

**§5603. Definitions**

*Abuse*—the infliction of physical or mental injury or the causing of the deterioration of an individual by means including, but not limited to, sexual *abuse*, or exploitation of funds or other things of value to such an extent that his health or mental or emotional well-being is endangered. Injury may include, but is not limited to: physical injury, mental disorientation, or emotional harm, whether it is caused by physical action or verbal statement or any other act or omission classified as abuse by Louisiana law, including, but not limited to, the *Louisiana Children's Code*.

*Accredited*—the process of review and acceptance by an accreditation body.

*Active Client*—a client that is being treated for addictive disorders at least every 90 days or a client that is being treated for mental health disorders at least every 180 days.

*Addictionologist*—a licensed physician who is either of the following:

1. certified by the American Board of Psychiatry and Neurology with a subspecialty in addiction psychiatry; or
2. certified by the American Board of Addiction Medicine.

*Addiction Outpatient Treatment Program (ASAM Level I)*—an outpatient program that offers comprehensive, coordinated, professionally directed and defined addiction treatment services that may vary in level of intensity and may be delivered in a wide variety of settings. Services are

provided in regularly scheduled sessions of fewer than nine contact hours a week.

*Administrative Procedure Act (APA)*—R.S. 49:950 et seq.

*Admission*—the formal acceptance of an individual for assessment and/or therapeutic services provided by the BHS provider.

*Adolescent*—an individual 13 through 17 years of age.

*ADRA*—Addictive Disorder Regulatory Authority.

*Adult*—an individual 18 years of age or older.

*Advance Practice Registered Nurse (APRN)*—a licensed registered nurse who meets the criteria for an *advanced practice registered nurse* as established by the Louisiana State Board of Nursing and is licensed as an *APRN* and in good standing with the Louisiana State Board of Nursing.

*Ambulatory Detoxification with Extended on-site Monitoring (ASAM Level II-D)*—an organized outpatient addiction treatment service that may be delivered in an office setting or health care or behavioral health services provider by trained clinicians who provide medically supervised evaluation, detoxification and referral services. The services are designed to treat the client's level of clinical severity to achieve safe and comfortable withdrawal from mood-altering chemicals and to effectively facilitate the client's entry into ongoing treatment and recovery. The services are provided in conjunction with intensive outpatient treatment services (level II.1).

*ASAM*—American Society of Addiction Medicine.

*Authorized Licensed Prescriber*—a physician, physician assistant, nurse practitioner, or medical psychologist licensed in the state of Louisiana and with full prescriptive authority who is authorized by the BHS provider to prescribe treatment to clients of the specific BHS provider at which he/she practices.

*Behavioral Health Service (BHS) Provider or Provider*—a facility, agency, institution, person, society, corporation, partnership, unincorporated association, group, or other legal entity that provides behavioral health services, presents itself to the public as a *provider* of behavioral health services.

*Behavioral Health Services*—mental health services, substance abuse/addiction treatment services, or a combination of such services, for adults, adolescents and children. Such services may be provided in a residential setting, in a clinic setting on an outpatient basis, or in a home or community setting.

*Building and Construction Guidelines*—structural and design requirements applicable to the BHS provider which does not include occupancy requirements.

*Business Location*—the licensed location and office of the BHS provider that provides services only in the home and/or community.

*Case Management*—the coordination of services, agencies, resources, or people within a planned framework of action toward the achievement of goals established in the

treatment plan that may involve liaison activities and collateral contracts with other providers.

*Certified Addiction Counselor (CAC)*—pursuant to R.S. 37:3387.1, any person who, by means of his specific knowledge acquired through formal education and practical experience, is qualified to provide addictive disorder counseling services and is certified by the ADRA as a *CAC*. The *CAC* may not practice independently and may not render a diagnostic impression.

*Change of Ownership (CHOW)*—the sale or transfer whether by purchase, lease, gift or otherwise of a BHS provider by a person/corporation of controlling interest that results in a change of ownership or control of 30 percent or greater of either the voting rights or assets of a BHS provider or that results in the acquiring person/corporation holding a 50 percent or greater interest in the ownership or control of the BHS provider.

*Child*—an individual under the age of 13.

*Client*—any person who has been accepted for treatment or services, including rehabilitation services, furnished by a provider licensed pursuant to this Chapter.

