A. ~~By~~ ON OR BEFORE January 1 of each year, the director shall submit a financial and programmatic report for the preceding fiscal year to the governor, the speaker of the house of representatives and the president of the senate.

B. The report required pursuant to subsection A of this section shall include revenues and expenditures for ~~the division~~ BEHAVIORAL HEALTH PROGRAMS and total revenues and expenditures, including specific identification of administrative costs for each behavioral health program by the following categories:

1. The seriously mentally ill.
2. Alcohol and drug abuse.
3. Children with severe emotional disabilities.
4. Domestic violence.
~~5. The Arizona state hospital.~~

C. The report required pursuant to subsection A of this section shall include the number of clients served by each behavioral health service.

D. The director shall provide a monthly report to the governor, the speaker of the house of representatives and the president of the senate ~~which~~ THAT shall, by regional behavioral health authority, separately report title XIX and nontitle XIX categories and shall include for each category the number of persons served, the units of service and the amount of funding provided for client services and the amount provided for regional behavioral health authority administration and case management expenses.

Sec. 65. Section 36-3406, Arizona Revised Statutes, is amended to read:

36-3406. <u>Arizona state advisory council on the seriously mentally ill; membership; compensation; duties</u>

A. The Arizona state advisory council on the seriously mentally ill is established.

B. The advisory council shall consist of the ~~deputy~~ director OR THE DIRECTOR'S DESIGNEE and the following nine members appointed by the governor:

1. One member representing an advocacy group for the seriously mentally ill.
2. One service provider.
3. One member representing a behavioral health contract agency in an urban area.
4. One member representing a behavioral health contract agency in a rural area.
5. One member of a county health department specializing in the delivery of services to the seriously mentally ill.
6. One health care professional who works with the seriously mentally ill and who is not associated with a contract agency providing services.
7. Three family members of persons who are seriously mentally ill.

C. The ~~deputy~~ director OR THE DIRECTOR'S DESIGNEE shall serve as chairman.

D. The advisory council shall meet at least every three months.

E. Members of the advisory council are not entitled to compensation but members appointed are entitled to reimbursement of expenses pursuant to title 38, chapter 4, article 2.

F. The ~~division~~ ADMINISTRATION shall provide necessary staff services to the advisory council.

G. The advisory council shall advise the ~~division~~ ADMINISTRATION on matters relating to the seriously mentally ill.

H. Appointed members of the advisory council shall serve staggered three-year terms.

Sec. 66. Section 36-3407, Arizona Revised Statutes, is amended to read:

36-3407. Services; contract

The ~~division~~ ADMINISTRATION shall contract for the provision of the following services relating to the seriously mentally ill:

1. Community education to increase public awareness of the needs of persons experiencing behavioral health problems.

2. Coordinated screening and intake.

3. A coordinated service delivery system.

4. Coordinated case management and individualized treatment planning for each client.

5. Ongoing family participation in the planning for and selection of continuum of care services.

6. A comprehensive continuum of care services, as appropriate for each client, ~~which shall include but not be limited to~~ THAT INCLUDES the following:

(a) Home-based services.

(b) Prevention and early intervention.

(c) Psychiatric evaluation and consultation.

(d) Ancillary support services.

(e) Crisis intervention, including short-term and mobile crisis stabilization.

(f) Outpatient counseling.

(g) Residential treatment services.

(h) Case management.

(i) Partial care services.

(j) Secure residential treatment services.

(k) Residential treatment services for clients discharged from the Arizona state hospital.

(l) Hospitalization services.

(m) Psychotropic medication services.

(n) Independent living services.

(o) Detoxification services.

(p) Respite care.

(q) Vocational rehabilitation.

(r) Transportation.

(s) Socialization and recreation.

Sec. 67. Section 36-3408, Arizona Revised Statutes, is amended to read:

36-3408. Eligibility for behavioral health service system; screening process; required information

A. Any person or the person's parent or legal guardian who requests behavioral health services pursuant to this chapter shall comply with a preliminary financial screening and eligibility process developed by the ~~department of health services in coordination with the~~ Arizona health care cost containment system administration and administered at the initial intake level. A person who receives behavioral health services pursuant to this chapter and who has not been determined eligible for title XVIII and for the medicare part D prescription drug benefit, title XIX or title XXI services shall comply annually with the eligibility determination process. If the results indicate that the person may be eligible for title XVIII and for the medicare part D prescription drug benefit, title XIX or title XXI, in order to continue to receive services pursuant to this chapter, the applicant shall submit a completed application within ten working days to the social security administration, the department of economic security or the Arizona health care cost containment system administration, which shall determine the applicant's eligibility pursuant to title XVIII and for the medicare part D prescription drug benefit, section 36-2901, paragraph 6, subdivision (a), section 36-2931, paragraph 5 or section 36-2981, paragraph 6 for health and medical or long-term care services pursuant to chapter 29 of this title. The applicant shall cooperate fully with the eligibility determination process. If the person is in need of emergency services provided pursuant to this chapter, the person may begin to receive these services immediately provided that within five days from the date of service a financial screening is initiated.

B. Applicants who refuse to cooperate in the financial screening and eligibility process are not eligible for services pursuant to this chapter. A form explaining loss of benefits due to refusal to cooperate shall be signed by the applicant. Refusal to cooperate shall not be construed to mean the applicant's inability to obtain documentation required for eligibility determination. The department of economic security ~~and the Arizona health care cost containment system administration~~ shall promptly inform the ~~department of health services~~ ADMINISTRATION of the applications that are denied based on an applicant's failure to cooperate with the eligibility determination process and, on request, of applicants who do not submit an application as required by this section.

