

OFFICE OF THE STATE REGISTER INSERTION ORDER (eff.08/02)

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(SUBMIT A SEPARATE INSERTION ORDER PER DOCUMENT)

☐ EMERGENCY RULE ☒ NOTICE OF INTENT ☐ RULE ☐ POTPOURRI

REFER TO INSTRUCTIONS ON REVERSE SIDE

This is your authority to publish in the (month) February 2015, 2015 *Louisiana Register* the document indicated above.

OCDD

Office/Board/Commission promulgating this document

Kathy H. Kliebert Secretary

(name) (title)

Name and title of person whose signature will appear in the publication (at the end of the document)

Department of Health and Hospitals

Department under which office/board/commission is classified

Beth Jordan 225-342-5717 225-342-8823

(name) (phone) (fax)

Name, phone number, and FAX number of person to contact regarding this document

Beth.Jordan@la.gov

E-mail address of contact person

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

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

Certified Medication Attendant (CMA)

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

Kathy H. Kliebert, Secretary

Print Name and Title of Agency Head or Designee

CERTIFICATION OF AVAILABLE FUNDS

DOCUMENT # _____

☒ **ISIS AGENCY:** I certify the availability of fiscal year 14-15 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.

<u>340</u>	<u>0030</u>	<u>2710</u>	<u>8000</u>
AGENCY	ORGANIZATION #	OBJECT	REPORTING CATEGORY

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

Billing Address for Agencies:

DHH-OCDD

Agency Name

P.O. Box 3117

Street Address or Post Office Box

Baton Rouge LA 70821

City State Zip Code



Signature of Agency Head or Designee - Phone #

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State of Louisiana

Department of Health and Hospitals
Office for Citizens with Developmental Disabilities

February 2, 2015

MEMORANDUM

TO: The Honorable Bobby Jindal, Governor, State of Louisiana
The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable James D. "Buddy" Caldwell, Attorney General, State of Louisiana
The Honorable David Heitmeier, Chairman, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chairman, House Committee on Health and Welfare
The Honorable Jack Donahue, Chairman, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FM: Kathy H. Kliebert 

RE: Notification of Proposed Re-Declared 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 February 20, 2015 issue of the *Louisiana Register*.

RE-DECLARED 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.

The above referenced Emergency Rule is the only item submitted by the Office for Citizens with Developmental Disabilities for publication in the February 20, 2015 issue of the *Louisiana Register*.

cc: Mark A. Thomas, Assistant Secretary, Office for Citizens with Developmental Disabilities
Rochelle Dunham, 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

Mental Disorders, Edition (DSM-5), published on May 18, 2013.

10. Those licensed marriage and family therapists who hold another license that requires continuing education hours may count the continuing education hours obtained for that license toward their LMFT CEU requirements. Of the 40 CEUs submitted, however, 20 hours must be in the area of marriage and family therapy with an emphasis upon systemic approaches or the theory, research, or practice of systemic psychotherapeutic work with couples or families including three hours of ethics specific to marriage and family therapy.

11. The approval of and requirements for continuing education are specified in Subsection C.

B. - C.3.g. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:160 (February 2003), repromulgated LR 29:581 (April 2003), amended LR 29:2789 (December 2003), LR 40:

Mary Alice Olsan
Executive Director

1411#017

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office for Citizens with Developmental Disabilities

Certification of Medication Attendants (LAC 48:IX.Chapter 9)

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 mentally retarded (ICFs/MR) and community homes for the mentally retarded 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

February 27, 2015.

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 ~~October 30, 2014~~. Provider agencies must determine CMA competency annually during the two-year period.

Also effective ~~October 30, 2014~~, 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 Disabilities Services

Chapter 9. Guidelines for Certification of Medication Attendants

§915. Certification Requirements and Process

A. ~~Effective upon rule promulgation, all existing active CMA certificates will expire on October 31, 2015.~~ 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 41:

§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 on 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 41:

§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), amended LR 41:

§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), amended LR 41:

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.

Kathy H. Kliebert
Secretary

1411#007

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of Public Health

Added Controlled Dangerous Substances (LAC 46:LIII.2704)

The Department of Health and Hospitals, Office of Public Health (DHH/OPH), pursuant to the rulemaking authority granted to the secretary of DHH by R.S. 40:962(C) and (H), hereby immediately adopts the following Emergency Rule for the protection of public health. This Rule, effective October 29, 2014, is being promulgated in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.).

Based on the criteria, factors, and guidance set forth in R.S. 40:962(C) and 40:963, the secretary, under this rulemaking, has determined that the below listed substances have a high potential for abuse and should be scheduled as controlled dangerous substances to avoid an imminent peril to the public health, safety, or welfare. In reaching the decision to designate the below listed substances as controlled dangerous substances under schedule I, the secretary has considered the criteria provided under R.S. 40:963 and the specific factors listed under R.S. 40:962(C). The secretary has determined that schedule I is the most appropriate due to her findings that the substances added herein have a high potential for abuse, the substances have no currently accepted medical use for treatment in the United States, and there is a lack of accepted safety for use of the substances under medical supervision. Unless rescinded or terminated earlier, this Emergency Rule shall remain in effect for the maximum period authorized under state law.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 27. Controlled Dangerous Substances Subchapter A. General Provisions

§2704. Added Controlled Dangerous Substances

A. The following drugs or substances are added to schedule I of the Louisiana Uniform Controlled Dangerous Substances Law, R.S. 40:961 et seq.:

1. methyl (1-(4-fluorobenzyl)-1 H-indazole-3-carbonyl)valinate; and

2. methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate;

3. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:962, R.S. 40:963, and R.S. 49:953(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 41:

Kathy H. Kliebert, Secretary
and
Jimmy Guidry, M.D., State Health Officer

1411#008

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 mentally retarded (ICFs/MR) and community homes for the mentally retarded 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.”

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Also effective February 27, 2015, 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.

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

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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:

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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

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Kathy H. Kliebert

Secretary