

960 QUALITY OF CARE CONCERNS

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REFERENCES: Administrative Services Subcontractor (AdSS) Medical Policies 910, 961, 320-U; AdSS Operations Policies 444, 446; 9 A.A.C. 34, A.A.C. R9-19-314 (B)(13) and A.A.C. R9-19-315(E), R9-21-4, R9-21-101(B), R9-21-401 et seq., R9-34 A.R.S. §§8-412(A), 12-901 et seq, 13-3620 §36-664(H), §36-517.02, 36-664, 41-3801, 41-3804, 46-454, 42 CFR Part 2, 42 CFR 447.26, 42 CFR 431.300 et seq, 42 CFR 482.13(e)(1) A.R.S. §§ 8-514.05, 36-3221, 36-3231 or 36-3281. 45 CFR 160.103, 20 U.S.C. 1232g

PURPOSE

This policy sets forth the requirements for the Division's Administrative Services Subcontractors' (AdSS) regarding the process for reviewing, reporting, evaluating, and resolving Quality of Care Concerns raised by Members, subcontracted service providers, stakeholders, or any other internal or external sources.

DEFINITIONS

1. "Adverse Action" means any type of restriction placed on a provider's practice by the Division.
2. "Health Care Acquired Condition" means a hospital acquired condition which occurs in any inpatient hospital setting and is not present on admission.
3. "High-Profile Case" means a case that attracts or is likely to attract attention from the public or media.
4. "Immediate Jeopardy" means a situation in which the provider's noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a Member.
5. "Incident, Accident, or Death" means an incident report entered into the Arizona Health Care Cost Containment System (AHCCCS) Quality Management (QM) Portal to document an occurrence that caused harm or may have caused harm to a Member or to report the death of a Member.
6. "Internal Referral" or "IRF" means a report entered into the AHCCCS QM Portal by an employee of a health plan to document an

occurrence that caused harm or may have caused harm to a member and or to report the death of a member.

7. "Investigation" means collection of facts and information for the purpose of describing and explaining an incident.
8. "Member" means the same as "Client" as defined in A.R.S. § 36-551.
9. "Other Provider Preventable Condition" means a condition occurring in an inpatient or outpatient health care setting which AHCCCS has limited to the following:
 - a. Surgery on the wrong Member
 - b. Wrong surgery on a Member
 - c. Wrong site surgery
10. "Personally Identifiable Information" or "PII" means a person's name, address, date of birth, social security number, trial enrollment number, telephone or fax number, e-mail address, social media identifier, driver's license number, places of employment, school identification or military identification number or any other distinguishing characteristic that tends to identify a particular person as specified in A.R.S. 41-3804(K).

11. "Protected Health Information" or "PHI" means individually identifiable information as specified in 45 CFR 160.103(5) about an individual that is transmitted or maintained in any medium where the information is:
 - a. Created or received by a health care provider, health plan, employer, or health care clearinghouse.
 - b. Relates to the past, present or future physical or mental health condition of an individual, provision of health care to an individual.
12. "Provider-Preventable Condition" means a condition that meets the definition of a Health Care Acquired Condition or an Other Provider-Preventable Condition.
13. "Quality Management" or "QM" means the evaluation and assessment which can be assessed at a Member, Service Provider, or population level of Member care and services to ensure adherence to standards of care and appropriateness of services.
14. "Quality Management Unit /Performance Quality Improvement Team" or "QM/PI" means Division staff who:

- a. Oversee the QOC Concern process;
 - b. Evaluate Administrative Services Subcontractors Quality Management/Performance Improvement Programs;
 - c. Monitor and evaluate adherence with required quality and performance improvement standards through standardized Performance Measures, Performance Improvement Projects, and Quality Improvement specific Corrective Action Plans; and
 - d. Provides technical assistance for performance improvement related matters.
15. "Quality of Care" or "QOC" means an expectation that, and the degree to which the health care services provided to individuals and patient populations improve desired health outcomes and are consistent with current professionally recognized standards of care and service provisions.
16. "Quality of Care Concern" or "QOC Concern" means an allegation that any aspect of care, or treatment, utilization of behavioral health services or utilization of physical health care services that:
- a. Caused or could have caused an acute medical or psychiatric condition or an exacerbation of a chronic medical or psychiatric

