

## **Chapter 68. Adult Residential Care Providers**

### **Subchapter A. General Provisions**

#### **§6801. Introduction**

A. These rules and regulations contain the minimum licensure standards for adult residential care providers (ARCPs), pursuant to R.S. 40:2166.1-2166.8, and shall become effective on August 15, 2015.

B. An adult residential care provider (ARCP) serves individuals in a congregate setting and is operational 24 hours per day, seven days per week, with a coordinated array of supportive personal services, 24-hour supervision and assistance (scheduled and unscheduled), activities and health-related services that are designed to:

1. allow the individual to reside in the least restrictive setting of his/her choice;
2. accommodate the individual resident's changing needs and preferences;
3. maximize the resident's dignity, autonomy, privacy and independence; and
4. encourage family and community involvement.

C. An ARCP shall have at least one published business telephone number.

D. Adult residential care services include, at a minimum, assistance with activities of daily living, assistance with instrumental activities of daily living, lodging, and meals.

E. The Department of Health and Hospitals (DHH) does not require, and will not issue ARCP licenses for the provision of lodging and meals only or homeless shelters.

1. For the purposes of this Rule, *homeless shelters* shall be defined as entities that provide only temporary or emergency shelter to individuals who would otherwise be homeless and may provide services to alleviate homelessness.

F. There are four levels of adult residential care. The levels differ in the services they are licensed to offer and the physical environment requirements.

G. All levels of ARCPs shall comply with all regulations in this Chapter unless the language of the regulations pertains to a specific level.

H. All currently licensed adult residential care facilities shall be required to apply for an ARCP license at the time of renewal of their current license.

1. Upon approval of the application for renewal of licensure, an existing adult residential care (ARC) provider shall receive a new ARCP license with its level of service, pursuant to R.S. 40:2166.5 (Example: ARCP level 1-personal care homes; ARCP level 2-shelter care homes; ARCP level 3-assisted living facilities; ARCP level 4-adult residential care provider.)

2. An existing ARC provider shall be required to submit to the department a written attestation which certifies that the ARC provider is, and/or shall be in compliance with these provisions by August 15, 2015.

3. If an existing ARC provider is electing to begin providing medication administration after August 15, 2015, the ARC provider shall be required to submit to the department a written attestation which certifies that the licensing requirements to provide such services have been met.

4. Failure of an existing ARC provider to submit the required attestation(s) shall be grounds for either denial of license or revocation of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1086 (June 2015).

### §6803. Definitions and Abbreviations

*Abuse*—the infliction of physical or mental injury or the causing of the deterioration of a resident by means including, but not limited to:

1. sexual abuse;
2. exploitation; or
3. extortion of funds or other things of value.

*Activities of Daily Living*—ambulating, transferring, grooming, bathing, dressing, eating, toileting, and for the purposes of this Rule, taking medication.

*Adult*—a person who has attained 18 years of age.

*Adult Residential Care Provider*—a facility, agency, institution, society, corporation, partnership, company, entity, residence, person or persons, or any other group which provides adult residential care for compensation to two or more adults who are unrelated to the licensee or operator.

*Alterations, Additions, or Substantial Rehabilitation*—rehabilitation that involves structural changes in which hard costs are equal to or exceed the per unit cost for substantial rehabilitation as defined by the Louisiana Housing Finance Authority.

*Change of Ownership (CHOW)*—the sale or transfer of all or a portion of the assets or other equity interest in an ARCP. Examples of actions that constitute a change of ownership include:

1. unincorporated sole proprietorship. Transfer of title and property of another party constitutes change of ownership;
2. corporation. The merger of the provider corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation constitutes change of ownership. Transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute a change of ownership. Admission of a new member to a nonprofit corporation is not a change of ownership;
3. limited liability company. The removal, addition or substitution of a member in a limited liability company does not constitute a change of ownership;
4. partnership. In the case of a partnership, the removal, addition, or substitution of a partner, unless the partners expressly agree otherwise as permitted by applicable state law, constitutes a change of ownership.

*Chemical Restraint*—a psychopharmacologic drug that is used for discipline or convenience and not required to directly treat medical symptoms or medical diagnoses. The use of chemical restraints is prohibited in ARCPs.

*Common Area (Space)*—the interior space(s) made available for the free and informal use by all residents or the guests of the ARCP. Common areas may include activity rooms, libraries, and other areas exclusive of resident's rooms and bathrooms. Corridors, passageways, kitchens and laundry areas are not included as common areas.

*Controlled Dangerous Substance (CDS)*—a drug, substance, or immediate precursor in schedule I through V of R.S. 40:964.

*DAL*—Division of Administrative Law or its successor.