C. The department of economic security, in coordination with the ~~department of health services~~ ADMINISTRATION, shall provide on-site eligibility determinations at appropriate program locations subject to legislative appropriation.

D. This section only applies to persons who receive services that are provided pursuant to this section and that are paid for in whole or in part with state ~~funds~~ MONIES.

E. A person who requests treatment services under this chapter shall provide personally identifying information required by the ~~department of health services~~ ADMINISTRATION.

F. Except as otherwise provided by law, this section and cooperation with the eligibility determination process do not entitle any person to any particular services that are subject to legislative appropriation.

Sec. 68. Section 36-3409, Arizona Revised Statutes, is amended to read:

36-3409. Fee requirements; fee schedules

A. Clients WHO ARE eligible for ~~non-title~~ NONTITLE XIX services from the ~~department~~ ADMINISTRATION shall be required to pay fees for services.

B. The ~~department~~ ADMINISTRATION shall establish a schedule for fees charged for services provided by public or private agencies receiving state ~~funds~~ MONIES pursuant to this article ~~which shall include, but not be limited to,~~ THAT INCLUDES a sliding fee schedule based ~~upon~~ ON the ability of the client to pay for part or the total cost for services.

Sec. 69. Section 36-3410, Arizona Revised Statutes, is amended to read:

36-3410. Regional behavioral health authorities; contracts; monthly summaries; inspection; copying fee; children's behavioral health and seriously mentally ill services

A. If the ~~department~~ ADMINISTRATION contracts with behavioral health contractors ~~which~~ THAT would act as regional behavioral health authorities or directly with a service provider for behavioral health services, the ~~department~~ ADMINISTRATION and each behavioral health contractor or service provider shall prepare and make available monthly summary statements, in a format prescribed by the ~~department~~ ADMINISTRATION, that separately detail by title XIX and nontitle XIX and by service category and service type, as defined by contract with the ~~department~~ ADMINISTRATION, the number of clients served, the units of service provided and the state and federal monies distributed through the ~~department~~ ADMINISTRATION to each regional behavioral health authority or direct contract service provider and the amounts distributed by each regional behavioral health authority or direct contract service provider to ~~their~~ ITS subcontractors. The director may require additional information in the monthly statement ~~which~~ THAT the director determines to be critical for proper regulation and oversight of the regional behavioral health authority or the direct contract service provider.

B. For services provided directly by a regional behavioral health authority, the maximum reimbursement to that regional behavioral health authority shall be thirty ~~per cent~~ PERCENT above the Arizona health care cost containment system fee for service rate for the particular service rendered.

C. Except as provided in subsections D and E of this section, behavioral health contractors under contract with the ~~department~~ ADMINISTRATION to act as regional behavioral health authorities may perform only managed care functions. Regional behavioral health authorities and their subsidiaries shall not deliver behavioral health services directly to clients. ~~The prohibition on regional behavioral health authorities and their subsidiaries delivering behavioral health services directly to clients shall be fully implemented by September 1, 2009.~~

D. If a direct services behavioral health provider experiences contract performance failure, the regional behavioral health authority, after receiving approval from the ~~department~~ ADMINISTRATION, may provide direct care services for only as long as necessary to ~~assure~~ ENSURE delivery of uninterrupted care to clients and either:

1. Accomplish the orderly transition of those members to a new provider or other existing providers.

2. Until the provider in question reorganizes or otherwise corrects the contract performance failure.

E. Subsection C of this section does not apply to a regional behavioral health authority operated by a federally recognized Indian tribe.

F. In the contracts specified under subsection A of this section, the ~~department~~ ADMINISTRATION may include a provision to charge, PAYABLE TO THE DEPARTMENT OF HEALTH SERVICES, for services provided at the state hospital. The charges are only for clients on whose behalf the contractor has been paid by the ~~department~~ ADMINISTRATION.

G. The summaries and the contracts on which they are based are open to public inspection. The ~~department~~ ADMINISTRATION and each regional behavioral health authority or direct contract service provider shall make the summaries available for inspection and copying at the office of each regional behavioral health authority or direct contract service provider and at the ~~department~~ ADMINISTRATION.

H. The ~~department~~ ADMINISTRATION and a regional behavioral health authority or direct contract service provider shall charge a copying fee ~~which~~ THAT is not in excess of the actual cost of reproduction or the amount charged by the secretary of state pursuant to section 41-126, whichever is less.

I. Copying fees received by the ~~department~~ ADMINISTRATION, pursuant to subsection H of this section, shall be placed in the ~~state general~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM fund ESTABLISHED BY SECTION 36-2913.

J. Monies appropriated ~~for fiscal year 2001-2002 and~~ each fiscal year ~~thereafter~~ for children's behavioral health services shall be spent on services only as prescribed by the appropriation and may not be used for any other purpose.

K. Monies appropriated ~~for fiscal year 2007-2008 and~~ each fiscal year ~~thereafter~~ for seriously mentally ill services shall be spent on services

only as prescribed by the appropriation and shall not be used for any other purpose.

Sec. 70. Section 36-3411, Arizona Revised Statutes, is amended to read:

36-3411. Behavioral health services; timely reimbursement; penalties

A. The ~~division~~ ADMINISTRATION shall ensure that behavioral health service providers are reimbursed within ninety days after the service provider submits a clean claim to a regional behavioral health authority.

B. Any contract issued by or on behalf of the ~~division~~ ADMINISTRATION for the provision of behavioral health services shall include language outlining provisions for penalties for noncompliance with contract requirements.