condition, and

- b. May ultimately cause the risk of harm to a Member.
17. "Responsible Person" means the same as defined in A.R.S. § 36-551.
 18. "Restraint" means personal restraint, mechanical restraint or drug used as a restraint in a behavioral health inpatient setting and is the following as specified in 42 CFR 482.13(e)(1)
 19. "Seclusion" means the involuntary confinement of a behavioral health recipient in a room or an area from which the person cannot leave.
 20. "Seclusion of Individuals Determined to have a Serious Mental Illness" means the restriction of a behavioral health recipient to a room or area through the use of locked doors or any other device or method which precludes a person from freely exiting the room or area or which a person reasonably believes precludes his/her unrestricted exit as specified in A.A.C. R9-21-101(B).
 - a. In the case of an inpatient facility, confining a behavioral health recipient to the facility, the grounds of the facility, or a ward of the facility does not constitute seclusion.
 - b. In the case of a community residence, restricting a behavioral

health recipient to the residential site, according to specific provisions of an individual service plan or court order, does not constitute seclusion as specified in A.A.C. R9-21-101(B).

21. "Sentinel Event" means a Member safety event that results in death, permanent harm, or severe temporary harm.
22. "Severity Levels" means the level of acuity of a QOC and which is described in the following ranking:
 - Level 0: (Track and Trend Only) - No Quality issue Finding
 - Level 1: Quality issue exists with minimal potential for significant adverse effects to the patient/recipient.
 - Level 2: Quality issue exists with significant potential for adverse effects to the patient/recipient if not resolved timely.
 - Level 3: Quality issue exists with significant adverse effects on the patient/recipient; is dangerous or life-threatening.
 - Level 4: Quality issue exists with the most severe adverse effects on the patient/recipient; no longer impacts the patient/recipient with the potential to cause harm to others

POLICY

A. DOCUMENTATION OF QUALITY OF CARE AND SERVICE CONCERNS

The AdSS shall develop and implement written policies and procedures regarding the receipt, initial, and ongoing processing, and resolution of Quality of Care (QOC) or service concerns that addresses the following:

1. Documenting each issue raised, from whom it was received, and the projected time frame for resolution.
2. Determining whether one of the following processes will be used to resolve the issue:
 - a. Quality Management (QM) process
 - b. Grievance and appeals process
 - c. Both the Grievance and QM processes concurrently
 - d. Process for making initial determinations on coverage and payment issues
 - e. Process for resolving disputed initial determinations.
3. Acknowledging receipt of the concern and providing an explanation of the process to be used to resolve the concern through written correspondence.

4. Informing the submitter of the process to be used to resolve the concern if the Quality Management Unit determines the concern not to be a Quality of Care Concern.
5. Assisting the Member or provider as needed to complete forms or take other necessary actions to obtain resolution of the issue.
6. Ensuring confidentiality of all Member information.
7. Informing the Member or provider of all applicable mechanisms for resolving the issue that are external to the AdSS processes.
8. Documenting all processes, including detailed steps used during the investigation and resolution stages, implemented to ensure complete resolution of each complaint, grievance, or appeal, including:
 - a. Corrective action plan(s) or action(s) taken to resolve the concern;
 - b. Documentation that training and education was completed, such as in-service attendance sheets and training objectives;
 - c. New policies or procedures;

- d. Follow-up with the Member that includes:
 - i. Assistance to ensure that the immediate health care needs are met;
 - ii. Resolution letter that provides sufficient detail to ensure all covered, medically necessary care needs are met, and a contact name and telephone number to call for assistance or to express any unresolved concerns; and
 - iii. Referral to the AdSS' Corporate Compliance Unit, the Division, or AHCCCS Office of the Inspector General.
9. QOC Concerns that meet the reporting requirements specified in AdSS Policy 961, received outside of the AHCCCS QM Portal, the AdSS shall enter the QOC Concerns into the Portal as an Internal Referral (IRF) within one business day if the event is considered sentinel and two business days for all reportable incidents.