*Client Education*—information that is provided to clients and groups concerning alcoholism and other drug abuse, positive lifestyle changes, mental health promotion, suicide prevention and intervention, safety, recovery, relapse prevention, self-care, parenting, and the available services and resources. Educational group size is not restricted and may be offered as an outreach program.

*Client Record*—a single complete record kept by the provider which documents all treatment provided to the client and actions taken by the provider on behalf of the client. The record may be electronic, paper, magnetic material, film or other media.

*Clinical Services*—treatment services that include screening, assessment, treatment planning, counseling, crisis mitigation and education.

*Clinically Managed High-Intensity Residential Treatment Program (ASAM Level III.5)*—a residential program that offers continuous observation, monitoring, and treatment by clinical staff designed to treat clients experiencing substance-related disorders who have clinically-relevant social and psychological problems, such as criminal activity, impaired functioning and disaffiliation from mainstream values, with the goal of promoting abstinence from substance use and antisocial behavior and affecting a global change in clients' lifestyles, attitudes and values.

*Clinically Managed Low Intensity Residential Treatment Program (ASAM Level III.1)*—a residential program that offers at least five hours a week of a combination of low-intensity clinical and recovery-focused services for substance-related disorders. Services may include individual, group and family therapy, medication management and medication education, and treatment is directed toward applying recovery skills, preventing relapse, improving emotional functioning, promoting personal responsibility

and reintegrating the client into the worlds of work, education and family life (e.g., halfway house).

*Clinically Managed Medium-Intensity Residential Treatment Program (ASAM Level III.3)*—a residential program that offers at least 20 hours per week of a combination of medium-intensity clinical and recovery-focused services in a structured recovery environment to support recovery from substance-related disorders; is frequently referred to as extended or long term care.

*Clinically Managed Residential Detoxification or Social Detoxification (ASAM LEVEL III.2D)*—an organized residential program utilizing 24 hour active programming and containment provided in a non-medical setting that provides relatively extended, sub-acute treatments, medication monitoring observation, and support in a supervised environment for a client experiencing non-life threatening withdrawal symptoms from the effects of alcohol/drugs and impaired functioning and who is able to participate in daily residential activities.

*Community Psychiatric Support and Treatment (CPST)*—goal-directed supports and solution-focused interventions intended to achieve identified goals or objectives as set forth in the client's individualized treatment plan. These supports and interventions are designed to improve behavioral health outcomes by utilizing evidence-based driven care.

*Compulsive Gambling*—persistent and recurrent maladaptive gambling behavior that disrupts personal, family, community, or vocational pursuits, and is so designated by a court, or diagnosed by a licensed physician or LMHP.

*Controlled Dangerous Substance*—any substance defined, enumerated, or included in federal or state statute or regulations or any substance which may hereafter be designated as a *controlled dangerous substance* by amendment or supplementation of such regulations or statute. The term shall not include distilled spirits, wine, malt beverages, or tobacco.

*Core Services*—the essential and necessary elements required of every BHS provider, when indicated, including assessment, orientation, client education, consultation with professionals, counseling services, referral, crisis mitigation, medication management, rehabilitation services, and treatment.

*Counselor in Training (CIT)*—a person currently registered with the Addictive Disorder Regulatory Authority (ADRA) and pursuing a course of training in substance abuse/addiction treatment counseling which includes educational hours, practicum hours, and direct, on-site supervision.

*Crime of Violence*—an offense listed as a *crime of violence* in R.S. 14:2.

*Crisis Intervention*—face to face intervention provided to a client who is experiencing a psychiatric crisis. The services are designed to interrupt and/or ameliorate a crisis experience, via a preliminary assessment, immediate crisis

resolution and de-escalation with referral and linkage to appropriate community services to avoid more restrictive levels of treatment.

*Crisis Mitigation Services*—a BHS provider's assistance to clients during a crisis that provides 24-hour on call telephone assistance to prevent relapse or harm to self or others, to provide referral to other services, and to provide support during related crises. Referral to 911 or a hospital's emergency department alone does not constitute crisis mitigation services.

*Deemed Status*—following the issuance of an initial license, the department's acceptance of the BHS provider's accreditation as compliance with this Chapter in lieu of on-site licensing surveys.