C. If the regional behavioral health authority does not reimburse a provider as required by this section, the director shall subject the regional behavioral health authority to the penalty provisions prescribed in the contract, which shall not exceed the interest charges prescribed in section 44-1201. The director shall impose any financial penalties levied on the regional behavioral health authority through a reduction in the amount of ~~funds~~ MONIES payable to the regional behavioral health authority for administrative expenses.

D. The ninety-day deadline imposed by this section is suspended while a formal grievance regarding the legitimacy of a claim is pending.

E. The ~~department~~ ADMINISTRATION or a regional behavioral health authority shall not pay claims for covered services that are initially submitted more than nine months after the date of the services for which payment is claimed or that are submitted as clean claims more than twelve months after the date of service for which payment is claimed. A person WHO IS dissatisfied with the denial of a claim by the ~~department~~ ADMINISTRATION or by the regional behavioral health authority has twelve months from the date of the service for which payment is claimed to institute a grievance against the ~~department~~ ADMINISTRATION or regional behavioral health authority.

F. For claims paid by the ~~department~~ ADMINISTRATION, either directly or through a third-party payor, the director may impose a penalty on a regional behavioral health authority or a service provider who submits a claim to the ~~department~~ ADMINISTRATION for payment more than one time after the same claim had been previously denied by the ~~department~~ ADMINISTRATION without having attempted to address the reason given for the denial. The penalty imposed by the director shall not exceed the average cost incurred by the ~~department~~ ADMINISTRATION for processing a claim and shall be levied on the regional behavioral health authority or service provider through reducing any future payment or payments until the amount of the penalty has been paid.

G. This section does not apply to services provided by a hospital pursuant to section 36-2903.01, subsection G, or section 36-2904, subsection H or I.

Sec. 71. Repeal

Section 36-3412, Arizona Revised Statutes, is repealed.

Sec. 72. Title 36, chapter 34, article 1, Arizona Revised Statutes, is amended by adding a new section 36-3412, to read:

36-3412. Contracts; regional behavioral health authorities

A. THE DIRECTOR SHALL PREPARE AND ISSUE A REQUEST FOR PROPOSALS FOR BEHAVIORAL HEALTH SERVICES CONSISTENT WITH SECTIONS 36-2906 AND 36-2906.01.

B. CONSISTENT WITH SECTION 36-2903, SUBSECTION M, THE ADMINISTRATION'S CONTRACTS WITH REGIONAL BEHAVIORAL HEALTH AUTHORITIES SHALL INCLUDE TERMS AS NECESSARY IN THE JUDGMENT OF THE DIRECTOR:

1. TO ENSURE ADEQUATE PERFORMANCE AND COMPLIANCE WITH ALL APPLICABLE FEDERAL LAWS BY THE REGIONAL BEHAVIORAL HEALTH AUTHORITIES.

2. FOR THE MAINTENANCE OF DEPOSITS, PERFORMANCE BONDS, FINANCIAL RESERVES OR OTHER FINANCIAL SECURITY.

3. FOR THE WITHHOLDING OR FORFEITURE OF PAYMENTS TO BE MADE TO A REGIONAL BEHAVIORAL HEALTH AUTHORITY BY THE ADMINISTRATION DUE TO THE AUTHORITY'S FAILURE TO COMPLY WITH A PROVISION OF THE AUTHORITY'S CONTRACT WITH THE ADMINISTRATION OR WITH ADOPTED RULES.

4. AUTHORIZING THE ADMINISTRATION TO OPERATE A REGIONAL BEHAVIORAL HEALTH AUTHORITY DIRECTLY.

C. IF THERE IS AN INSUFFICIENT NUMBER OF QUALIFIED BIDS FOR PREPAID CAPITATED BEHAVIORAL HEALTH SERVICES WITHIN A GEOGRAPHIC SERVICE AREA DESCRIBED IN A REQUEST FOR PROPOSALS, THE DIRECTOR MAY EMPLOY ANY OF THE OPTIONS AUTHORIZED BY SECTION 36-2904, SUBSECTION A.

D. DURING ANY PERIOD IN WHICH SERVICES ARE NEEDED AND NO CONTRACT EXISTS, THE DIRECTOR MAY EMPLOY ANY OF THE OPTIONS AUTHORIZED BY SECTION 36-2904, SUBSECTION B.

E. IF THERE IS AN INSUFFICIENT NUMBER OF, OR AN INADEQUATE MEMBER CAPACITY IN, CONTRACTS AWARDED TO CONTRACTORS, THE DIRECTOR, IN ORDER TO DELIVER COVERED SERVICES TO MEMBERS ENROLLED OR EXPECTED TO BE ENROLLED IN THE SYSTEM WITHIN A COUNTY, MAY NEGOTIATE AND AWARD WITHOUT A BID A CONTRACT PURSUANT TO SECTION 36-2904, SUBSECTION J.

F. TO THE EXTENT THAT SERVICES ARE FURNISHED PURSUANT TO THIS CHAPTER, AND UNLESS OTHERWISE REQUIRED BY THIS CHAPTER, A REGIONAL BEHAVIORAL HEALTH AUTHORITY IS NOT SUBJECT TO TITLE 20.

G. REGIONAL BEHAVIORAL HEALTH AUTHORITIES ARE SUBJECT TO SECTION 36-2905.

Sec. 73. Section 36-3413, Arizona Revised Statutes, is amended to read:

36-3413. Grievance and appeal process

A. The ~~department~~ ADMINISTRATION shall require all regional behavioral health authorities to establish and implement a grievance and appeal process

for use by service providers and by individuals receiving and requesting services. The ~~department~~ ADMINISTRATION shall stipulate any required elements of the process in the request for proposal issued to solicit bids from entities that wish to become a regional behavioral health authority.