B. PROCESS OF EVALUATION AND RESOLUTION OF QOC AND SERVICE CONCERNS

1. The AdSS shall complete the QOC Concern investigation and documentation process within the AHCCCS QM Portal and include a summary of all applicable research, evaluation, intervention and resolution, details for each case.
2. The AdSS shall maintain a QOC investigation process that is a stand-alone process completed through the AdSS Quality Management Unit (QMU) and not combined with other agency meetings or processes.
3. Work units outside of the QMU:
 - a. Shall not conduct QOC investigations.
 - b. Shall provide subject matter expertise throughout the investigative process as requested by QMU.
4. The AdSS shall not delegate QOC investigation processes or onsite QOC visits.
5. Quality investigations may not be delegated or performed by the staff of the provider agency or facility where the identified health and safety concerns, Immediate Jeopardy, or Division-requested reviews have occurred.

6. The AdSS shall develop and implement policies and procedures that include at a minimum:
 - a. Identification of QOC Concerns.
 - b. Initial assessment of the severity of each QOC Concern.
 - c. Prioritization of action(s) needed to resolve immediate care needs when appropriate.
 - d. Review of trends related to Members, providers, including organizational providers, involved in the allegations, considering types and frequency of allegation(s), severity, and substantiation status, as well as systemic QOC Concerns, and referrals to Quality Management and Peer Review committees as appropriate.
 - e. Research including:
 - i. Review of the log of events.
 - ii. Documentation of conversations including direct interviews of Members, staff, and witnesses to a reportable event.

- iii. Medical records review.
- iv. Mortality review.
- f. Quantitative and qualitative analysis of the research,
which may include root cause analysis.
- c. The AdSS may request copies of a Member's death certificates
by submitting a request to the Department of Health Services
(ADHS) Vital Records and Statistics as specified in A.A.C.
R9-19-314 B (13) and A.A.C. R9-19-315(E).
- d. The AdSS' Quality Management staff shall conduct onsite visits
when there are identified health and safety concerns, Immediate
Jeopardy, or at the direction of AHCCCS or the Division.
- e. The AdSS shall report onsite visits that are identified and
conducted by the AdSS after 5:00 p.m. on weekdays, or that
occur during weekends or on holidays to the Division QM
Manager or supervisor by phone and followed up with an email
to the Division the following business day.
- 10. Clinical Quality Management staff shall:
 - a. Be the lead responsible for the review and Investigation,

and

- b. Participate in the onsite visits.
11. Subject matter experts outside of the AdSS QM Unit:
- a. May participate in the onsite visit when necessary and appropriate; but
 - b. Shall not take the place of Quality Management staff during reviews.
12. The AdSS shall complete and submit to the Division the Health and Safety Update – Onsite Review Form as specified in the contract with the Division or each onsite review within 24 hours of the health and safety visit.
13. The AdSS shall, based on findings of the review:
- a. Identify any immediate care or recovery needs and ensure incident resolution.
 - b. Develop work plans and corrective action plans to ensure placement setting or service site compliance with ADHS Licensure and Division requirements regarding policy,

training, and signage requirements aimed at preventing and reporting abuse, neglect, and exploitation.

- c. Conduct scheduled and unscheduled monitoring of placement setting or service sites in any of the following circumstances:
 - i. In an Immediate Jeopardy status.
 - ii. Multiple identified deficiencies that may affect health and safety of Members.
 - iii. As determined by the AdSS QM Unit or as determined by the Division.
- d. Assist in the identification of technical assistance resources focused on achieving and sustaining regulatory compliance.
- e. Determine, implement, and document all appropriate interventions including an action plan to reduce or eliminate the likelihood of the concern recurring.
- f. Monitor and document success of interventions.
- g. Monitor placement setting or service sites upon completion

of the activities and interventions to ensure that compliance is sustained.

- h. Implement new interventions and approaches when necessary.
- i. Incorporate interventions into the AdSS's QM program plan if successful.

14. Ensure that investigation and resolution of Member and systemic concerns are processed timely based on the nature and severity of each case or as requested by the Division.