*Department*—the Louisiana Department of Health (LDH) or any office or agency thereof designated by the secretary to administer the provisions of this Chapter.

*Dependent Children*—any child/adolescent under the age of 18 that relies on the care of a parent or legal guardian.

*Diagnosis*—the act of identifying a disease or behavioral health disorder as defined by the current version of the Diagnostic and Statistical Manual (DSM). A *diagnosis* is determined by a qualified LMHP or physician based on comprehensive assessment of physical evidence (if related to diagnosis), signs and symptoms, clinical and psycho-social evidence, and individual/family history.

*Direct Care Staff*—any member of the staff, including an employee, contractor or volunteer, that provides the services delineated in the comprehensive treatment plan. Food services, maintenance, and clerical staff are not considered as *direct care staff*.

*Disaster or Emergency*—a local, community-wide, regional or statewide declared health crisis or event.

*Dispense or Dispensing*—the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient. *Dispense* necessarily includes a transfer of possession of a drug or device to the patient or the patient's agent.

*Dispensing Physician*—any physician in the state of Louisiana who is registered as a *dispensing physician* with the Louisiana State Board of Medical Examiners and who dispenses to his/her patients any drug, chemical, or medication, except a bona fide medication sample.

*Division of Administrative Law (DAL)*—the Louisiana Department of State Civil Service, Division of Administrative Law or its successor.

*Exploitation*—act or process to use (either directly or indirectly) the labor or resources of an individual or organization for monetary or personal benefit, profit, or gain.

*Facility Need Approval (FNA)*—the letter of approval from the Office of Behavioral Health which is required for

licensure applicants for opioid treatment programs prior to applying for a BHS provider license.

*FDA*—the United States Food and Drug Administration.

*Financial Viability*—the provider seeking licensure is able to provide verification and continuous maintenance of all of the following pursuant to R.S. 40:2153:

1. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000;
2. general and professional liability insurance of at least \$500,000; and
3. workers' compensation insurance.

*Grievance*—a formal or informal written or verbal complaint that is made to the provider by a client or the client's family or representative regarding the client's care, abuse or neglect when the complaint is not resolved by staff present at the time of the complaint.

*Health Standards Section (HSS)*—the licensing and certification section of the Department of Health.

*High Risk Behavior*—includes substance abuse, gambling, violence, academic failure, delinquency behavior, and mental health issues such as depression, anxiety, and suicidal ideations.

*Human Services District or Authority*—an existing or newly created local governmental entity with local accountability and management of behavioral health and developmental disabilities services as well as any public health or other services contracted to the district by the department.

*Human Services Field*—an academic program with a curriculum content in which at least 70 percent of the required courses are in the study of behavioral health or human behavior.

*Intensive Outpatient Treatment Program (ASAM Level II.1)*—professionally directed assessment, diagnosis, treatment and recovery services provided in an organized non-residential treatment setting, including individual, group, family counseling and psycho-education on recovery as well as monitoring of drug use, medication management, medical and psychiatric examinations, crisis mitigation coverage and orientation to community-based support groups. Services may be offered during the day, before or after work or school, in the evening or on a weekend, and the program shall provide nine or more hours of structured programming per week for adults and six or more hours of structured programming per week for children/adolescents.

*LDH Authorized Accreditation Organization*—any organization authorized by LDH to accredit behavioral health providers.

*Level of Care*—intensity of services provided by the provider.

*Licensed Addiction Counselor (LAC)*—any person who, by means of his specific knowledge, acquired through

formal education and practical experience, is qualified to provide addiction counseling services and is licensed by the ADRA as a licensed addiction counselor or pursuant to R.S. 37:3387.

*Licensed Clinical Social Worker (LCSW)*—a person duly licensed to independently practice clinical social work under R.S. 37:2702 et seq.

*Licensed Marriage and Family Therapist (LMFT)*—a person to whom a license has been issued and who is licensed to perform the professional application of psychotherapeutic and family systems theories and techniques in the assessment and treatment of individuals, couples and families. An LMFT is not permitted to diagnose a behavioral health disorder under his/her scope of practice under state law.

