

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 10. DEPARTMENT OF HEALTH SERVICES HEALTH CARE INSTITUTIONS: LICENSURE

PREAMBLE

1. **Sections Affected**

R9-10-1501	Amend
R9-10-1502	Amend
R9-10-1503	Amend
R9-10-1504	Amend
R9-10-1506	Amend
R9-10-1507	Amend
R9-10-1508	Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 36-136(F) and 36-405(B)
Implementing statute: Laws 1996, Ch. 329, § 5
3. **The effective date of the rules:**

May 2, 1997
4. **A list of all previous notices appearing in the Register addressing the exempt rule:**

Notice of Public Hearings on Exempt Rulemakings:
3 A.A.R. 330, January 31, 1997
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Laura Hartgroves, Programs and Projects Specialist
Address: Health and Child Care Review Services
Office of Home and Community Based Licensure
1647 East Morten Ave., Suite 170
Phoenix, Arizona 85020
Telephone: (602) 255-1199
Fax: (602) 255-1135
6. **An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**

Laws 1996, Ch. 329 was enacted to expand the Supportive Residential Living Pilot Program to a permanent statewide program. One Section of that legislation, A.R.S. § 36-1303, requires that the Department of Health Services adopt rules for the admission and retention of residents in Supportive Residential Living Centers. Laws 1996, Ch. 329, § 5 provides an exemption from the requirements of A.R.S. Title 41, Chapter 6.
7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of the state:**

Not applicable.
8. **The summary of the economic, small business and consumer impact:**

Not applicable.
9. **A description of the changes between proposed rules, including supplemental notices, and final rules (if applicable):**

Not applicable.

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10. A summary of the principal comments and the agency response to them:
Not applicable.
11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.
12. Incorporations by reference and their location in the rules:
None.
13. Was the rule previously adopted as an emergency rule?
No.
14. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 10. DEPARTMENT OF HEALTH SERVICES

HEALTH CARE INSTITUTIONS: LICENSURE

**ARTICLE 15. SUPPORTIVE RESIDENTIAL LIVING
CENTERS**

- R9-10-1501. Definitions
- R9-10-1502. Licensure Requirements
- R9-10-1503. Management
- R9-10-1504. Personnel
- R9-10-1506. Resident Rights
- R9-10-1507. Residency
- R9-10-1508. Termination of Residency

**ARTICLE 15. SUPPORTIVE RESIDENTIAL LIVING
CENTERS**

R9-10-1501. Definitions

In this Article, unless the context otherwise requires:

1. "Abuse" means the same as defined in A.R.S. § 46-451(A)(1).
2. "AHCCCS" means Arizona Health Care Cost Containment System.
3. "ALTCSS" means the Arizona Long-term Care System pursuant to A.R.S. Title 36, Chapter 29, Article 2.
2. "Activities of daily living" means bathing, dressing, grooming, eating, mobility, transfer, and toileting in the residential environment.
- 4.3. "Alteration" means a change in location or number of residential units, or a change in the physical plant which affects compliance with the codes and standards provided by referenced R9-10-1513.
4. "Assistance" means to help or aid in the completion of a function or task.
5. "Bathing" means the process of washing, rinsing, and drying all parts of the body, including the individual's ability to transfer to the tub or shower and the ability to obtain the bath water or equipment or both.
6. "Chemical Restraint" means any medication that is administered for purposes of discipline or convenience and is not required to treat a resident's medical symptoms.
7. "Continuous" means the same as defined in A.R.S. § 36-401(A)(11).
5. "County" means Maricopa County long-term care department.
8. "Direct self care" means an individual has the understanding or capacity to make or communicate decisions about him or her self.
9. "Dressing" means the physical process of choosing, putting on, securing fasteners, and removing clothing and footwear, including weather appropriate but excluding

aesthetic concerns such as matching colors. This includes artificial limbs, braces, and other appliances which are needed daily.