B. The process shall be as prescribed in title 41, chapter 6, article 10, SUBJECT TO THE EXCEPTIONS IN SECTION 36-2903.01, SUBSECTION B, PARAGRAPH 4 AND RULES ADOPTED BY THE DIRECTOR, for grievances and appeals filed by regional behavioral health authorities and by service providers and individuals receiving and requesting services that have already exhausted the regional behavioral health authority grievance and appeal process. In the case of individuals receiving behavioral health services by a service provider that has contracted directly with the ~~department~~ ADMINISTRATION instead of through a regional behavioral health authority, the ~~department's~~ ADMINISTRATION'S grievance and appeal process is considered the primary process.

~~C. For individuals who are eligible for services pursuant to chapter 29 of this title or service providers registered with the Arizona health care cost containment system administration, the department or the regional behavioral health authority shall provide notice that the individuals or providers may appeal a decision rendered by the department to the Arizona health care cost containment system administration if the disputed decision involves services or payments authorized under chapter 29 of this title.~~

~~D. Individuals who are eligible for behavioral health services pursuant to chapter 29 of this title and who are appealing the denial, reduction, termination or suspension of a title XIX behavioral health service may appeal directly to the Arizona health care cost containment system for an expedited hearing pursuant to rules adopted by the director of Arizona health care cost containment system.~~

Sec. 74. Repeal

Section 36-3414, Arizona Revised Statutes, is repealed.

Sec. 75. Section 36-3415, Arizona Revised Statutes, is amended to read:

36-3415. Behavioral health expenditures; annual report

~~Beginning October 1, 2013,~~ The ~~department of health services~~ ADMINISTRATION shall report annually to the joint legislative budget committee on each fiscal year's medicaid and nonmedicaid behavioral health expenditures, including behavioral health demographics ~~including~~ THAT INCLUDE client income, utilization and expenditures, medical necessity oversight practices, tracking of high-cost beneficiaries, mortality trends, placement trends, program integrity and access to services.

Sec. 76. Section 36-3431, Arizona Revised Statutes, is amended to read:

36-3431. Comprehensive behavioral health service system for children; administration duties

A. The ~~division~~ ADMINISTRATION shall develop and implement a comprehensive behavioral health service system for children ~~which shall include~~ THAT INCLUDES the following:

1. Annual needs assessment and resource assessment studies.

2. Annual planning to develop policy issues, programs and services.

3. Community education to increase public awareness of the needs of children.

4. Centralized and coordinated screening and intake.

5. Coordinated case management.

6. A continuum of treatment services, which may include the following:

(a) Home-based services.

(b) Prevention and early intervention.

(c) Psychological evaluation and consultation.

(d) Ancillary support services.

(e) Crisis intervention.

(f) Outpatient counseling.

(g) Independent living services.

(h) Secure residential treatment services for seriously emotionally disturbed children.

(i) Residential treatment services for children's substance abuse.

(j) Psychiatric hospitalization services.

7. Evaluation ~~which~~ THAT determines both cost effectiveness and client outcome.

B. Subject to legislative appropriation, the ~~division~~ ADMINISTRATION shall ~~systematically establish~~ MAINTAIN the system identified in subsection A OF THIS SECTION ~~over a five year period ending on June 30, 1993~~.

C. For the purposes of developing needs assessments and resource assessments and for planning, the ~~division~~ ADMINISTRATION may consult and coordinate with any state agency established for that purpose.

Sec. 77. Section 36-3432, Arizona Revised Statutes, is amended to read:

36-3432. System plan; annual report

The ~~division~~ ADMINISTRATION shall develop a plan for each fiscal year identifying the services, the estimated number of clients and an appropriations request for the purposes of systematic development and implementation of the comprehensive behavioral health service system for children. The plan shall be presented to the speaker of the house of representatives, the president of the senate and the governor on or before November 1 of each year.

Sec. 78. Section 36-3433, Arizona Revised Statutes, is amended to read:

36-3433. Annual budget; request and allocation

A. The ~~department~~ ADMINISTRATION shall annually include in its budget request a separate appropriations request for the comprehensive behavioral health service system for children. The request shall be based on the annual plan and assessment ~~studies from the division~~. All behavioral health services provided for children by the ~~division~~ ADMINISTRATION shall be included in the request.

B. In preparing its budget request, the ~~division~~ ADMINISTRATION shall:

1. Identify that ~~no less than~~ AT LEAST twenty ~~per cent~~ PERCENT of the total amount of appropriations requested be set aside for prevention and early identification programs.

2. Allocate up to five ~~per cent~~ PERCENT of the total appropriations requested for evaluation of the system.

3. Establish priorities for allocation of funding ~~which~~ THAT include:

(a) Outpatient services.

(b) Secure residential services for seriously emotionally disturbed children.

(c) Residential services for children with substance abuse problems.

(d) Partial care and day treatment services.

(e) Emergency services, including crisis shelter, crisis stabilization and emergency inpatient hospitalization.

4. Consider the special needs of rural and urban areas of the state and the special needs of cultural and ethnic groups requiring services.

C. The ~~division~~ ADMINISTRATION may modify the priorities identified in subsection B of this section based on the results of the ~~division's~~ ADMINISTRATION'S needs assessments and resource assessments and shall include the justification for modifications in its annual plan required pursuant to section 36-3432. No monies allocated for evaluation under subsection B, paragraph 2 of this section shall be used for design and implementation of a management information system.