*Department*—the Louisiana Department of Health and Hospitals (DHH).

*Direct Care Staff*—unlicensed staff who provide personal care or other services and support to persons with disabilities, or to the elderly to enhance their well-being, and who are involved in face-to-face direct contact with the participant.

*Director*—the person who is in charge of the daily operation of the ARCP.

*Facility Need Review (FNR)*—a review conducted for level 4 ARCPs to determine whether there is a need for additional ARCP residential living units to be licensed.

*Health Care Services*—any service provided to a resident by an ARCP or third-party provider that is required to be provided or delegated by a licensed, registered or certified health care professional. Any other service, whether or not ordered by a physician, that is not required to be provided by a licensed, registered or certified health care professional shall not be considered a health care service.

*HSS*—the Department of Health and Hospitals, Office of the Secretary, Office of Management and Finance, Health Standards Section.

*Incident*—any occurrence, situation or circumstance affecting the health, safety or well-being of a resident or residents.

*Intermittent Nursing Services*—services that are provided episodically or for a limited period of time by licensed nursing staff. Intermittent nursing services may be provided by level 4 ARCPs only.

*Instrumental Activities of Daily Living*—the functions or tasks that are not necessary for fundamental functioning but assist an individual to be able to live in a community setting. These include activities such as:

1. light house-keeping;
2. food preparation and storage;
3. grocery shopping;
4. laundry;

5. scheduling medical appointments;
  6. financial management;
  7. arranging transportation to medical appointments;
- and
8. accompanying the client to medical appointments.

*Level 1 ARCP*—an ARCP that provides adult residential care for compensation to two or more residents but no more than eight who are unrelated to the licensee or operator in a setting that is designed similarly to a single-family dwelling.

*Level 2 ARCP*—an ARCP that provides adult residential care for compensation to nine or more residents but no more than 16 who are unrelated to the licensee or operator in a congregate setting that does not provide independent apartments equipped with kitchenettes, whether functional or rendered nonfunctional for reasons of safety.

*Level 3 ARCP*—an ARCP that provides adult residential care for compensation to 17 or more residents who are unrelated to the licensee or operator in independent apartments equipped with kitchenettes, whether functional or rendered nonfunctional for reasons of safety.

*Level 4 ARCP*—an ARCP that provides adult residential care including intermittent nursing services for compensation to 17 or more residents who are unrelated to the licensee or operator in independent apartments equipped with kitchenettes, whether functional or rendered nonfunctional for reasons of safety.

*Licensed Practical Nurse (LPN)*—an individual currently licensed by the Louisiana State Board of Practical Nurse Examiners to practice practical nursing in Louisiana.

*May*—indicates permissible practices or services.

*Neglect*—the failure to provide the proper or necessary medical care, nutrition, or other care necessary for a resident's well-being.

*NFPA*—National Fire Protection Association.

*Nursing Director*—a registered nurse licensed by the state of Louisiana who directs or coordinates nursing services in the ARCP.

*OPH*—Office of Public Health.

*OSFM*—Office of the State Fire Marshal.

*Person-Centered Service Plan (PCSP)*—a written description of the functional capabilities of a resident, the resident's need for personal assistance and the services to be provided to meet the resident's needs.

*Personal Assistance*—services that directly assist a resident with certain activities of daily living and instrumental activities of daily living.

*Physical Restraint*—any manual method, physical or mechanical device, material, or equipment attached to or adjacent to a resident's body that the individual cannot easily remove which restricts freedom of movement or normal

access to the body and is not used as an assistive device. The use of physical restraints is prohibited in ARCPs.

*PRN*—commonly used in medicine to mean as needed or as the situation arises.

*Registered Nurse (RN)*—an individual currently licensed by the Louisiana State Board of Nursing to practice professional nursing in Louisiana.

*Resident Apartment*—a separate unit configured to permit residents to carry out, with or without assistance, all the functions necessary for independent living, including:

1. sleeping;
  2. sitting;
  3. dressing;
  4. personal hygiene;
  5. storing, preparing, serving and eating food;
  6. storing clothing and other personal possessions;
  7. handling personal correspondence and paperwork;
- and
8. entertaining visitors.

*Resident's Representative*—a person who has been authorized by the resident in writing to act upon the resident's direction regarding matters concerning the resident's health or welfare, including having access to personal records contained in the resident's file and receiving information and notices about the overall care, condition and services for the resident. No member of the governing body, administration or staff or an ARCP or any member of their family shall serve as the resident's representative unless they are related to the resident by blood or marriage.

*Shall*—indicates mandatory requirements.