*Licensed Mental Health Professional (LMHP)*—an individual who is currently licensed and in good standing in the state of Louisiana to practice within the scope of all applicable state laws, practice acts and the individual's professional license, as one of the following:

1. medical psychologist;
2. licensed psychologist;
3. licensed clinical social worker (LCSW);
4. licensed professional counselor (LPC);
5. licensed marriage and family therapist (LMFT);
6. licensed addiction counselor (LAC);
7. advance practice registered nurse (APRN); or
8. licensed rehabilitation counselor (LRC).

*Licensed Professional Counselor*—any person who holds himself out to the public for a fee or other personal gain, by any title or description of services incorporating the words "licensed professional counselor" or any similar term, and who offers to render professional mental health counseling services denoting a client-counselor relationship in which the counselor assumes responsibility for knowledge, skill and ethical considerations needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to practice mental health counseling.

*Licensed Psychologist*—any person licensed as a psychologist pursuant to R.S. 37:2352.

*Licensed Rehabilitation Counselor (LRC)*—any person who holds himself out to the public, for a fee or other personal gain, by any title or description of services incorporating the words "licensed professional vocational rehabilitation counselor" or any similar terms, and who offers to render professional rehabilitation counseling services denoting a client-counselor relationship in which the counselor assumes responsibility for knowledge, skill, and ethical considerations needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to engage in the practice of rehabilitation counseling. An LRC is also known as a licensed professional vocational rehabilitation counselor. An LRC is not permitted

to provide assessment or treatment services for substance abuse/addiction, mental health or co-occurring disorders under his/her scope of practice under state law.

*Master's-Prepared*—an individual who has completed a master's degree in social work or counseling, but has not met the requirements for licensing by the appropriate state board.

*Medical Psychologist*—a licensed psychological practitioner who has undergone specialized training in clinical psychopharmacology and has passed a national proficiency examination in psychopharmacology approved by the Louisiana State Board of Medical Examiners.

*Medically Managed Residential Detoxification (Medically Supported Detoxification) (ASAM Level III.7D)*—a residential program that provides 24-hour observation, monitoring and treatment delivered by medical and nursing professionals to clients whose withdrawal signs and symptoms are moderate to severe and thus require residential care, but do not need the full resources of an acute care hospital.

*Medically Monitored Intensive Residential Treatment Program (ASAM Level III.7)*—a residential program that provides a planned regimen of 24-hour professionally directed evaluation, observation, medical monitoring and addiction treatment to clients with co-occurring psychiatric and substance disorders whose disorders are so severe that they require a residential level of care but do not need the full resources of an acute care hospital. The program provides 24 hours of structured treatment activities per week, including, but not limited to, psychiatric and substance use assessments, diagnosis treatment, and habilitative and rehabilitation services.

*Medication Administration*—preparation and/or giving of a legally prescribed individual dose of medication to a client by qualified staff including observation and monitoring of a client's response to medication.

*Mental Health Clinic*—an entity through which outpatient behavioral health services are provided, including screening, diagnosis, management or treatment of a mental disorder, mental illness, or other psychological or psychiatric condition or problem and 24-hour emergency services that are provided either directly or through formal affiliation with other agencies by an interdisciplinary team of mental health professionals and subordinates in accordance with a plan of treatment or under the direction of a psychiatrist or another qualified physician with psychiatric consultation.

*Mental Health Rehabilitation (MHR)*—an outpatient healthcare program provider of any psychosocial rehabilitation (PSR), crisis intervention (CI) and/or community psychiatric support and treatment (CPST) services that promotes the restoration of community functioning and well-being of an individual diagnosed with a mental health or mental or emotional disorder. The MHR provider utilizes evidence based supports and interventions designed to improve individual and community outcomes.

*Mental Health Rehabilitation Services (MHRS)*—outpatient services for adults with serious mental illness and children with emotional/behavioral disorders which are medically necessary to reduce the disability resulting from mental illness and assist in the recovery and resiliency of the recipient. These services are home and community-based and are provided on an as needed basis to assist recipients in coping with the symptoms of their illness. The intent of MHRS is to minimize the disabling effects on the individual's capacity for independent living and to prevent or limit the periods of inpatient treatment.

*Mental Health Service*—a service related to the screening, diagnosis, management, or treatment of a mental disorder, mental illness, or other psychological or psychiatric condition or problem.

*Minor*—any person under the age of 18.