- a. For high-profile cases, the AdSS shall communicate initial reports of immediate findings to the Division immediately but no later than 24 hours of the AdSS becoming aware of the concern and followed up by an initial finding report within seven business days.
- b. For Member safety or placement concerns, the AdSS shall schedule a due date for the resolution of the case for 30 calendar days from the date of opening.
- c. For other concerns, the AdSS shall schedule a due date for

resolution of the case for within 60 calendar days from the date of opening.

- d. The AdSS shall track concerns that have aged to greater than 60 calendar days and must develop an action plan to address these cases.
 - e. The AdSS shall include a review of all paid claims within the last calendar year to identify the need to participate in systemic investigations when notified of provider concern to include single case agreements and providers using subcontracted providers.
15. The AdSS shall submit all requests for extensions of timelines associated with a QOC investigation to the Division for approval as soon as possible but no later than the assigned due date and must include at minimum:
- a. The Member's current placement and condition.
 - b. The current status of the investigation.
 - c. The barrier to completing the investigation within the assigned time frame.

16. The AdSS shall update the case within the AHCCCS QM Portal to reflect changes during the investigation as additional details and allegations are discovered and added to the QOC.
17. The AdSS shall ensure the final Severity Level is assigned to the case at the conclusion of the investigation.
18. The AdSS shall ensure that concerns are reported to the appropriate regulatory agency including:
 - a. The Department of Child Safety,
 - b. Adult Protective Services,
 - c. Arizona Department of Health Services,
 - d. The Attorney General's Office,
 - e. Law enforcement,
 - f. AHCCCS Office of the Inspector General,
 - g. The Division,
 - h. Other entities as necessary.
19. The AdSS shall submit the initial report to the regulatory agency

in the format required by the regulatory agency as soon as possible but no later than 24 hours of becoming aware of a concern.

20. The AdSS shall submit to the Division all pertinent information regarding an incident of abuse, neglect, exploitation, serious incident, including suicide attempts, unexpected death, including all unexpected transplant deaths, and other serious incidents as determined by the Division or AHCCCS, via a written Incident Report to the Division no later than 24 hours after becoming aware of the incident.
 - a. The AdSS shall not limit pertinent information to autopsy results;
 - b. The AdSSS shall include a broad review of all issues and possible areas of concern.
 - c. The AdSS shall not delay the Investigation of QOC Concern based on delays in receipt of autopsy.
 - d. The AdSS shall, when available, use delayed autopsy results to confirm the resolution of the QOC Concern.

- e. The AdSS shall follow procedures for reporting incidents, accidents, and deaths as specified in AdSS Medical Policy 961.
- 21. Upon receipt of an IAD Report from providers, the AdSS shall take action necessary to ensure the safety of the persons involved in the incident.
 - 22. The AdSS shall review the IAD within one business day 24 hours of receipt and make a determination of whether the incident includes a QOC Concern.
 - a. The AdSS shall review the IAD Form to ensure it is fully and accurately completed. If an IAD is returned to the provider for corrections, the AdSS shall ensure that the provider returns the corrected version of the report within one business day of receipt.
 - 23. The AdSS shall document all referrals made to a regulatory agency in the AHCCCS QM Portal and include, at a minimum, the following information:
 - a. Name and title of the person submitting the report.

- b. Name of the regulatory agency the report was submitted to.
 - c. Name and title of the person at the regulatory agency receiving the report.
 - d. Date and time reported.
 - e. Summary of the report.
 - f. Tracking number, as applicable, received from the regulatory agency as part of the reporting process.
24. The AdSS shall have a process to refer issues to the AdSS' Peer Review Committee when appropriate.
- a. The AdSS shall ensure that appropriate referrals include all high-profile cases.
 - b. The AdSS shall not consider a referral to the Peer Review Committee as a substitute for implementing interventions aimed at individual and systemic quality improvement.
25. The AdSS shall document in the QOC file within the AHCCCS QM Portal Peer Review referrals as well as high-level summary information and must include documentation of the specific

credentials of the involved Committee members.