*Specialized Dementia Care Program*—as defined in R.S. 40:1101.2, a special program or unit that segregates residents with a diagnosis of probable Alzheimer's disease or a related disorder so as to prevent or limit access by a resident to areas outside the designated or separated area; and that advertises, markets, or otherwise promotes the ARCP as providing specialized Alzheimer's/dementia care services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 40:2166.1-2166.8 and R.S. 40:1101.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1086 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1976 (October 2017).

### **§6805. Licensure Requirements**

A. All ARCPs shall be licensed by the Department of Health and Hospitals. The department is the only licensing authority for ARCPs in the state of Louisiana. It shall be unlawful to operate an ARCP without possessing a current, valid license issued by the department. The license shall:

1. be issued only to the person or entity named in the license application;
2. be valid only for the ARCP to which it is issued and only for the specific geographic address of that ARCP;
3. be valid for one year from the date of issuance, unless revoked, suspended, modified, or terminated prior to that date, or unless a provisional license is issued;
4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the ARCP;
5. not be subject to sale, assignment, donation, or other transfer, whether voluntary or involuntary; and
6. be posted in a conspicuous place on the licensed premises at all times.

B. In order for the ARCP to be considered operational and retain licensed status, the ARCP shall meet the following conditions.

1. The ARCP shall always have at least one employee awake and on duty at the business location 24 hours per day, seven days per week.

2. There shall be staff employed, sufficient in number with appropriate training, available to be assigned to provide care and services according to each resident's PCSP.

3. The ARCP shall have provided services that included lodging, meals and activities of daily living to at least two residents unrelated to the licensee or operator within the preceding 12 months prior to their licensure renewal date.

C. The ARCP shall abide by and adhere to any state laws, rules, policies, procedures, manuals, or memorandums issued by the department pertaining to ARCPs.

D. A separately licensed ARCP shall not use a name which is substantially the same as the name of another ARCP licensed by the department.

E. The ARCP shall maintain insurance policies in force at all times with at least the minimum required coverage for general and professional liability and worker's compensation insurance at the levels specified in §6807. Failure to maintain compliance may constitute the basis for license revocation and/or sanction.

F. The ARCP shall market itself only as the level licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1088 (June 2015).

### **§6807. Initial Licensure Application Process**

A. An initial application for licensing as an ARCP shall be obtained from the department. A completed initial license application packet for an ARCP shall be submitted to and approved by the department prior to an applicant providing

ARCP services. An applicant shall submit a completed initial licensing packet to the department, which shall include:

1. a completed ARCP license application and the appropriate non-refundable licensing fee as established by statute;
2. a copy of the on-site inspection report with approval for occupancy by the OSFM;
3. a copy of the health inspection report from the OPH;
4. a copy of criminal background checks on all owners;
5. proof of financial viability which entails:
  - a. verification of sufficient assets equal to \$100,000 or the cost of three months of operation, whichever is less; or
  - b. a letter of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000 or the cost of three months of operation, whichever is less;
6. proof of general and professional liability insurance of at least \$300,000;
7. proof of worker's compensation insurance;
8. if applicable, a clinical laboratory improvement amendments (CLIA) certificate or a CLIA certificate of waiver;
9. a completed disclosure of ownership and control information form;
10. a floor sketch or drawing of the premises to be licensed;
11. the days and hours of operation;
12. a facility need review approval for a level 4 ARCP;
13. a copy of the letter approving architectural plans from the OSFM;
14. the organizational chart of the ARCP; and
15. any documentation or information required by the department for licensure.

B. If the initial licensing packet is incomplete, the applicant will be notified of the missing information and shall have 90 days to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an ARCP must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

C. Once the initial licensing application packet has been approved by the department, the ARCP applicant shall notify the department of readiness for an initial licensing survey within 90 days. If an applicant fails to notify the department of readiness for an initial licensing survey within 90 days of

approval, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an ARCP must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process subject to any facility need review requirements.

D. Applicants must be in compliance with all appropriate federal, state, departmental, or local statutes, laws, ordinances, rules, regulations and fees before the department will issue the ARCP an initial license to operate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1088 (June 2015).

### **§6809. Initial Licensing Surveys**

A. Prior to the initial license being issued to the ARCP, an initial licensing survey shall be conducted on-site at the ARCP to assure compliance with ARCP licensing standards. No resident shall be provided services by the ARCP until the initial licensing survey has been performed, the ARCP has been found in compliance and the initial license has been issued to the ARCP by the department.

B. In the event that the initial licensing survey finds that the ARCP is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

C. In the event that the initial licensing survey finds that the ARCP is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety, or welfare of the residents, the department shall deny the initial license.

