

NOTICES OF SUMMARY RULEMAKING

The Administrative Procedure Act allows an agency to use the summary rulemaking procedure instead of the regular rulemaking procedure for repeals of rules made obsolete by repeal or supersession of an agency's statutory authority or the adoption, amendment, or repeal of rules that repeat verbatim existing statutory authority granted to the agency. An agency initiating summary rulemaking shall file the proposed summary rulemaking with the Governor's Regulatory Review Council and the Secretary of State's Office for publication in the *Register*. The proposed summary rule takes interim effect on the date of publication in the *Register*.

NOTICE OF PROPOSED SUMMARY RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 12. DEPARTMENT OF HEALTH SERVICES HEALTH CARE SERVICE ORGANIZATIONS

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|------------------------------------|---------------------------------|
| Chapter 12 | Repeal |
| Article 1 | Repeal |
| R9-12-101 | Repeal |
| R9-12-102 | Repeal |
| R9-12-103 | Repeal |
| R9-12-104 | Repeal |
| R9-12-105 | Repeal |
| R9-12-106 | Repeal |
| R9-12-111 | Repeal |
| R9-12-112 | Repeal |
| R9-12-113 | Repeal |
| R9-12-114 | Repeal |
| R9-12-115 | Repeal |
| R9-12-116 | Repeal |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 36-136(F)
Implementing statutes: A.R.S. §§ 20-1053, 20-1054, 20-1058(D), and 20-1064
- 3. The interim effective date of the summary rules:**
May 24, 2002
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Kathleen Phillips, Rule Administrator
Address: Arizona Department of Health Services
1740 W. Adams, Suite 102
Phoenix, AZ 85007
Telephone: (602) 542-1264
Fax: (602) 364-1150
E-mail: kphilli@hs.state.az.us
or

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Name: Kathy McCanna, Program Manager
Address: Arizona Department of Health Services
Division of Assurance and Licensure Services
1647 E. Morten, Suite 160
Phoenix, AZ 85020
Telephone: (602) 674-9750
Fax: (602) 395-8913
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5. An explanation of the rule, including the agency's reasons for initiating the rule:

A.A.C. Title 9, Chapter 12, adopted effective August 25, 1975, includes criteria for the approval of a health care service organization's plans, facilities, personnel, and geographic service areas. Laws 2000, Ch. 355, with a delayed effective date of June 30, 2001, transferred all approval authority from the Department of Health Services (Department) to the Department of Insurance. Although Laws 2000, Ch. 355 allows the Director of the Department of Insurance to obtain advice concerning a health care service organization's health care plan from the Department, the Department no longer has the statutory authority to issue approvals of health care plans to a health care service organization. Consequently, the Department is repealing the rules because the rules are obsolete and not authorized by statute.

6. 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 this state:

Not applicable

7. The preliminary summary of the economic, small business, and consumer impact:

An economic, small business, and consumer impact statement is not required pursuant to A.R.S. § 41-1055(D)(2).

8. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Kathleen Phillips, Rule Administrator
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1740 W. Adams, Suite 102
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Telephone: (602) 542-1264
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Fax: (602) 395-8913
E-mail: kmccann@hs.state.az.us

9. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule:

No oral proceedings are scheduled. Written comments may be submitted to the Department personnel listed in item #4 before 5:00 p.m. on the close of record (30 days after publication).

10. An explanation of why summary proceedings are justified:

A.A.C. Title 9, Chapter 12, adopted effective August 25, 1975, includes criteria for the approval of a health care service organization's plans, facilities, personnel, and geographic service areas. Laws 2000, Ch. 355, with a delayed effective date of June 30, 2001, transferred all approval authority from the Department of Health Services (Department) to the Department of Insurance. Although Laws 2000, Ch. 355 allows the Director of the Department of Insurance to obtain advice concerning a health care service organization's health care plan from the Department, the

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Department no longer has the statutory authority to issue approvals of health care plans to a health care service organization. Consequently, the Department is repealing the rules because the rules are obsolete and not authorized by statute.