26. If an adverse action is taken with a provider for any reason including those related to a QOC Concern, the AdSS shall report the adverse action, including limitations and terminations, and the rationale for the adverse action to the Division's QM Unit within 24 hours of the determination to take an adverse action and to the National Practitioner Data Bank as specified in the Division contract.
27. The AdSS shall ensure continuity of care, health and safety, and Member well being in transition of care when acting on adverse actions.
 - a. The AdSS shall allow adequate time for identification of new providers, transition of Members to those providers, impact to Members, and timely communication to Members to prepare for a transition.
28. While there may be instances where a move or transition must occur quickly, the AdSS shall work with the Division to ensure Member needs are met without potential gaps in care or service delivery and without treatment disruption.

29. The AdSS shall document the closure of the review or investigation within the AHCCCS QM Portal.
30. The AdSS shall document all follow-up actions or monitoring activities as well as related observations or findings in the QOC file.
31. The AdSS shall notify the Division's QM Unit as specified in contract and take appropriate action with the provider, including suspension or corrective action plans and referrals to appropriate regulatory Boards when an investigation identifies an adverse outcome, including mortalities, due to prescribing issues or failure of the provider to:
 - a. Check the CSPMP
 - b. Coordinate care with other prescribers
 - c. Refer for substance use treatment or pain management.
32. The AdSS shall present the case finding m, as appropriate, to the AdSS' Peer Review Committee for review and recommendation to the QM/PI Committee for discussion and recommendations to AdSS leadership.
33. The AdSS shall present findings to the AdSS' Credentialing

Committee in the event that the case finding may have a direct impact on the credentialing or recredentialing of a provider.

C. TRAINING, INTER-RATER RELIABILITY FOR INCIDENT AND QOC REVIEW

1. The AdSS shall provide training to QM clinical staff on QOC investigations prior to performing these investigations.
 - a. All clinical staff that may perform investigations onsite shall complete training on how to conduct the investigation and avoid interference with substantiation and/or prosecution.
 - b. All clinical staff that may investigate alleged incidents in skilled nursing facilities, assisted living facilities, and behavioral health residential settings shall complete training on how to conduct investigations considering the specific needs of individuals with intellectual and developmental disabilities.
- b. The AdSS shall incorporate AHCCCS Medical Manual Policy 960 Attachment D guidance in the content requirements for its training for investigations involving individuals with intellectual and developmental disabilities.

- c. The AdSS shall perform Inter-Rater Reliability (IRR) testing for all staff making determinations related to incidents and QOC Concerns.
- d. The AdSS shall perform the testing annually with a required passing grade of 90 percent.
- e. The AdSS shall use test scenarios pertinent to its covered membership and approved by its Chief Quality Officer and Medical Director.
- f. The AdSS shall require staff members who do not receive a passing grade of 90% to retake the exam a second time.
- g. The AdSS shall develop and implement an education plan for staff members who do not attain a passing grade of 90 percent on the repeat testing until a passing grade is achieved or the staff member is reassigned to a different position for which the training requirement is not pertinent.

D. TRACKING AND TRENDING OF QOC AND SERVICE COMPLAINTS

- 1. The AdSS shall conduct oversight through tracking and trending of Member and provider concerns and making appropriate

referrals for independent review as described in this section.

2. The AdSS shall develop and implement a system to document, track, trend, and evaluate complaints and allegations received from Members and providers or as requested by the Division or AHCCCS, inclusive of quality care, immediate jeopardy, quality of service and immediate care need issues.
3. The AdSS shall analyze and evaluate the data from the tracking and trending system to identify and address any trends related to Members, providers, the QOC process, or services in the AdSS' service delivery system or provider network.
 - a. The AdSS shall incorporate trending of Quality of Care issues in determining systemic interventions for quality improvement.
 - b. The AdSS shall submit tracking and trending information to the Division to be reviewed and considered for action by the Division's Quality Management Unit and Chief Medical Officer, as Chairman of the QM/PI Committee.
4. If significant negative trends are noted in the tracking and

trending, the AdSS shall develop performance improvement activities focused on the topic area to improve the issue resolution process itself, and to make improvements that address other system issues raised during the resolution process. Tracking and trending may also identify promising practices that resulted in better outcomes for Members.