D. Subject to legislative appropriation, the ~~division~~ ADMINISTRATION shall establish as a goal an annual increase of total children's service system capacity by ten ~~per cent~~ PERCENT annually.

Sec. 79. Section 36-3434, Arizona Revised Statutes, is amended to read:

36-3434. Current service delivery system; continuation

Nothing in this article relieves the state department of corrections, the department of economic security, the department of child safety, the department of education, the Arizona health care cost containment system, THE DEPARTMENT OF HEALTH SERVICES or the Arizona supreme court from any current responsibility as prescribed by state or federal law.

Sec. 80. Section 36-3435, Arizona Revised Statutes, is amended to read:

36-3435. Intergovernmental agreement; needs and resources assessment; funding and service delivery plan; definition

A. Pursuant to section 11-952, the ~~department of health services~~ ADMINISTRATION, the department of child safety, the state department of corrections, the department of education and the supreme court shall enter into an intergovernmental agreement to develop a coordinated multiagency assessment of needs and resources and to develop a plan for interagency cooperation relating to funding and service delivery for children with behavioral health problems. The plan shall designate agency areas of responsibility for delivery of services. The needs and resources assessment study shall be completed within one year after the intergovernmental agreement is entered into. The funding and service delivery plan shall be completed within two years after the agreement is entered into.

B. The ~~department of health services~~ ADMINISTRATION shall require each contract that is awarded, renewed or amended with any regional behavioral health authority, subcontractor or service provider to specify that every reasonable effort must be made to provide services outside of regular school hours for any child who is placed in out-of-home care pursuant to title 8, chapter 4, article 8, 9, 10, 11, 12, 13 or 14.

C. For the purposes of this section, "services" includes appointments and activities THAT ARE not related to school.

Sec. 81. Section 36-3501, Arizona Revised Statutes, is amended to read:

36-3501. Child fatality review team; membership; duties

A. The child fatality review team is established in the department of health services. The team is composed of the head of the following ~~departments, agencies, councils or associations,~~ ENTITIES or that person's designee:

1. Attorney general.

2. Office of women's and children's health in the department of health services.

3. Office of planning and health status monitoring in the department of health services.

~~4. Division of behavioral health in the department of health services.~~

4. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.

5. Division of developmental disabilities in the department of economic security.

6. Department of child safety.

7. Governor's office for children.

8. Administrative office of the courts.

9. Parent assistance office of the supreme court.

10. Department of juvenile corrections.

11. Arizona chapter of a national pediatric society.

B. The director of the department of health services shall appoint the following members to serve staggered three-year terms:

1. A medical examiner who is a forensic pathologist.

2. A maternal and child health specialist involved with the treatment of native Americans.

3. A representative of a private nonprofit organization of tribal governments in this state.

4. A representative of the Navajo tribe.

5. A representative of the United States military family advocacy program.

6. A representative of a statewide prosecuting attorneys advisory council.

7. A representative of a statewide law enforcement officers advisory council who is experienced in child homicide investigations.

8. A representative of an association of county health officers.

9. A child advocate who is not employed by or an officer of this state or a political subdivision of this state.

10. A public member. If local teams are formed pursuant to this article, the director of the department of health services shall select this member from one of those local teams.

C. The team shall:

1. Develop a child fatalities data collection system.

2. Provide training to cooperating agencies, individuals and local child fatality review teams on the use of the child fatalities data system.

3. Conduct an annual statistical report on the incidence and causes of child fatalities in this state during the past fiscal year and submit a copy of this report, including its recommendations for action, to the governor, the president of the senate and the speaker of the house of representatives on or before November 15 of each year.

4. Encourage and assist in the development of local child fatality review teams.

5. Develop standards and protocols for local child fatality review teams and provide training and technical assistance to these teams.

6. Develop protocols for child fatality investigations, including protocols for law enforcement agencies, prosecutors, medical examiners, health care facilities and social service agencies.

7. Study the adequacy of statutes, ordinances, rules, training and services to determine what changes are needed to decrease the incidence of preventable child fatalities and, as appropriate, take steps to implement these changes.

8. Provide case consultation on individual cases to local teams if requested.

9. Educate the public regarding the incidence and causes of child fatalities as well as the public's role in preventing these deaths.

10. Designate a team chairperson.

11. Develop and distribute an informational brochure that describes the purpose, function and authority of a team. The brochure shall be available at the offices of the department of health services.

12. Evaluate the incidence and causes of maternal fatalities associated with pregnancy in this state. For the purposes of this paragraph, "maternal fatalities associated with pregnancy" means the death of a woman while she is pregnant or within one year after the end of her pregnancy.

13. Inform the governor and the legislature of the need for specific recommendations regarding unexplained infant death.

14. Periodically review the infant death investigation checklist developed by the department of health services pursuant to section 36-3506. In reviewing the checklist, the review team shall consider guidelines endorsed by national infant death organizations.

D. Team members are not eligible to receive compensation, but members appointed pursuant to subsection B are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

E. The department of health services shall provide professional and administrative support to the team.

F. Notwithstanding subsections C and D of this section, this section does not require expenditures above the revenue available from the child fatality review fund.

Sec. 82. Section 41-2501, Arizona Revised Statutes, is amended to read:

41-2501. Applicability

A. This chapter applies only to procurements initiated after January 1, 1985 unless the parties agree to its application to procurements initiated before that date.

