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☑ **EMERGENCY RULE** ☐ **NOTICE OF INTENT** ☐ **RULE** ☐ **POTPOURRI**

REFER TO INSTRUCTIONS ON REVERSE SIDE

This is your authority to publish in the (month) June, 20 16 *Louisiana Register* the document indicated above.

Office for Citizens With Developmental Disabilities
Office/Board/Commission promulgating this document

Department of Health and Hospitals
Department under which office/board/commission is classified

Rebekah E. Gee, MD MPH | Secretary
(name) (title)
Name and title of person whose signature will appear in the publication (at the end of the document)

Beth Jordan | (225) 342-5717 | (225) 342-8823
(name) (phone) (fax)
Name, phone number, and FAX number of person to contact regarding this document

Provide a short descriptive listing for this document to be used in the *Louisiana Register* TABLE OF CONTENTS/INDEX (note: this description should match the fiscal statement title, if sending a Notice of Intent:

Certified Medication Attendant

*If sending a diskette, indicate the name of the file on diskette:

Important: If submitting both an Emergency Rule (ER) and a Notice of Intent (NOI) to be published this month, **AND** if the rule text in the ER is identical to the rule text in the NOI, check here: ☐

Signature of Agency Head or Designee

Rebekah E. Gee, MD MPH | Secretary
Print Name and Title of Agency Head or Designee

CERTIFICATION OF AVAILABLE FUNDS **DOCUMENT #**

☑ **ISIS AGENCY:** I certify the availability of fiscal year 2016 appropriated funds for the payment of the above referenced publication and authorize the processing of an Interagency Billing with the following coding on the 30th of the month of the publication. Attach supplemental sheet for additional lines of coding.

AGENCY	ORGANIZATION #	OBJECT	SUB-OBJECT	REPORTING CATEGORY
340	0030	2710		8000

☐ **NON-ISIS AGENCY:** I certify the availability of fiscal year 16 appropriated funds for the payment of the above referenced publication and agree to place corresponding invoice in line for payment upon receipt.

Signature of Agency Head or Designee - Phone # 342-0095

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Department of Health and Hospitals-OCDD
Agency Name

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John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Department of Health and Hospitals
Office for Citizens with Developmental Disabilities

June 06, 2016

MEMORANDUM

TO: The Honorable John Bel Edwards, Governor, State of Louisiana
The Honorable John A. Alario, Jr., President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Jeff Landry, Attorney General, State of Louisiana
The Honorable Fred H. Mills, Jr., Senate Committee on Health and Welfare
The Honorable Frank A. Hoffman, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FM: **Rebekah E. Gee MD, MPH** Approved for

RE: Notification of Proposed Emergency Rule by the Office for Citizens with Developmental Disabilities (OCDD)

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we submit the following rulemaking document for the Department of Health and Hospitals' Office for Citizens with Developmental Disabilities (OCDD). These amendments are scheduled to be published in the June 20, 2016 issue of the *Louisiana Register*.

REDECLARED EMERGENCY RULE:

Certified Medication Attendant (CMA): With the discontinuation of physician's delegation forms in Intermediate Care Facilities (ICF's) and Home and Community Based Services (HCBS) and the resulting increase in unlicensed persons seeking CMA certification, the Department of Health and Hospitals' Office for Citizens with Developmental Disabilities (OCDD) declares this emergency rule to reduce the financial burden on providers by extending the certification period to two years with provisions. This action is being taken to reduce costs to provider agencies while ensuring they are able to maintain adequate numbers of certified staff to administer medications to individuals with developmental disabilities whose health and safety would otherwise be impacted.

cc: Mark A. Thomas, Assistant Secretary, Office for Citizens with Developmental Disabilities
Dr. James Hussey, Assistant Secretary, Office for Behavioral Health
Anita Dupuy, Legislative Liaison, Department of Health and Hospitals
Beth Jordan, Rulemaking Liaison, Office for Citizens with Developmental Disabilities
Tara LeBlanc, Assistant Secretary, Office of Aging and Adult Services
Cecile Castello, Director, Health Standards Section

DECLARATION OF EMERGENCY

Department of Health and Hospitals

Office for Citizens with Developmental Disabilities

Certification of Medication Attendants (LAC 48: IX, 915 and 917)

The Office for Citizens with Developmental Disabilities (OCDD) adopts LAC 48: IX, Chapter 9, Guidelines for Certification of Medication Attendants (CMA). R.S. 37:1021-1025 authorizes the establishment of "a medication administration course for the purpose of training and certifying unlicensed personnel to administer certain medication to residents of intermediate care facilities for the developmental delayed (ICFs/DD) and community homes for the developmental delayed either operated by the Office for Citizens with Developmental Disabilities (OCDD) or funded through the Department of Health and Hospitals (DHH); and to individuals in programs/agencies contracting for services with DHH except as prohibited in §911.B.5."