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:

Not applicable

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 12. DEPARTMENT OF HEALTH SERVICES
HEALTH CARE SERVICE ORGANIZATIONS REPEALED**

ARTICLE 1. APPROVAL OF PLANS, FACILITIES, PERSONNEL AND SERVICE AREA REPEALED

Section

R9-12-101.	Legal Authority <u>Repealed</u>
R9-12-102.	Intent <u>Repealed</u>
R9-12-103.	Definitions <u>Repealed</u>
R9-12-104.	Documentation <u>Repealed</u>
R9-12-105.	Service agreements <u>Repealed</u>
R9-12-106.	Examination and review <u>Repealed</u>
R9-12-111.	Health care plan <u>Repealed</u>
R9-12-112.	Geographic area <u>Repealed</u>
R9-12-113.	Chief executive officer <u>Repealed</u>
R9-12-114.	Medical director <u>Repealed</u>
R9-12-115.	Medical records <u>Repealed</u>
R9-12-116.	Quality assurance <u>Repealed</u>

ARTICLE 1. APPROVAL OF PLANS, FACILITIES, PERSONNEL AND SERVICE AREA REPEALED

R9-12-101. ~~Legal Authority~~ Repealed

- ~~**A.** The Arizona Department of Health Services, pursuant to the authority granted in Title 20, Chapter 4, Article 9, Arizona Revised Statutes, particularly Sections 20-1053 and 20-1054 as amended, hereby adopts the following regulations for the purposes of establishing minimum standards and procedures for health care plans, facilities, personnel and service areas of health care services organizations.~~
- ~~**B.** In performing its duties related to health care services organizations, the Department of Health Services will coordinate its efforts with the Arizona Department of Insurance which grants the certificate of authority required to operate a health care services organization in Arizona. A copy of the application for a certificate of authority shall be submitted to the Department of Health Services at the same time that the original application is submitted to the Department of Insurance. A request from an existing health care services organization for approval to change its statement describing its health care plan or plans, facilities, and personnel or its statement describing the geographic area or areas to be served shall be submitted to the Department of Health Services and a copy of the request shall be submitted to the Department of Insurance. The Department of Health Services will notify the applicant or health care services organization of its findings and will provide a copy of its findings to the Department of Insurance.~~
- ~~**C.** These regulations apply to all proposed and existing health care services organizations. Each proposed health care services organization must meet requirements prior to receiving a certificate of authority from the Department of Insurance. Each existing health care services organization need not refile all information previously filed with the Department or the Department of Insurance, but shall on or before the effective date of this Article amend its health care plan and otherwise modify its operations and procedures as may be necessary to comply with this Article and file all additional information necessary to make statements complete and current.~~

R9-12-102. ~~Intent~~ Repealed

- ~~**A.** It is the objective of the Director, in the adoption of the regulations of this Article, to require minimum health care services necessary to maintain persons in good health.~~
- ~~**B.** It is the intention of the Director to revise these minimum requirements periodically, based on Departmental experience and recommendations, in order that more comprehensive health care may be achieved.~~

R9-12-103. Definitions Repealed

- A.** Words defined in A.R.S. §§ 36-401 and 20-1051 (except for the word "Director" which when used in this Article means Director of the Department of Health Services) and Department of Health Services regulations for the licensing of health care institutions (Chapter 10, Article 1), and in Department of Insurance rules for the regulation of health care services organizations (General Rule No. R4-14-405) have the same meaning when used in this Article.
- B.** In this Article, unless the context otherwise requires:
1. "Chief executive officer" means the person who has the authority and responsibility for the operation of the health care services organization in accordance with applicable legal requirements and policies approved by the governing authority.
 2. "Department" means the Department of Health Services.
 3. "Governing authority" means the person or body such as the board of trustees or board of directors in whom the ultimate authority and responsibility for the direction of the health care services organization is vested.
 4. "HCSO" means health care services organization.
 5. "Primary care" means initial treatment or screening of enrollees.
 6. "Primary care physician" means general practitioner, family physician, internist or pediatrician.
 7. "Shall" and "must" means requirements.

R9-12-104. Documentation Repealed

Where these regulations require a HCSO to have policies, procedures, plans, class specifications, orders, reports, minutes of meetings, contracts, agreements, records, duty schedules, or other similar items, such requirement means written documents compiled and indexed in one or more manuals which shall be readily available for inspection by the Director or his representatives.

R9-12-105. Service agreements Repealed

Primary care physician services provided on a continuing basis by other than HCSO employees shall be covered by written service agreements which specify the terms and conditions upon which they will provide any or all of those health care services contained in R9-12-111(F).

R9-12-106. Examination and review Repealed

Facilities of the HCSO and any primary care physician(s) with whom it contracts for services on a continuing basis shall be subject to inspection by personnel of the Department or other officials by delegation or other authority, pursuant to A.R.S. § 20-1058(D) and A.R.S. § 20-1064.