B. This chapter applies to every expenditure of public monies, including federal assistance monies except as otherwise specified in section 41-2637, by this state, acting through a state governmental unit as defined in this chapter, under any contract, except that this chapter does not apply to either grants as defined in this chapter, or contracts between this state and its political subdivisions or other governments, except as provided in chapter 24 of this title and in article 10 of this chapter. This chapter also applies to the disposal of state materials. This chapter and rules adopted under this chapter do not prevent any state governmental unit or political subdivision from complying with the terms of any grant, gift, bequest or cooperative agreement.

C. All political subdivisions and other local public agencies of this state may adopt all or any part of this chapter and the rules adopted pursuant to this chapter.

D. Notwithstanding any other law, sections 41-2517 and 41-2546 apply to any agency as defined in section 41-1001, including the office of the governor.

E. The Arizona board of regents and the legislative and judicial branches of state government are not subject to this chapter except as prescribed in subsection F of this section.

F. The Arizona board of regents and the judicial branch shall adopt rules prescribing procurement policies and procedures for themselves and institutions under their jurisdiction. The rules must be substantially equivalent to the policies and procedures prescribed in this chapter.

G. The Arizona state lottery commission is exempt from this chapter for procurement relating to the design and operation of the lottery or purchase of lottery equipment, tickets and related materials. The executive director of the Arizona state lottery commission shall adopt rules substantially equivalent to the policies and procedures in this chapter for procurement relating to the design and operation of the lottery or purchase of lottery equipment, tickets or related materials. All other procurement shall be as prescribed by this chapter.

H. The Arizona health care cost containment system administration is exempt from this chapter for provider contracts pursuant to section 36-2904, subsection A and contracts for goods and services, including program contractor contracts pursuant to title 36, chapter 29, articles 2 and 3 AND CONTRACTS WITH REGIONAL BEHAVIORAL HEALTH AUTHORITIES PURSUANT TO TITLE 36, CHAPTER 34. All other procurement, including contracts for the statewide administrator of the program pursuant to section 36-2903, subsection B, shall be as prescribed by this chapter.

I. Arizona industries for the blind is exempt from this chapter for purchases of finished goods from members of national industries for the blind and for purchases of raw materials for use in the manufacture of products for sale pursuant to section 41-1972. All other procurement shall be as prescribed by this chapter.

J. Arizona correctional industries is exempt from this chapter for purchases of raw materials, components and supplies that are used in the manufacture or production of goods or services for sale entered into pursuant to section 41-1622. All other procurement shall be as prescribed by this chapter.

K. The state transportation board and the director of the department of transportation are exempt from this chapter other than section 41-2586 for the procurement of construction or reconstruction, including engineering services, of transportation facilities or highway facilities and any other services that are directly related to land titles, appraisals, real property acquisition, relocation, property management or building facility design and construction for highway development and that are required pursuant to title 28, chapter 20.

L. The Arizona highways magazine is exempt from this chapter for contracts for the production, promotion, distribution and sale of the magazine and related products and for contracts for sole source creative

works entered into pursuant to section 28-7314, subsection A, paragraph 5. All other procurement shall be as prescribed by this chapter.

M. The secretary of state is exempt from this chapter for contracts entered into pursuant to section 41-1012 to publish and sell the administrative code. All other procurement shall be as prescribed by this chapter.

N. This chapter is not applicable to contracts for professional witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial proceeding in which this state is or may become a party or to contract for special investigative services for law enforcement purposes.

O. The head of any state governmental unit, in relation to any contract exempted by this section from this chapter, has the same authority to adopt rules, procedures or policies as is delegated to the director pursuant to this chapter.

P. Agreements negotiated by legal counsel representing this state in settlement of litigation or threatened litigation are exempt from this chapter.

Q. This chapter is not applicable to contracts entered into by the department of economic security:

1. With a provider licensed or certified by an agency of this state to provide child day care services.

2. With area agencies on aging created pursuant to the older Americans act of 1965 (P.L. 89-73; 79 Stat. 218; 42 United States Code sections 3001 through 3058ff).

3. For services pursuant to title 36, chapter 29, article 2.

4. With an eligible entity as defined by Public Law 105-285, section ~~673(1)(a)(i)~~ 673(1)(A)(i), as amended, for designated community services block grant program monies and any other monies given to the eligible entity that accomplishes the purpose of Public Law 105-285, section 672.

R. The ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM may not require that persons with whom it contracts follow this chapter for the purposes of subcontracts entered into for the provision of the following:

1. Mental health services pursuant to section 36-189, subsection B.

2. Services for the seriously mentally ill pursuant to title 36, chapter 5, article 10.

3. Drug and alcohol services pursuant to section 36-141.

~~4.~~ S. THE DEPARTMENT OF HEALTH SERVICES MAY NOT REQUIRE THAT PERSONS WITH WHOM IT CONTRACTS FOLLOW THIS CHAPTER FOR THE PURPOSE OF SUBCONTRACTS ENTERED INTO FOR THE PROVISION OF domestic violence services pursuant to title 36, chapter 30, article 1.

~~S.~~ T. The department of health services is exempt from this chapter for contracts for services of physicians at the Arizona state hospital.

~~T.~~ U. Contracts for goods and services approved by the board of trustees of the public safety personnel retirement system are exempt from this chapter.

~~U.~~ V. The Arizona department of agriculture is exempt from this chapter with respect to contracts for private labor and equipment to effect cotton or cotton stubble plow-up pursuant to rules adopted under title 3, chapter 2, article 1.

~~V.~~ W. The Arizona state parks board is exempt from this chapter for purchases of guest supplies and items for resale such as food, linens, gift items, sundries, furniture, china, glassware and utensils for the facilities located in the Tonto natural bridge state park.

~~W.~~ X. The Arizona state parks board is exempt from this chapter for the purchase, production, promotion, distribution and sale of publications, souvenirs and sundry items obtained and produced for resale.