- a. The AdSS shall report the results of performance improvement activities in (6) of this Section to the Division.
- b. The AdSS shall refer QOC Concerns and opportunities for improvement identified through tracking and trending to the following committees, as appropriate:
 - i. QM/PI Committee, established in accordance with AdSS Medical Policy 910.
 - ii. Peer Review Committee, established in accordance with AdSS Medical Policy 910.
 - iii. Mortality Review Committee.
 - iv. Independent Oversight Committees established

pursuant to A.R.S. § 41-3801.

- c. The AdSS shall make Member records availability and accessibility in compliance with federal and state confidentiality laws, including Health Insurance Portability and Accountability Act (HIPAA) and 42 CFR 431.300 et seq.
- d. The AdSS shall maintain information related to coverage and payment issues for at least five years following final resolution of the issue and must be made available to the Member, provider, Division, or AHCCCS authorized staff upon request.
- e. The AdSS shall proactively provide care coordination for Members who have multiple complaints regarding services or the AHCCCS program.
- f. The AdSS' care coordination staff shall work with the Division's Support Coordination staff to facilitate and address Member complaints as a proactive measure to promote better service delivery and health outcomes.

E. PEER REVIEW COMMITTEE

1. The AdSS shall refer QOC Concerns to the AdSS' Peer Review Committee when appropriate.
 - a. The AdSS shall not consider referral to the Peer Review Committee as a substitute for implementing interventions aimed at individual and systemic quality improvement.
 - b. The AdSS shall document Peer Review Committee referrals and high-level summary information in the QOC file within the AHCCCS QM Portal and must include documentation of the specific credentials of the involved Committee members.
 - c. The Peer Review Committee may include the following recommendations as applicable:
 - i. Education/training/technical assistance
 - ii. Follow-up monitoring and evaluation of improvement
 - iii. Changes in processes, organizational structures, forms

- iv. Informal counseling
 - v. Termination of affiliation, suspension, or limitation of the provider (if an adverse action is taken with a provider the AdSS reports the adverse action to the Division within one business day)
 - vi. Referrals to regulatory agencies
 - vii. Other actions as determined by AdSS
- d. If an adverse action is taken with a provider for any reason including those related to a QOC Concern, the AdSS shall report the adverse action, including limitations and terminations, to the Division Quality Management Unit as well as to the National Practitioner Data Bank as specified in contract in accordance with AdSS Medical Manual Policy 950.
2. The AdSS shall notify the Division and take appropriate action with the provider including suspension or corrective action plans and referrals to appropriate regulatory Boards

when an investigation identifies an adverse outcome, including mortalities, due to prescribing issues, other prescribers, or referral for substance use treatment or pain management.

3. The AdSS shall present the findings related to (2) of this Section to, as appropriate, the AdSS' Peer Review Committee and Credentialing Committee for review and recommendations to the QM/PI Committee for discussion and recommendations to AdSS leadership.

F. REPORTING TO INDEPENDENT OVERSIGHT COMMITTEE

1. The AdSS shall provide Incident, Accident, and Death (IAD) Reports, Internal Referral (IRF) reports and Quality Of Care Concerns including, reports of possible abuse, neglect, or denial of rights involving any DDD enrolled Member to the DDD Independent Oversight Committee (IOC), established by A.R.S. § 41-3801 and as outlined in this policy within three business days.
2. The AdSS shall incorporate IADs and IRFs that are triaged as potential QOC Concerns into the QOC record and shall submit to

the IOC as part of the QOC documentation upon completion of the QOC investigation in place of a standalone IAD/IRF within three business days of completion of the investigation.

3. The AdSS shall redact all PII from reports provided to the IOC in accordance with federal and state confidentiality laws.
4. The AdSS shall provide the IOCs Member information and records in accordance with A.R.S. §41-3804.
5. The AdSS shall provide Seclusion and Restraint Reports, IAD Reports, IRF reports and QOC reports including reports of possible abuse, neglect, or denial of rights involving any behavioral health to the IOC's as specified in the Division contract.
6. If a QOC investigation has already been conducted by the AdSS and can be disclosed without violating any confidentiality provisions, the AdSS shall provide the requested documentation to the IOC via the AHCCCS Quality Management Portal.
7. The AdSS who receive an IOC request for additional or unaltered documentation, supplemental information, or an investigation regarding an AHCCCS Member, shall submit the request to

AHCCCS via email at: iocinquiries@azahcccs.gov.