*Mothers with Dependent Children Program or Dependent Care Program*—a program that is designed to provide substance abuse/addiction treatment to mothers with dependent children who remain with the parent while the parent is in treatment.

*Neglect*—the failure to provide the proper or necessary medical care, nutrition or other care necessary for a client's well-being or any other act or omission classified as *neglect* by Louisiana law.

*Non-Ambulatory*—unable to walk or accomplish mobility without assistance.

*Non-Prescription Medication*—medication that can be purchased over-the-counter without an order from a licensed practitioner.

*Nurse*—any registered *nurse* licensed and in good standing with the Louisiana State Board of Nursing or any practical *nurse* licensed and in good standing with the Louisiana State Board of Practical Nurse Examiners.

*OBH*—the LDH Office of Behavioral Health.

*Off-Site*—a parent facility's alternate program that provides behavioral health services on a routine basis in a geographic location that:

1. is detached from the parent provider;
2. is owned by, leased by or donated or loaned to the parent provider for the purpose of providing behavioral health services; and
3. has a sub-license issued under the parent facility's license.

*OHSEP*—Office of Homeland Security and Emergency Preparedness.

*On Call*—immediately available for telephone consultation and less than one hour from ability to be on duty.

*On Duty*—scheduled, present and awake at the site to perform job duties.

*OPH*—the LDH Office of Public Health.

*Opioid Treatment Program*—a program that engages in medication-assisted opioid treatment of clients with an opioid agonist treatment medication.

*OSFM*—the Louisiana Department of Public Safety and Corrections, Office of State Fire Marshal.

*Outpatient Clinic*—a BHS provider that provides behavioral health services on-site at the provider's geographic location but is not a residential provider.

*Outpatient Services*—behavioral health services offered in an accessible non-residential setting to clients whose physical and emotional status allows them to function in their usual environment.

*Parent Facility*—the main building or premises of a behavioral health service provider where services are provided on-site and administrative records are maintained.

*Partial Hospital Program (PHP-ASAM Level II.5)*—an organized outpatient service that delivers treatment to adolescents and adults. This level encompasses services that meet the multidimensional instability and complex needs of people with addiction and co-occurring conditions which do not require 24-hour care.

*Physical Environment*—the BHS provider's licensed exterior and interior space where BH services are rendered.

*Physician*—an individual who is currently licensed and in good standing in the state of Louisiana to practice medicine in Louisiana and who is acting within the scope of all applicable state laws and the individual's professional license.

*Physician Assistant*—an individual who is currently approved and licensed by and in good standing with the Louisiana State Board of Medical Examiners to perform medical services under the supervision of a physician or group of physicians who are licensed by and registered with the Louisiana State Board of Medical Examiners to supervise a *physician assistant*, and who is acting within the scope of all applicable state laws and the individual's professional license.

*Plan Review*—the process of obtaining approval for construction plans and specifications for the BHS provider.

*Prescription Medication*—medication that requires an order from a licensed practitioner and that can only be dispensed by a pharmacist on the order of a licensed practitioner or a dispensing physician and requires labeling in accordance with R.S. 37:1161 et seq.

*Professional Board(s)*—the entity responsible for licensure or certification for specific professions (e.g., nursing, counselors, social workers, physicians, etc.).

*Psychosocial Rehabilitation (PSR)*—face to face intervention with the client designed to assist with compensating for or eliminating functional deficits and interpersonal and/or environmental barriers associated with his/her mental illness.

*Qualifying Experience*—experience used to qualify for any position that is counted by using 1 year equals 12 months of full-time work.

*Recovery Focused Services*—services such as life skills training, job readiness, self-help meetings, parenting skills, training and recreation activities that should be coordinated with clinical services.

*Referral*—the BHS provider identifies needed services not provided by the provider and assists the client/family to optimally utilize the available support systems and community resources to meet the client's needs.

*Registered Addiction Counselor (RAC)*—pursuant to R.S. 37:3387.2, any person who, by means of his/her specific knowledge acquired through formal education and practical experience, is qualified to provide addictive disorder counseling services and is registered by the ADRA as a RAC. The RAC may not practice independently and may not render a diagnostic impression.

*Rehabilitative Services*—services intended to promote the maximum reduction of symptoms and/or restoration of the client to his/her best age-appropriate functional level according to an individualized treatment plan.