10. "Eating" means the process of putting food and fluids into the digestive system.
11. "Emotional Abuse" means the same as defined in A.R.S. § 13-3623(A)(3).
12. "Exploitation" means the same as defined in A.R.S. § 46-451(A)(4).
- 6.13. "Governing authority" means the same as defined in A.R.S. § 36-401(A)(1516).
14. "Grooming" means the process of tending to one's appearance, such as: combing or brushing hair; washing face and hands; shaving; routine nail care; oral hygiene including denture care; and menstrual care. Grooming does not include aesthetics such as styling hair and applying make-up.
15. "Health related services" means the same as defined in A.R.S. § 36-401(A)(18).
7. "Home health" means the same as defined in A.R.S. § 36-2939(C)(1).
8. "Home health aide" means the same as defined in A.R.S. 36-2939(C)(2).
16. "Independent" means an individual is able to complete a function or task without assistance.
17. "Intermittent" means periodically scheduled or prescribed treatment.
- 9.18. "Licensed care provider" means a physician licensed under pursuant to A.R.S. Title 32, Chapters 13 and 17, a physician's assistant licensed under pursuant to A.R.S. Title 32, Chapter 25, or a nurse practitioner licensed under pursuant to A.R.S. Title 32, Chapter 15.
- 10.19. "Licensed nurse" means an individual licensed under pursuant to A.R.S. Title 32, Chapter 15.
- 11.20. "Medication" means a drug, prescription or medication as defined in A.R.S. § 32-1901 or nonprescription, drug as defined in A.R.S. § 32-1901, administered to, or self-administered by, a resident to maintain health or to prevent or treat an illness or disease.
21. "Mobility" means the extent of the individual's purposeful movement within the residential environment.
22. "Neglect" means the same as defined in A.R.S. § 46-451(A)(7).
23. "Nursing services" means the same as defined in A.R.S. § 36-401(A)(28).
- 12.24. "Physical restraint" means confinement in a room or the use of any article, device, or garment that restricts movement, that cannot be easily removed by the resident and is

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used to control the resident's behavior.

25. "Private duty nursing care" means curative, restorative and preventive functions performed by a nurse licensed under A.R.S. Title 32, Article 15, that are arranged, paid for, and overseen by the resident or the resident's representative.
- 13-26. "Resident" means the same as defined in A.R.S. § 36-1301(4), an individual admitted to and residing in a supportive residential living center but does not include the owner, manager, or staff of the center.
- 14-27. "Residential unit" means the same as defined in A.R.S. § 36-1301(5), an individual apartment for lodging a resident.
- 15-28. "Resident's representative" means a person acting on behalf of a resident under the written consent of the resident, or the resident's legal guardian.
- 16-29. "Service plan" means a written description of the resident's need for supportive residential living services and the services to be provided to meet the resident's needs.
- 17-30. "Substantial compliance" means that the nature or number of violations revealed by any type of inspection or investigation of a center does not pose a direct risk to the life, health, or safety of its residents.
- 18-31. "Supportive residential living center" means the same as defined in A.R.S. § 36-1301(6), a center that provides or coordinates supportive residential living services on a 24-hour basis in residential units pursuant to Laws 1993, Chapter 163, § 3.
- 19-32. "Supportive residential living services" means the same as defined in A.R.S. § 36-1301(7), those services offered pursuant to A.R.S. § 36-2939(C), and if applicable, intermittent nursing services and daily meals.
33. "Transferring" means the individual's ability to move horizontally or vertically between 2 surfaces.
34. "Toileting" means the discharge of body waste from bowel or bladder.
- 20-35. "Treatment" means medical, surgical, dental, or psychiatric management of a resident, and any specific procedure used for the prevention, cure, or the amelioration of a disease or pathological condition.

R9-10-1502. Licensure Certification Requirements

- A. An applicant for initial licensure certification or renewal recertification as a center shall submit to the Director a completed application on a form provided by the Department, which is set forth as Exhibit A, and the following additional information:
1. Complete information regarding ownership, physical plant, staff, records, and services;
 2. Current year sanitation inspection report; and
 3. Most recent Annual fire inspection conducted in accordance with standards and time frames from the fire authority having jurisdiction.
- B. An applicant who is applying for initial licensure certification, construction of a new center, or alteration of an existing center shall submit the following documents which have been prepared by a registrant in accordance with A.R.S. Title 32, Chapter 1, Article 3:
1. Site plan drawn to scale and dimension showing property lines, buildings, roads, drives, parking, walkways, building entrances, and exits;
 2. Floor plan drawn to scale and dimension showing entire floor plan, rooms, service and program areas, corridors, stairs, entry, exits, fire protection design, and systems;
 3. Sections drawn to scale and dimension showing cross-sectional areas of the building and detail cross-sections of the components indicating structure, construction, materials, and elevations;