R9-12-111. Health care plans Repealed

- A.** The applicant shall submit a statement which describes the proposed health care plan or plans, facilities, and personnel.
- B.** The HCSO shall have an organized system for the delivery of those health care services contained in subsection (F) of this Section which includes physicians, registered nurses and other professional and technical personnel. The system shall include a procedure which promotes a continuing relationship to be established between an enrollee and the same primary care physician and a procedure for effective referrals to assure continuity of care to enrollees.
- C.** The HCSO shall list (using full-time equivalent for providers) the proposed or actual:
1. Enrollment;
 2. Physician staffing for said enrollment, identifying board eligibility or certification of each physician listed when applicable;
 3. Medical support staff, and
 4. Provision for providing specialty medical services.
- D.** All care provided by the HCSO whether provided by its own personnel or on a contract basis shall be by licensed:
1. Practitioners of the healing arts;
 2. Health care institutions; or
 3. Clinical laboratories
- when any such licensure is required by law and shall otherwise be in accordance with applicable laws and regulations.
- E.** The health care services described in subsection (F), paragraphs (1), (2), (3), and (6) of this regulation shall be provided on a seven day per week and 24 hour per day basis.
- F.** The health care plan shall provide within the geographic area served at least the following basic health care services which shall be covered by the monthly charges set forth in the evidence coverage:
1. Emergency care. Emergency care shall include those services rendered under unforeseen conditions which require hospitalization or services necessary for the repair of accidental injury, relief of acute pain, initial treatment of acute infection, and the amelioration of illness or conditions which, if not immediately diagnosed and treated, would result in extended or permanent physical impairment or loss of life.
 2. Inpatient general hospital care.
 3. Physician care. Physician care shall include necessary diagnostic and therapeutic services provided by a person who has a current and valid Arizona license to practice medicine and surgery.

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4. ~~Outpatient care. Outpatient care shall include preventive, diagnostic and therapeutic services, including primary care, furnished by or under the direction of a physician, and laboratory and radiology services. Primary care may include services provided by a physician's assistant (a person who has a current and valid registration under the applicable provisions of A.R.S. Title 32, Chapter 13, 17 and 25, to provide patient services as specified in his job description or approved program) or by a nurse practitioner in the extended role (a registered nurse certified by the Arizona State Board of Nursing to function in speciality areas, in accordance with the provisions of A.R.S. § 32-1601(B)(6), in collaboration with and under the direction of a physician).~~
 5. ~~Health maintenance care. Health maintenance care consists of care designed to prevent illness and to improve the general health of enrollees. It shall be offered when medically necessary or indicated and shall include:~~
 - a. ~~Immunizations~~
 - b. ~~Health education~~
 - c. ~~Periodic health examinations (excluding certified health examinations for insurance qualification, school attendance, and employment) which include screening for vision and hearing shall be offered when medically necessary or indicated and at least on the following schedule:~~
 - i. ~~Enrollees aged 0—1 year—1 exam every 4 months~~
~~2—5 years—1 exam every year~~
~~6—40 years—1 exam every 5 years~~
~~41—50 years—1 exam every 3 years~~
~~51—60 years—1 exam every 2 years~~
~~61 years and over—1 exam every year~~
 - ii. ~~A medical history and health examination shall be offered to each new enrollee within 12 months after enrollment.~~
 6. ~~Ambulance services. Emergency ambulance services and other ambulance services when approved by a plan physician.~~
- G.** ~~The HCSO shall provide appropriate coverage for out-of-area emergency care to enrollees when traveling outside the area served by the HCSO.~~

R9-12-112. Geographic area Repealed

- A.** ~~The applicant shall submit a statement which describes the geographic area or areas to be served. The applicant shall designate a geographic area or areas in which it will have the capability of providing services that are reasonably convenient to prospective enrollees.~~
1. ~~The applicant shall attach a map or maps to the statement on which are indicated the boundaries of the proposed geographic area or areas and the locations of all facilities in which primary care will be provided under the plan.~~
 2. ~~The applicant shall describe the proposed geographic area or areas in at least one of the following ways:~~
 - a. ~~Legal description~~
 - b. ~~Local governmental jurisdiction such as city or county~~
 - c. ~~Census tracts~~
 - d. ~~Street boundaries~~
 - e. ~~Area within a specified radius of a specified intersection or a specified primary care center.~~
- B.** ~~All advertising matter and sales material provided to prospective enrollees must include a description of the geographic area or areas in terms readily understandable by the general public.~~