*Residential Treatment Program*—a planned regimen of 24-hour professionally-directed evaluation, observation, monitoring and treatment of behavioral health conditions according to a treatment plan.

*Secretary*—the secretary of the Department of Health or his/her designee.

*Self-Administration*—the client's preparation and direct application of a medication to his/her own body by injection, inhalation, ingestion or any other means.

*Shelter in Place*—a provider's decision to stay on-site rather than evacuate during a disaster or emergency.

*Site/Premises*—a single identifiable geographical location owned, leased, or controlled by a provider where any element of treatment is offered or provided. Multiple buildings may be contained in the license only if they are connected by walk-ways and not separated by public streets, or have different geographical addresses.

*Staff*—individuals who provide services for the provider including employees, contractors, consultants and volunteers.

*State Opioid Authority (SOA)*—the agency or other appropriate officials designated by the governor or his/her designee, to exercise the responsibility and authority within the state for governing the treatment of opiate addiction with an opioid drug. The *state opioid authority* for the state of Louisiana is the Office of Behavioral Health.

*Stock Medication*—any medication obtained through a pharmacy or pharmacy contract that is not designated for a specific client.

*Substance Abuse/Addiction Treatment Service*—a service related to the screening, diagnosis, management, or

treatment for the abuse of or addiction to controlled dangerous substances, drugs or inhalants, alcohol, problem gambling or a combination thereof; may also be referred to as *substance use disorder service*.

*Take-Home Dose(s)*—a dose of opioid agonist treatment medication dispensed by a dispensing physician or pharmacist to a client for unsupervised use, including for use on Sundays, state and federal holidays, and emergency closures per LDH directive.

*Therapeutic Counseling Services or Sessions*—individual or group therapeutic treatment that teaches skills to assist clients, families, or groups in achieving objectives through exploration of a problem and its ramifications, examination of attitudes and feelings, consideration of alternative solutions and decision making and problem solving. *Therapeutic counseling sessions* consist of no more than 15 clients and last at least 15 minutes.

*Treatment*—the application of planned procedures to identify and change patterns of behaviors that are maladaptive, destructive and/or injurious to health; or to restore appropriate levels of physical, psychological and/or social functioning.

*Treatment Plan*—the provider's documentation of the client's issues, needs, ongoing goals and objectives of care based on admission information and updated based on the client's response to treatment.

*Unlicensed Professional (UP)*—for purposes of this Rule, any unlicensed behavioral health professional who cannot practice independently or without supervision by a LHMP. This includes but is not limited to CACs, RACs and unlicensed addiction counselors, social workers or psychologists.

*Volunteer*—an individual who offers services on behalf of the provider for the benefit of the provider willingly and without pay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1682 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1380 (July 2017).

## Subchapter B. Licensing

### §5605. General Provisions

A. All BHS providers shall be licensed by the LDH. It shall be unlawful to operate as a BHS provider without a license issued by the department.

B. A BHS provider license authorizes the provider to provide behavioral health services.

C. A BHS provider license shall:

1. be issued only for the person/entity and premises named in the license application;

2. be valid only for the BHS provider to which it is issued and only for one geographic address of that provider approved by LDH;

3. be valid for up to one year from the date of issuance, unless revoked, suspended, or modified prior to that date, or unless a provisional license is issued;

4. expire on the expiration date listed on the license, unless timely renewed by the BHS provider;

5. be invalid if sold, assigned, donated or transferred, whether voluntary or involuntary; and

6. be posted in a conspicuous place on the licensed premises at all times.

D. To be considered operational and retain licensed status, the BHS provider shall meet the following applicable operational requirements.

1. A BHS provider providing on-site services shall:

a. have established operational hours for a minimum of 20 hours per week, as indicated on the license application or change notification approved by LDH;

b. have services available and the required direct care staff on duty at all times during operational hours to meet the needs of the clients;

c. be able to accept referrals during operational hours; and

d. at any time that the BHS provider has an interruption in services or a change in the licensed location due to an emergency situation, the provider shall notify the HSS no later than the next business day.

2. A BHS provider providing services only in the home and community shall:

a. have a business location which conforms to the provisions of §5691.B of this Chapter;

b. have at least one employee on duty at the business location during stated hours of operation; and

c. have direct care staff and professional services staff employed and available to be assigned to provide services to persons in their homes or in the community upon referral for services.