G. REQUESTS FOR PII OR PHI

1. The AdSS shall only release PII or PHI concerning a currently or previously enrolled Member to the IOC if:
 - a. The IOC demonstrates that the information is necessary to perform a function that is related to the oversight of the behavioral health system, or
 - b. The IOC has written authorization from the Responsible Person to review PII or PHI.
2. If the AdSS determines that the IOC needs PII or PHI and has obtained the Responsible Person's written authorization, the AdSS shall first review the requested information and determine if any of the following types of information are present:
Communicable disease related information, including confidential HIV information, information concerning diagnosis, treatment or referral from an alcohol or drug use program, or as described in A.R.S. §41-3804.
 - a. If no information detailed in (2) of the Section is found,

the AdSS shall provide the information adhering to the requirements of this policy.

- b. If information detailed in (2) of this Section is found, the AdSS shall contact the Responsible Person, ask if the Responsible Person is willing to sign an authorization for the release of communicable disease related information, including confidential HIV information, information concerning diagnosis, treatment or referral from an alcohol or drug use program, or as described in A.R.S. §41-3804 and provide the name and telephone number of a contact person with the IOC who can explain the Committee's purpose for requesting the protected information.
 - i. If the Responsible Person agrees to give authorization, the AdSS shall obtain written authorization as outlined below and provide the requested information to the IOC.
 - ii. If the Responsible Person does not agree to give authorization, the information is not included or is redacted from any documentation which is

authorized to be disclosed.

3. The AdSS shall accept authorization for the disclosure of records of deceased Members made by the executor, administrator, or other personal representative appointed by will or by a court to manage the deceased Member's estate. If no personal representative has been appointed, the AdSS shall upon request disclose PII and PHI to a family Member, other relative, or a close personal friend of the deceased Member, or any other person identified by the deceased, only to the extent that the PHI is directly relevant to such person's involvement with the deceased Members health care or payment related to the individual's health care,
4. The AdSS shall provide requested information that does not require authorization within 15 working days of the request.
5. The AdSS shall provide the requested information that does require authorization within five working days of receipt of the written authorization.
6. When PII or PHI is sent, the AdSS shall include a cover letter addressed to the IOC that states that the information is

confidential, is for the official purposes of the Committee, and is not to be re-released under any circumstances.

7. If the AdSS denies the IOC request for PII or PHI:
 - a. The AdSS shall notify the IOC within five working days that the request is denied, the specific reason for the denial, and that the Committee may request, in writing, that the Division Director, or designee, review this decision.
 - b. The Committee's request to review the denial must be received by the Division Assistant Director, or designee, within 60 days of the first scheduled committee meeting after the denial decision is issued,
 - c. The AdSS shall refer the IOC to Division Medical Manual 960 for the process of review by the Division Assistant Director, or designee.

H. AUTHORIZATION REQUIREMENTS

1. The AdSS shall only accept a written authorization for disclosure of information concerning diagnosis, treatment, or referral from

an alcohol or substance use program or communicable disease related information, including confidential HIV information, that contains the following information:

- a. The specific name or general designation of the program or person permitted to make the disclosure.
- b. The name or title of the individual or the name of the organization to which the disclosure is to be made.
- c. The name of the currently or previously enrolled Member.
- d. The purpose of the disclosure.
- e. How much and what kind of information is to be disclosed.
- f. The signature of the Responsible Person of a currently or previously enrolled Member.
- g. The date on which the authorization is signed.
- h. A statement that the authorization is subject to revocation at any time except to the extent that the program or person which is to make the disclosure has already acted in reliance on it.
- i. The date, event, or condition upon which the authorization

will expire if not revoked before. This date, event, or condition must ensure that the authorization will last no longer than reasonably necessary to serve the purpose for which it is given.