4. Details drawn to scale and dimension to indicate conformance with physical plant standards;
 5. Code information including statement and calculations indicating construction type, occupancy type, occupant load, fire sprinkler, fire alarm, fire detection requirements, in accordance and conformance with R9-10-1513(E), if applicable; and
 6. Certificate of occupancy, fire inspection, and approval report and clearance from the local authority having jurisdiction if an existing building is utilized as a center, or a copy of the building permit and zoning clearance from the local authority having jurisdiction if a center is newly constructed or an alteration is made to an existing center.
- C. The applicant shall sign the application form as follows:
1. In the case of an individual, by the owner of the center;
 2. In the case of a partnership or a corporation, by 2 of the officers thereof; or
 3. In the case of a governmental unit, by the head of the governmental department having jurisdiction thereof.
- D. The applicant shall have all signatures notarized.
- E. An applicant shall file an application for licensure certification or renewal recertification within 60 to 120 days prior to anticipated operation or the expiration date of the current license certificate.
- F. The Director may issue a license certificate, if a center meets all of the following requirements:
1. Is in substantial compliance with these rules, and
 2. Carries out a plan acceptable to the Director to eliminate any deficiencies, and
 3. Has been approved by AHCCCS to provide supportive residential living services to ALTCS members.
- G. Licenses Certificates shall be valid for a period of 1 year, or as provided by A.R.S. § 36-425(B), for the owner, name, location, and residential units specified on the application.

R9-10-1503. Management

- A. The governing authority shall consist of 1 or more persons responsible for organizing and managing the center, establishing policies and procedures that govern residents, and ensuring compliance with state laws and local ordinances.
- B. The governing authority shall appoint a manager who shall have the authority and responsibility to operate the center. The manager shall:
1. Be 21 years of age or older;
 2. Be present 40 hours or more each week;
 3. Designate, in writing, a person, 18 years of age or older, who shall have access to all areas in the center and grounds that are related to resident care, supplies, and safety when the manager is absent; and
 4. Provide written documentation of completion of Complete a county-approved training program for managers of supportive residential living centers, or equivalent training as provided by R9-10-1504(B)(3) no later than within 30 days after appointment as a manager of a center.
- C. The governing authority shall appoint another manager if the manager is absent for more than 30 consecutive days.
- D. The manager shall be responsible for the following:
1. Managing supportive residential living services,
 2. Staffing,
 3. Conducting orientation and training,
 4. Personnel and resident recordkeeping,
 5. Directing and monitoring dietary and environmental services,
 6. Maintaining current and accurate records of all funds received from residents as provided by pursuant to subsection (E),

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7. Establishing and ensuring compliance with center rules,
8. Ensuring that each resident:
 - a. Receives the supportive residential living services that are specified in the resident's service plan,
 - b. Is assisted with the exercise of resident rights as provided by pursuant to R9-10-1506, and
 - c. Provides evidence of being free from pulmonary tuberculosis as provided by that required of employees in R9-10-1504(A); and
9. Developing and implementing policies and procedures, including:
 - a. Resident rights,
 - b.a. Medication administration,
 - e.b. Staffing,
 - d.c. Safety standards,
 - e.d. Residency agreements, and
 - f.e. Resident personal funds account, and
 - f. Resident grievance procedures.
- E. The manager may accept, upon request of a resident, responsibility for managing a personal funds account for the resident. If the manager accepts the responsibility, the manager shall ensure that:
 1. Written authorization for expenditures is given by the resident;
 2. A person is designated, in writing, to manage residents' personal funds accounts, if not done by the manager;
 3. A separate account record is maintained for each resident who requested the management of a personal funds account;
 4. Records are maintained on all receipts and expenditures of the personal funds account;
 5. There is no commingling of resident funds with any account of the center;
 6. Readily accessible monies in petty cash are maintained in the center for each resident's personal use during normal business hours; and
 7. At least every Every quarter, the resident shall be given a written statement of the receipts and expenditures made on the resident's behalf.
- F. The written authorization for expenditures may be rescinded revoked by the resident at any time any time.

R9-10-1504. Personnel

- A. An employee, upon being hired and annually thereafter, shall submit 1 of the following as evidence of freedom from pulmonary tuberculosis:
 1. A report of a negative Mantoux skin test taken within 6 months prior to employment; or
 2. A written statement from a medical provider stating that upon an evaluation of a positive Mantoux skin test, taken within 6 months prior to employment, or a history of a positive Mantoux skin test, the individual was found to be free from pulmonary tuberculosis.
- B. All employees providing direct care to residents shall:
 1. Be 18 years of age or older;
 2. Attend orientation within the 1st 2 weeks of employment. Orientation shall include:
 - a. The center's policies and procedures;
 - b. Resident rights and center rules;
 - c. Basic infection control techniques, including hand washing, linen handling, and prevention of communicable diseases; and
 - d. Fire, safety and emergency procedures;
 3. Provide written documentation of completion of Complete a 16-hour county-developed training program for employees of supportive residential living centers or equivalent training no later than 60 days after date of hire.