~~X.~~ Y. The Arizona state schools for the deaf and the blind are exempt from this chapter for the purchase of textbooks and when purchasing products through a cooperative that is organized and operates in accordance with state law if such products are not available on a statewide contract and are related to the operation of the schools or are products for which special discounts are offered for educational institutions.

~~Y.~~ Z. Expenditures of monies in the morale, welfare and recreational fund established by section 26-153 are exempt from this chapter.

~~Z.~~ AA. Notwithstanding section 41-2534, the director of the state department of corrections may contract with local medical providers in counties with a population of less than four hundred thousand persons for the following purposes:

1. To acquire hospital and professional medical services for inmates who are incarcerated in state department of corrections facilities that are located in those counties.

2. To ensure the availability of emergency medical services to inmates in all counties by contracting with the closest medical facility that offers emergency treatment and stabilization.

~~AA.~~ BB. The department of environmental quality is exempt from this chapter for contracting for procurements relating to the water quality assurance revolving fund program established pursuant to title 49, chapter 2, article 5. The department shall engage in a source selection process that is similar to the procedures prescribed by this chapter. The department may contract for remedial actions with a single selection process. The exclusive remedy for disputes or claims relating to contracting pursuant to this subsection is as prescribed by article 9 of this chapter and the rules adopted pursuant to that article. All other procurement by the department shall be as prescribed by this chapter.

~~BB.~~ CC. The motor vehicle division of the department of transportation is exempt from this chapter for third-party authorizations

pursuant to title 28, chapter 13, only if all of the following conditions exist:

1. The division does not pay any public monies to an authorized third party.

2. Exclusivity is not granted to an authorized third party.

3. The director has complied with the requirements prescribed in title 28, chapter 13 in selecting an authorized third party.

~~CC.~~ DD. This section does not exempt third-party authorizations pursuant to title 28, chapter 13 from any other applicable law.

~~DD.~~ EE. The state forester is exempt from this chapter for purchases and contracts relating to wildland fire suppression and pre-positioning equipment resources and for other activities related to combating wildland fires and other unplanned risk activities, including fire, flood, earthquake, wind and hazardous material responses. All other procurement by the state forester shall be as prescribed by this chapter.

~~EE.~~ FF. The cotton research and protection council is exempt from this chapter for procurements.

~~FF.~~ GG. Expenditures of monies in the Arizona agricultural protection fund established by section 3-3304 are exempt from this chapter.

~~GG.~~ HH. The Arizona commerce authority is exempt from this chapter, except article 10 for the purpose of cooperative purchases. The authority shall adopt policies, procedures and practices, in consultation with the department of administration, that are similar to and based on the policies and procedures prescribed by this chapter for the purpose of increased public confidence, fair and equitable treatment of all persons engaged in the process and fostering broad competition while accomplishing flexibility to achieve the authority's statutory requirements. The authority shall make its policies, procedures and practices available to the public. The authority may exempt specific expenditures from the policies, procedures and practices.

~~HH.~~ II. The Arizona exposition and state fair board is exempt from this chapter for contracts for professional entertainment.

~~II.~~ JJ. This chapter does not apply to the purchase of water, gas or electric utilities.

~~JJ.~~ KK. This chapter does not apply to professional certifications, professional memberships and conference registrations.

~~KK.~~ LL. The department of gaming is exempt from this chapter for problem gambling treatment services contracts with licensed behavioral health professionals.

~~LL.~~ MM. This chapter does not apply to contracts for credit reporting services.

~~MM.~~ NN. This chapter does not apply to contracts entered into by the department of child safety:

1. With a provider of family foster care pursuant to section 8-503 or 36-554.

2. With an eligible entity as defined by Public Law 105-285, section 673(1)(A)(i), as amended, for designated community services block grant program monies and any other monies given to the eligible entity that accomplishes the purpose of Public Law 105-285, section 672.

Sec. 83. Section 41-3803, Arizona Revised Statutes, is amended to read:

41-3803. Human rights committee on the mentally ill

A. The human rights committee on the mentally ill is established in the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM to promote the rights of persons who receive behavioral health services pursuant to title 36, chapters 5 and 34.

B. Each region of the state covered by a regional behavioral health authority shall have at least one human rights committee with the authority and responsibilities as prescribed by the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION pursuant to rules adopted by the ~~department~~ ADMINISTRATION relating to behavioral health services.

C. The director of the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION may establish additional committees to serve persons who receive behavioral health services or to oversee the activities of any service provider.

D. Each committee established pursuant to this section shall consist of at least seven and not more than fifteen members appointed by the director of the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION with expertise in at least one of the following areas:

1. Psychology.
2. Law.
3. Medicine.
4. Education.
5. Special education.
6. Social work.

E. Each human rights committee shall include at least two parents of children who receive behavioral health services pursuant to title 36, chapter 34.

F. Each human rights committee shall include at least two members who are current or former clients of the behavioral health system.

G. Each committee shall be organized pursuant to this section and the requirements of section 41-3804.

Sec. 84. Section 41-3804, Arizona Revised Statutes, is amended to read:

41-3804. Human rights committees; membership; duties; client information; violation; classification

A. Subject to the approval of the appropriate department director, each committee established pursuant to this article shall adopt guidelines that govern its operation, including terms of members, quorum and attendance

requirements and removal of a committee member if necessary. Each committee shall adopt these guidelines by majority vote within the first three months of its formation. These guidelines shall not conflict with this article. The director of the appropriate department shall approve the guidelines unless they are inconsistent with the department's statutes, policies, procedures or rules, or if the ~~guideline does~~ GUIDELINES DO not promote participation by all interested members of the community that the committee serves. In addition to the procedures in the guidelines, each human rights committee must approve the removal of any committee member on majority vote of the committee.