- j. A statement that this information has been disclosed from records protected by federal confidentiality rules (42 CFR Part 2) and state statute on confidentiality of HIV/AIDS and other communicable disease information (A.R.S. §36-664(H)) which prohibit further disclosure of this information unless further disclosure is expressly permitted by the written consent of the Member to whom it pertains, or as otherwise permitted by 42 CFR Part 2 and A.R.S §36-664(H).

I. DUTIES AND LIABILITIES OF BEHAVIORAL HEALTH PROVIDERS IN PROVIDING BEHAVIORAL HEALTH SERVICES

1. The AdSS shall develop and make available written policies and procedures that provide guidance regarding the provider's duty to warn under A.R.S. § 36-517.02 which supplements other immunities of behavioral health providers or mental health treatment agencies that are specified in law.
2. The AdSS shall incorporate the following in policies, procedures,

and provider training related to (1) of this Section:

- a. With respect to the legal liability of a behavioral health provider, A.R.S. § 36-517.02 provides that no cause of action or legal liability may be imposed against a behavioral health provider for breaching a duty to prevent harm to a person caused by a patient unless *both* of the following occur:
 - i. The patient has communicated to the mental health provider an explicit threat of imminent serious physical harm or death to a clearly identified or identifiable victim or victims, and the patient has the apparent intent and ability to carry out such threat.
 - ii. The mental health provider fails to take reasonable precautions.
- b. A.R.S. § 36-517.02 provides that any duty of a behavioral provider to take reasonable precautions to prevent harm threatened by a patient is discharged when the behavioral health provider:
 - i. Communicates, when possible, the threat to all

- identifiable victims,
- ii. Notifies a law enforcement agency in the vicinity where the patient or any potential victim resides,
 - iii. Takes reasonable steps to initiate voluntary or involuntary hospitalization, if appropriate, or
 - iv. Takes other precautions that a reasonable, prudent behavioral health provider would take under the circumstances.
- c. That this statute also provides immunity from liability when the behavioral health provider discloses confidential communications by or relating to a Member under certain circumstances: The behavioral health provider has no liability resulting from disclosing a confidential communication made by or relating to a Member when a Member has explicitly threatened to cause serious harm to a person or when the behavioral health provider reasonably concludes that a Member is likely to cause harm, and the behavioral health provider discloses a confidential communication made by or relating to the

Member to reduce the risk of harm.

- d. That all providers, regardless of their specialty or area of practice, have a duty to protect others against a Member's potential danger to self and/or danger to others. When a provider determines, or under applicable professional standards, reasonably should have determined that a Member poses a serious danger to self or others, the provider must exercise care to protect others against imminent danger of a Member harming him/herself or others. The foreseeable victim need not be specifically identified by the Member, but he/she may be someone who would be the most likely victim of the Member's dangerous conduct.
- e. That the responsibility of a behavioral health provider to take reasonable precautions to prevent harm threatened by a Member may include any of the following:
 - i. Communicating, when possible, the threat to all identifiable victims,
 - ii. Notifying a law enforcement agency in the

vicinity where the Member or any potential
victim resides,

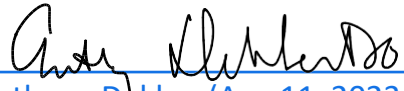
- iii. Taking reasonable steps to initiate proceedings for voluntary or involuntary hospitalization, if appropriate, and in accordance with AMPM Policy 320-U, or
- iv. Taking any other precautions that a reasonable and prudent provider would take under the circumstances.

J. PROVIDER-PREVENTABLE CONDITIONS

1. The AdSS shall not provide payment for services related to provider preventable conditions.
2. If the AdSS identifies a Provider-Preventable Conditions, the AdSS shall:
 - a. Conduct a QOC investigation within the AHCCCS QM Portal.
 - b. Report the occurrence and results of the investigation to the Division's QM Unit quarterly, as

specified in the Contract.

- c. Report the occurrence to the appropriate regulatory boards and agencies in accordance with the provisions of this policy following the outcome of the investigation.

Signature of Chief Medical Officer: 
[Anthony Dekker \(Aug 11, 2023 08:27 PDT\)](#)
Anthony Dekker, D.O.