Based on an opinion given by the Louisiana State Board of Medical Examiners, the Department of Health and Hospitals has discontinued the use of physician delegation forms in intermediate care facilities and home and community-based settings. Unlicensed personnel must now complete minimum training requirements in order to administer medication to individuals with intellectual and developmental disabilities. The termination of physician delegation has resulted in a large influx of individuals seeking CMA training and certification. This has created an administrative burden to providers as well as OCDD to timely process a steadily increasing number of certifications. This is also an unfunded training mandate, which incurs significant costs to provider agencies and requires annual continuing education for re-certification. Due to limited funding, provider agencies who cannot afford to maintain the certification will experience a reduction in unlicensed personnel who are qualified to give medication to clients, thus increasing the risk for medication errors, critical incidents, and mortality for medically

compromised and vulnerable clients. The Office for Citizens with Developmental Disabilities, seeks to extend the certification period for Certified Medication Attendants to two years effective June 18, 2016. Provider agencies must determine CMA competency annually during the two year period.

Also effective June 18, 2016, OCDD will allow CMAs who have not worked directly with medication administration for 12 months or more to be administered the statewide exam and a competency evaluation rather than requiring that they repeat the training. The opportunity for this will also decrease administrative burden and allow qualified individuals to more quickly re-enter the work force which will in turn, help assure client health and safety. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Title 48

PUBLIC HEALTH-GENERAL

Part IX. Mental Retardation/Developmental Services

Chapter 9. Guidelines for Certification of Medication Attendants

§915. Certification Requirements and Process

A. CMA certificates issued after rule promulgation will expire two years from the last day of the month that the certificate was printed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:696 (July 1995), amended LR 23:1147 (September 1997), LR 40:

§917. Re-certification Requirements and Process

A. Bi-annual Requirements. On a bi-annual basis each CMA must be recertified. The requirements for re-certification are:

1. Completion of a total of nine hours of in service training. Two of the nine hours must directly relate to the agency's medication administration policy and procedure. The remaining seven hours of in-service must relate to medication administration. A CMA working in multiple agencies may combine training to meet these requirements with the exception that the two hour training on agency medication administration policy and procedure is required for each employer. Each agency must have documentation of each CMA's required nine hours of in service training.

2. Pass with proficiency, either by physical or verbal demonstration, the 25 skills on the practical checklist on an annual basis. The annual cycle is based on the last day of the month that the certificate was printed. If a CMA changes employers within the certification period and training records are not available for the first year, the new employer must determine competency by assessing the 25 skills upon hire, in addition to meeting these requirements for re-certification.

B. - C.

D. The re-certification requirements must be met prior to the month of expiration of the CMA's certification.

E. A CMA who has not worked directly with medication administration in a facility, program, or agency for the intellectually/developmentally disabled for 12 months or more must take the OCDD CMA state exam again and pass with proficiency the 25 skills checklist. If the

CMA does not pass the state exam, then the CMA must repeat the 60 hour course and pass the exam prior to being recertified. Failure to pass the state exam will result in de-certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:697 (July 1995), amended LR 23:1147 (September 1997), LR 40:

§919. De-certification of Medication Attendants

A. …

B. De-certification may occur under the following conditions:

1. Failure of CMA to obtain re-certification requirements. The CMA may be reinstated if the re-certification requirements are met within six months of expiration of the certificate. During this six month period the CMA's authorized functions shall be suspended;

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:697 (July 1995), LR 40:

§925. Provider Responsibility

A. -A.2. …

3. documentation of annual successful completion of the 25 skills checklist and bi-annual completion of continuing education necessary for re-certification of CMA.

B. The provider is legally responsible for the level of competency of its personnel and for ensuring that unlicensed staff administering medication have successfully completed the medication administration course curriculum. Additionally, the provider is responsible for maintaining re-certification requirements of their CMA's and that their CMA's perform their functions in a safe manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:699 (July 1995), LR 40

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Mark A. Thomas, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. He is responsible for responding to inquiries regarding this proposed Rule.

6-3-16

Rebekah E. Gee MD, MPH

Secretary