D. In the event that the initial licensing survey finds that the ARCP is noncompliant with any licensing laws or regulations, any required statutes, laws, ordinances, rules or regulations, but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the residents, the department may issue a provisional initial license for a period not to exceed six months.

1. The provider shall submit an acceptable plan of correction to DHH for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license.

2. If all such noncompliance or deficiencies are determined by the department to be corrected on a follow-up survey, then a full license may be issued.

3. If all such noncompliance or deficiencies are not corrected on the follow-up survey, or if new deficiencies are cited on the follow-up survey, the provisional license shall expire and the provider shall be required to begin the initial

licensing process again by submitting a new initial license application packet, fee and any required facility need review approval.

E. When issued, the initial ARCP license shall specify the maximum number of apartments and/or resident capacity for which the ARCP is licensed.

F. The initial licensing survey of an ARCP shall be an announced survey. Follow-up surveys to the initial licensing surveys are unannounced.

G. Once an ARCP has been issued an initial license, the department shall conduct licensing and other surveys at intervals deemed necessary by the department to determine compliance with licensing standards and regulations, as well as other required statutes, laws, ordinances, rules, regulations, and fees. These surveys shall be unannounced.

1. A plan of correction may be required from an ARCP for any survey where deficiencies have been cited. Such plan of correction shall be approved by the department.

2. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

H. The department may issue appropriate sanctions, including, but not limited to:

1. civil fine;
2. directed plans of correction;
3. denial of license renewal;
4. provisional licensure;
5. license revocation; and/or
6. any sanctions allowed under state law or regulation.

I. The department's surveyors and staff shall be given access to all areas of the ARCP and all relevant files during any licensing or other survey or investigation, and shall be allowed to interview any provider staff or residents as necessary to conduct the on-site investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1089 (June 2015).

### **§6811. Types of Licenses and Expiration Dates**

A. The department shall have the authority to issue the following types of licenses.

1. Full License. In the event that the initial licensing survey finds that the ARCP is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

2. Provisional Initial License. In the event that the initial licensing survey finds that the ARCP is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, the department is authorized to issue a provisional initial license pursuant to the requirements and provisions of these regulations.

3. Full Renewal License. The department may issue a full renewal license to an existing licensed ARCP who is in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

#### 4. Provisional License

a. The department, in its sole discretion, may issue a provisional license to an existing licensed ARCP for a period not to exceed six months, for any of the following reasons, including but not limited to:

- i. the existing ARCP has more than five deficient practices or deficiencies cited during any one survey;
- ii. the existing ARCP has more than three validated complaints in one licensed year period;
- iii. the existing ARCP has been issued a deficiency that involved placing a participant at risk for serious harm or death;
- iv. the existing ARCP has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey; or
- v. the existing ARCP is not in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules regulations and fees at the time of renewal of the license.

b. When the department issues a provisional license to an existing licensed ARCP, the department shall conduct a follow-up survey of the ARCP prior to the expiration of the provisional license.

i. If that follow-up survey determines that the ARCP has corrected the deficient practices and has maintained compliance during the period of the provisional license, then the department may issue a full license for the remainder of the year until the anniversary date of the ARCP license.

ii. If that follow-up survey determines that the ARCP has not corrected the deficient practices or has not maintained compliance during the period of the provisional license, the provisional license shall expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet, fee and any required facility need approval.

B. If an existing licensed ARCP has been issued a notice of license revocation, suspension, or termination, and the provider's license is due for annual renewal, the department shall deny the license renewal application.

1. If a timely administrative appeal has been filed by the provider regarding the license revocation, suspension, or termination, the administrative appeal shall be suspensive, and the provider shall be allowed to continue to operate and provide services until such time as the Division of Administrative Law (DAL) or department issues a decision on the license revocation, suspension, or termination.

2. If the secretary of the department determines that the violations of the ARCP pose an imminent or immediate threat to the health, welfare, or safety of a participant, the imposition of such action may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the ARCP will be notified in writing.

3. The denial of the license renewal application does not affect in any manner the license revocation, suspension, or termination.

C. The renewal of a license does not in any manner affect any sanction, civil monetary penalty, or other action imposed by the department against the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1089 (June 2015).

### **§6813. Changes in Licensee Information or Personnel**

A. Any change regarding the ARCP's entity name, doing business as name, geographical address, mailing address, telephone number, or any combination thereof, shall be reported in writing to the department five business days prior to the change.

B. Any change regarding the ARCP's key administrative personnel shall be reported in writing to the department within 10 business days of the change.

1. Key administrative personnel include the:

- a. director;
- b. assistant director; and
- c. nursing director.