E. The licensed BHS provider shall abide by any state and/or federal law, rule, policy, procedure, manual or memorandum pertaining to BHS providers.

F. Provider Names. A BHS provider is prohibited from using:

1. the same name as another provider;

2. a name that resembles the name of another provider;

3. a name that may mislead the client or public into believing it is owned, endorsed or operated by the state of Louisiana when it is not.

G. Off-Sites. A licensed BHS provider may have an off-site location with the approval of HSS that meets the following requirements.

1. The off-site may share a name with the parent facility if a geographic indicator (e.g. street, city or parish) is added to the end of the off-site name.

2. Each off-site shall be licensed as an off-site under the parent facility's license.

3. The off-site shall have written established operating hours.

4. The off-site shall operate either:

a. in the same or adjacent parish as the parent facility; or

b. for providers operated by a human service district or authority, within the jurisdiction of the district or authority.

5. A residential off-site shall be reviewed under the plan review process.

6. An initial survey may be required prior to opening a residential off-site.

7. An off-site shall have staff to comply with all requirements in this Chapter and who are present during established operating hours to meet the needs of the clients.

8. Personnel records and client records may be housed at the parent facility.

9. Clients who do not receive all treatment services at an off-site may receive the services at the parent facility or be referred to another licensed provider that provides those services.

10. The off-site may offer fewer services than the parent facility and/or may have less staff than the parent facility.

11. The off-site together with the parent facility provides all core functions of a BHS provider and meets all licensing requirements of a BHS provider.

#### H. Plan Review

1. Plan review is required for outpatient clinics and residential BHS provider locations where direct care services or treatment will be provided, except for the physical environment of a substance abuse/addiction treatment facility or licensed mental health clinic at the time of this Chapter's promulgation.

2. Notwithstanding the provisions in this Section, any entity that will operate as a BHS provider and is required to go through plan review shall complete the plan review process and obtain approval for its construction documents in accordance with:

a. R.S. 40:1574;

b. the current *Louisiana Administrative Code* (LAC) provisions;

c. OSFM requirements; and

d. the requirements for the provider's physical environment in Subchapter H of this Chapter.

3. Any change in the type of the license shall require review for requirements applicable at the time of licensing change.

4. Upon plan review approval, the provider shall submit the following to the department:

a. a copy of the final construction documents approved by OSFM; and

b. OSFM's approval letter.

#### I. Waivers

1. The secretary of the LDH may, within his/her sole discretion, grant waivers to building and construction guidelines which are not part of or otherwise required under the provisions of the *LAC Title 51, Public Health Sanitary Code* or the OSFM.

2. In order to request a waiver, the provider shall submit a written request to HSS that demonstrates:

a. how client safety and quality of care are not compromised by the waiver;

b. the undue hardship imposed on the provider if the waiver is not granted; and

c. the provider's ability to completely fulfill all other requirements of service.

3. The department will make a written determination of each waiver request.

4. Waivers are not transferable in a change of ownership or geographic change of location, and are subject to review or revocation upon any change in circumstances related to the waiver.

J. The BHS provider shall maintain and make available to the department any information or records related to compliance with this Chapter.

K. The BHS provider shall permit designated representatives of the department, in performance of their duties, to:

1. inspect all areas of the BHS provider's operations; and

2. conduct interviews with any provider staff member, client or other person as necessary.

L. An owner, officer, member, manager, administrator, clinical director, medical director, managing employee or clinical supervisor is prohibited from being a BHS provider, who has been convicted of or entered a guilty or nolo contendere plea to a felony related to:

1. violence, abuse or neglect against a person;

2. sexual misconduct and/or any crimes that requires the person to register pursuant to the Sex Offenders Registration Act;



3. cruelty, exploitation or the sexual battery of a juvenile or the infirmed;
4. the misappropriation of property belonging to another person;
5. a crime of violence;
6. an alcohol or drug offense, unless the offender has:
  - a. completed his/her sentence, including the terms of probation or parole, at least five years prior to the ownership of or working relationship with the provider; and
  - b. been sober per personal attestation for the last two years;
7. possession or use of a firearm or deadly weapon;
8. Medicare or Medicaid fraud; or
9. fraud or misappropriation of federal or state funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1687 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1380 (July 2017).