B. Employees of the department of economic security, the department of child safety and the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM may serve on a committee only as nonvoting members whose presence is not counted for the purpose of determining a quorum.

C. Advocacy groups, local advisory councils, committee members and the director of the appropriate department may submit names of candidates to fill committee vacancies. The appropriate director shall appoint a person to fill a vacancy subject to the approval of the committee.

D. Each committee shall meet at least quarterly each calendar year.

E. Each committee shall provide independent oversight to:

1. Ensure that the rights of clients are protected.

2. Provide research in that committee's field.

3. Review incidents of possible abuse, neglect or denial of a client's rights.

F. Each committee shall submit written objections to specific problems or violations of client rights by department employees or service providers to the director of the appropriate department for review.

G. Each committee shall issue an annual report of its activities and recommendations for changes to the director of the appropriate department.

H. A committee may request from the appropriate department the services of a consultant or department employee to advise it on specific issues. The consultant may be a member of another human rights committee, a department employee or a service provider. Subject to the availability of monies, the appropriate department shall assume the cost of the consultant. A consultant shall not participate in committee votes.

I. Subject to federal law, committee members and consultants have access to client information and records maintained by the appropriate department, provider or regional behavioral health authorities to the extent necessary to conduct committee duties. Each person who receives information or records pursuant to this subsection shall maintain the information or records as confidential and sign an agreement to comply with all confidentiality requirements. Any client information or records shall be released to the committee without the designation of personally identifiable information unless the personally identifiable information is required for the official purposes of the committee. A VIOLATION OF THIS SUBSECTION IS A

CLASS 2 MISDEMEANOR. FOR THE PURPOSES OF THIS SUBSECTION, "personally identifiable information" includes A PERSON'S name, address, date of birth, social security number, tribal enrollment number, telephone or telefacsimile number, driver license number, places of employment or school identification or military identification number or any other distinguishing characteristic that tends to identify a particular person. ~~A violation of this subsection is a class 2 misdemeanor.~~

J. If a committee's request for information or records from a department is denied, the committee may request in writing that the director of the appropriate department review this decision. The agency director or designee shall conduct the review within five business days after receiving the request for review. The agency shall bear the costs of conducting the review. A final agency decision made pursuant to this subsection is subject to judicial review pursuant to title 12, chapter 7, article 6. The agency shall not release any information or records during the period an appeal may be filed or is pending.

K. Confidential records and information received by the committee or its consultant are subject to the same provisions concerning subpoenas, discovery and use in legal actions as are the original records and information.

L. Any person who, in good faith and without malice and in connection with duties or functions of a committee established pursuant to this article, takes an action or makes a decision or recommendation as a member or agent of a committee or who furnishes records, information or assistance that is related to the duties of a committee is not subject to liability for civil damages in consequence of that action. The court shall determine the presence of malice by clear and convincing evidence.

Sec. 85. Section 41-3955.01, Arizona Revised Statutes, is amended to read:

41-3955.01. <u>Seriously mentally ill housing trust fund; purpose; report</u>

A. The seriously mentally ill housing trust fund is established. The director of the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION shall administer the fund. The fund consists of monies received pursuant to section 44-313 and investment earnings.

B. On notice from the ~~department of health services~~ DIRECTOR OF THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

C. Fund monies shall be spent on approval of the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION solely for housing projects for the seriously mentally ill.

D. The director of the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION shall report annually to the

legislature on the status of the seriously mentally ill housing trust fund. The report shall include a summary of facilities for which funding was provided during the preceding fiscal year and shall show the cost and geographic location of each facility and the number of individuals benefiting from the operation, construction or renovation of the facility. The report shall be submitted to the president of the senate and the speaker of the house of representatives no later than September 1 of each year.

E. Monies in the seriously mentally ill housing trust fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

F. An amount not to exceed ten ~~per cent~~ PERCENT of the seriously mentally ill housing trust fund monies may be appropriated annually by the legislature to the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM for administrative costs in providing services relating to the seriously mentally ill housing trust fund.

G. For any construction project financed by the ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION pursuant to this section, the ~~department of health services~~ ADMINISTRATION shall notify a city, town, county or tribal government that a project is planned for its jurisdiction and, before proceeding, shall seek comment from the governing body of the city, town, county or tribal government or an official authorized by the governing body of the city, town, county or tribal government. The ~~department of health services~~ ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION shall not interfere with or attempt to override the local jurisdiction's planning, zoning or land use regulations.

Sec. 86. Report

On or before November 15, 2015, the Arizona health care cost containment system and the department of health services shall submit a joint report for review by the joint legislative budget committee and the governor's office of strategic planning and budgeting that details the transfer of resources between the two departments pursuant to Laws 2015, chapter 19, section 9.

Sec. 87. Effective date

This act is effective from and after June 30, 2016.

APPROVED BY THE GOVERNOR APRIL 6, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 7, 2015.

Passed the House April 1, 2015,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

Speaker of the House

Jim Drake

Chief Clerk of the House

Passed the Senate February 19, 2015,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Susan Asbury
Assistant

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1257

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 2, 2015

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

2nd day of April, 2015

at 12:03 o'clock P. M.

Secretary to the Governor

Approved this 6th day of

April

at 1:37 o'clock P M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 7th day of April, 2015

at 8:30 o'clock A M.

Secretary of State

S.B. 1257