R9-12-113. Chief executive officer Repealed

- A.** ~~The governing authority shall appoint a chief executive officer who shall have appropriate education and experience to qualify him for the management of the HCSO. The governing authority shall define the authority and duties of the chief executive officer in writing. The chief executive officer shall be the appointed representative of the governing authority and shall be the executive officer of the HCSO. He shall be responsible for the implementation of established policies in the operation of the HCSO and for providing liaison between the governing authority, providers of health care and providers of other services for the HCSO. He shall be in charge of the management of the HCSO and shall be authorized and empowered to carry out the provisions of this Article and shall be charged with the responsibility of doing so. The chief executive officer shall establish in writing a plan indicating the line of authority during periods of his absence.~~
- B.** ~~When there is a change of chief executive officer, the governing authority shall notify the Department of Health Services and Department of Insurance within ten days after the effective date of change.~~
- C.** ~~The HCSO shall assure that all HCSO employees and health practitioners covered by service agreements are adequately knowledgeable and qualified to perform the duties assigned to them through employment or by contract.~~
- D.** ~~The HCSO shall designate a central place of business within the major geographic area served from which the administrative activities of the plan shall be directed and at which the chief executive officer shall be based.~~

R9-12-114. Medical director Repealed

- A.** ~~The HCSO shall designate a physician as medical director.~~
- B.** ~~The medical director shall be responsible for planning and implementing the method for the continuing review and evaluation of health care provided by the HCSO and the continuing education of its providers of health care services. The med-~~

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ical director may also serve as the chief executive officer provided he has appropriate education and experience to qualify him for the management of the HCSO.

- C.** The medical director's responsibility shall include, but not be limited to:
1. Supervision including performance planning and evaluation of medical staff.
 2. Coordination of activities of medical staff.
 3. Development of medical care policies.

R9-12-115. Medical records Repealed

- A.** The HCSO shall maintain a medical record system which is capable of readily providing necessary information and which assures continuity of enrollee care.
- B.** A centralized medical record shall be maintained in accordance with acceptable professional standards which includes records covering all symptoms presented, diagnoses made and medical treatment provided to each enrollee by the HCSO during the term of his enrollment. This requirement applies to all HCSO services provided to enrollees whether provided by employees of the HCSO or non-employees at the request of the HCSO.
- C.** There shall be a person designated as having the administrative responsibility for medical records.
- D.** Medical records shall be kept confidential. Only authorized personnel shall have access to the records.
- E.** Medical records shall be the property of the HCSO and shall not be removed from the premises wherein they are filed except by subpoena or court order. This does not preclude the routing of the record or portion thereof, including X-ray film, to practitioners of the healing arts for consultation or evaluation.
- F.** Pursuant to A.R.S. § 20-1058(D) and A.R.S. § 20-1064, the centralized medical records of the HCSO shall be made available for review by representatives of the Department. During routine surveys, the Department representatives will review medical records of the HCSO on a random sample basis. On complaint or special investigations, specific medical records will be reviewed. Title 9, Chapter 1, Article 3 of the Department rules and regulations prohibit employees of the Department from divulging patient names or other information from medical records unless specifically authorized by that Section.
- G.** Records shall be preserved in the original or by microfilm for a period not less than ten (10) years. In the case of a minor, the record must be maintained for at least two years after the person has reached his majority.
- H.** If the enrollee discontinues enrollment in the HCSO, it shall furnish, upon his request, a written summary covering all pertinent phases of health care provided during enrollment including copies of pertinent reports and results of diagnostic tests which might be used for comparative purposes, a record of immunizations and the last periodic health examination to another provider of health care services as specified by the enrollee. If requested, this summary shall be furnished within 30 days after the enrollee requests disenrollment. A reasonable charge may be made for the summary based upon the cost of providing it.

R9-12-116. Quality assurance Repealed

- A.** The HCSO shall provided an effective method for a continuing review and evaluation of the health care provided to ensure that treatment and level of care were appropriate and adequate, that the quality of health care provided met acceptable standards, and that corrective action occurred or will occur if indicated.
- B.** There shall be a quality assurance committee consisting of the chief executive officer or his designee, the medical director, practitioners of the healing arts, and allied health professionals. Services performed by practitioners of the healing arts shall be reviewed and evaluated by colleagues within their disciplines. The committee shall adopt administrative procedures covering frequency of meetings, types of records to be kept, and arrangements for committee reports and their dissemination.
- C.** There shall be a quality assurance plan which shall include procedures to be used for each of the following:
1. Establishment of standards for health care.
 2. Surveillance of care provided.
 3. Analysis of problems identified.
 4. Correction of deficiencies including a time schedule for correction and a link to a continuing education program.
 5. Follow-up (periodic reassessment of the plan).