Training programs shall consist of all of the following: within 60 days of becoming an employee of the center; and

- a. Two hours of training in the values of promoting dignity, independence, individuality, privacy, and choice for residents;
 - b. Three hours of training in assessing resident capabilities and needs, and developing and implementing service plans;
 - c. One hour of training in documentation;
 - d. Ten hours of training in hands-on care of elderly persons and/or persons with disabilities; and
4. Except for licensed nurses providing services through a home health agency or staffing agency, attend Attend 20 hours of documented county-approved in-service training per year related to residential care and services, except for licensed nurses providing services through a home health agency or staffing agency. Time spent in orientation or training provided by subsection pursuant to paragraph (2) and (3) may be counted as in-service training.
- C. The manager shall maintain a record for each employee that which includes:
 1. Application for employment,
 2. Verification of training and certification,
 3. Initial proof of freedom from pulmonary tuberculosis and annual verification statement thereafter, and
 4. Orientation and in-service training records.

R9-10-1506. Resident Rights

- A. The manager shall give each resident and resident's representative, if 1 is designated, a list of resident rights and a copy of the center rules at the time of acceptance into the center. The receipt of the documents shall be acknowledged in writing.
- B. The manager shall post the resident rights and center rules in the center's reception area.
- C. The manager and staff shall apprise each resident of the following rights and ensure that language barriers or physical handicaps do not prevent each resident or resident representative from becoming aware of these rights:
 1. To live in a home-like environment which promotes and supports the values of dignity, independence, individuality, privacy, and choice;
 2. To be treated with consideration, respect, and full recognition of the dignity and individuality of each resident, including the right to privacy in tub, shower, and toilet rooms and intimate personal activity and hygiene;
 3. To be free from the following:
 - a. Abuse, physical, emotional, mental, and chemical abuse;
 - b. Physical and chemical restraints;
 - c. Emotional abuse Seclusion;
 - d. Neglect; and
 - e. Exploitation.
 - f. Use of psychoactive drugs administered for purposes of discipline or convenience and not required to treat the resident's medical symptoms;
 4. To participate in the development of and receive the services specified in the service plan;
 5. To communicate, associate, and meet privately with persons of the resident's choice in the resident's residential unit or in another area provided by the center;
 6. To be informed of the following:
 - a. Rates and charges for the use of the center,
 - b. Increases to rates and charges 30 days before the new rates and charges go into effect, and
 - c. How to contact the long-term care ombudsman, and the local office of Adult Protective Services, and the

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Arizona Center For Disability Law;

7. To independently manage personal financial affairs, including financial;
8. To have medical and financial records kept in confidence. The release of such records shall be by written consent of the resident or resident's representative, except as otherwise required or permitted by law;
9. To inspect the resident's own records during normal business hours or at a time agreed upon by the resident and the staff;
10. To have access to a telephone, to make and receive calls in private, and to send and receive correspondence without interception or interference by the staff or other residents;
11. To arrive and depart from the center freely consistent with the resident's service plan and personal safety;
12. To use personal belongings or furniture in the resident's residential unit; ~~subject to limitations of space, sanitation, safety, and rights of other residents;~~
13. To participate in activities of the center; ~~or other social, religious, and community groups;~~
14. To have access to common areas in the center and individual storage space;
15. To request relocation in the center or another health care facility or other living arrangement institution based on the resident's needs, desires, and availability of such placement options;
16. To refuse relocation within the center;
17. To submit grievances without retaliation;
18. To share a residential unit with another individual if both consent to the arrangement; and
19. To exercise other civil rights and religious liberties, including the right to make personal decisions.

R9-10-1507. Residency

- A. A supportive residential living center shall accept and retain as a resident only an individual who is able to direct self care, and may accept and retain an individual who: ~~An individual in any of the following categories shall not be accepted as a resident in a supportive residential living center:~~
1. May be independent in activities of daily living and health related services; ~~Is violent toward self or others;~~
 2. May need assistance in activities of daily living and health related services; ~~Needs continuous nursing services~~
 3. May need intermittent nursing services; ~~Has no capacity to direct care~~
 4. ~~Needs continuous therapeutic intervention to sustain life; and~~
 5. ~~Is a non-ALTCS member in the pilot program pursuant to Laws 1993, Chapter 163, § 3 and who:~~
 - a. ~~Needs the assistance of more than 1 person to ambulate, transfer from a bed, chair, or toilet, or assist with the activities of daily living;~~
 - b. ~~Is unable to self-propel a wheelchair; or~~
 - c. ~~Is unable to be out of bed more than 3 hours in a 24-hour period.~~
- B. A supportive residential living center shall not accept or retain an individual who:
1. Exhibits behavior that is a threat to the health and safety of any individual in the facility;
 2. Needs continuous nursing services, except:
 - a. Private duty nursing care provided on a 24-hour basis, or
 - b. Services provided through a Hospice agency;
 3. Is unable to direct self care;
 4. Needs chemical restraints; or

5. Except where used for postural support or alignment, needs physical restraints for personal safety or for the safety of others;

~~B.C. Before~~ Prior to acceptance in the center, each prospective resident shall provide the center with evidence of being free from pulmonary tuberculosis as required of employees in R9-10-1504(A).

~~C.D.~~ The manager shall ensure that a residency agreement is entered into with each resident and that the residency agreement includes the following:

1. Terms of occupancy, including resident and center responsibilities;
2. Statement of the customary services that the center provides, including nursing services;
3. Services that are available at an additional cost;
4. Statement of monthly fees and expenses;
5. Center's deposit and refund policies;
6. Procedures for termination of the residency agreement;
7. Persons to be notified in the event of an emergency or transfer of the resident;
8. Copy of the center's rules; and
9. Copy of the resident's rights; and
10. Copy of the center's grievance procedure.

~~D.E.~~ The manager shall provide give 1 copy of the signed residency agreement to the resident and ~~or~~ resident's representative, if 1 is designated, and file the original in the resident's records.

~~E.F. A resident may~~ Residents shall be allowed to accommodate overnight guests but the guests shall not be counted in the center census.

R9-10-1508. Termination of Residency

~~A. A resident shall have the right to may leave the premises overnight or for longer periods without terminating residency, if prior notice and leave arrangements are made with the center.~~

~~B.A.~~ A manager may terminate a residency agreement after providing giving the resident or resident's representative, if 1 is designated, a 14-day written notice identifying 1 or more of the following reasons:

1. Documented evidence of failure to pay residency fees as stated in the resident's residency agreement,
2. Documented evidence of repeated failure to abide by the resident's residency agreement, center's rules,
3. Care requirements exceed the level of care permitted allowable in a supportive residential living center as provided by R9-10-1507(A) and (B), or
4. Inability ~~The center loses its certification or is unable to operate as a supportive residential living center.~~

~~C.B.~~ A manager shall immediately terminate a resident's residency agreement without prior notice if ~~that~~ the resident exhibits behavior which ~~that is a threat to the health and safety of individuals in the center or may interfere dangerous to self or staff or interferes with the physical or psychological well-being of other individuals in the center residents.~~

~~D.C.~~ Except as provided in Other than subsections (A) (B) and (B), (C) a resident's residency agreement shall not be terminated without 30 days written notice given to the resident and the resident's representative, if 1 is designated, unless the resident or the resident's representative agree to earlier termination of residency.

~~D.~~ Each notice of termination of the resident's residency agreement shall include the center's grievance procedure as provided in R9-10-1507(C)(10) and the resident's right to submit a grievance as provided in R9-10-1506(C)(17).

~~E.~~ The manager shall document any action in the resident record that results in an involuntary termination of residency.

~~F.~~ Within 14 days after a residency agreement is terminated the ~~The manager shall immediately refund to the resident, on a~~

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prorated basis, any outstanding fees, monthly fee, to a resident whose residency is terminated.

- G. The manager shall provide the following assistance to any resident whose residence in the center is terminated; as follows:
1. Provide the resident and the resident's representative, if 1 is designated, a written summary of the services provided the resident;

2. Assist the resident in with obtaining home health services or arranging an alternative living arrangement placement in another health care institution, if appropriate; and
 3. Provide the resident and the resident's representative, if 1 is designated, with a copy of the resident's service plan.
- H. The manager shall document relocation discharge assistance in the resident's record.