2. The ARCP's notice to the department shall include the individual's:

- a. name;
- b. address;
- c. telephone;
- d. facsimile (fax) number;
- e. e-mail address;
- f. hire date; and
- g. qualifications.

C. A change of ownership (CHOW) of the ARCP shall be reported in writing to the department within five business days of the CHOW. The license of an ARCP is not

transferable or assignable; the license of an ARCP cannot be sold. The new owner shall submit the legal CHOW document, all documents required for a new license, and the applicable licensing fee. Level 4 ARCPs shall also submit a facility need review application for approval. Once all application requirements have been completed and approved by the department, a new license shall be issued to the new owner.

D. If the ARCP changes its name without a CHOW, the ARCP shall report such change to the department in writing within five business days prior to the change. The notification of the name change shall include an updated license application and the required fee for such change.

E. Any request for a duplicate license shall be accompanied by the appropriate designated fee.

F. An ARCP that is under provisional licensure, license revocation, or denial of license renewal may not undergo a CHOW.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1090 (June 2015).

### **§6815. Renewal of License**

A. License Renewal Application. The ARCP shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license. The license renewal application packet shall include:

1. the license renewal application;
2. the days and hours of operation;
3. a current fire marshal inspection report;
4. a current OPH inspection report;
5. the non-refundable license renewal fee;
6. proof of financial viability to include:

a. verification and maintenance of a letter of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000 or the cost of three months of operation, whichever is less; or

b. affidavit of verification of sufficient assets equal to \$100,000 or the cost of three months of operation, whichever is less;

7. general and professional liability insurance of at least \$300,000;

8. proof of worker's compensation insurance; and

9. any other documentation required by the department.

B. The department may perform an on-site survey and inspection upon annual renewal of a license.

C. Failure to submit to the department a completed license renewal application packet prior to the expiration of

the current license will be considered a voluntary non-renewal of the license and the license shall expire on its face.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1091 (June 2015).

**§6817. Denial of License, Revocation of License, Denial of License Renewal, Operation without License, Penalty**

A. The department may deny an application for a license, deny a license renewal or revoke a license in accordance with the provisions of the Administrative Procedure Act.

B. Denial of an Initial License

1. The department shall deny an initial license in the event that the initial licensing survey finds that the ARCP is noncompliant with any licensing laws or regulations that present a potential threat to the health, safety, or welfare of the residents.

2. The department shall deny an initial license in the event that the initial licensing survey finds that the ARCP is noncompliant with any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety, or welfare of the residents.

3. The department shall deny an initial license for any of the reasons stated in §6817.D for which a license may be revoked or a license renewal may be denied.

C. Voluntary Non-Renewal of a License. If a provider fails to timely renew its license, the license expires on its face and is considered voluntarily non-renewed or voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary cessation of business.

D. Revocation of License or Denial of License Renewal. An ARCP license may be revoked or may be denied renewal for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the ARCP licensing laws, rules and regulations;
2. failure to be in substantial compliance with other required statutes, laws, ordinances, rules, or regulations;
3. failure to comply with the terms and provisions of a settlement agreement or education letter;
4. failure to uphold resident rights whereby deficient practices may result in harm, injury, or death of a resident;
5. failure to protect a resident from a harmful act of an employee or other resident including, but not limited to:
  - a. abuse, neglect, exploitation, or extortion;
  - b. any action posing a threat to a resident's health and safety;
  - c. coercion;

d. threat or intimidation; or

e. harassment;

6. failure to notify the proper authorities of all suspected cases of neglect, criminal activity, mental or physical abuse, or any combination thereof;

7. knowingly making a false statement in any of the following areas, including but not limited to:

a. application for initial license or renewal of license;

b. data forms;

c. clinical records, resident records, or provider records;

d. matters under investigation by the department, Office of the Attorney General, or any law enforcement agency; or

e. information submitted for reimbursement from any payment source;

8. knowingly making a false statement or providing false, forged, or altered information or documentation to the department's employees or to law enforcement agencies;

9. the use of false, fraudulent or misleading advertising;

10. fraudulent operation of an ARCP by the owner, director, officer, member, manager, or other key personnel as defined by §6813;

11. an owner, officer, member, manager, director or person designated to manage or supervise resident care who has been convicted of, or has entered a plea of guilty or nolo contendere (no contest) to, or has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court:

a. for purposes of this Paragraph, conviction of a felony means a felony relating to the violence, abuse, or negligence of a person, or a felony relating to the misappropriation of property belonging to another person;

12. failure to comply with all reporting requirements in a timely manner as required by the department;

13. failure to allow or refusal to allow the department to conduct an investigation or survey or to interview provider staff or residents;

14. failure to allow or refusal to allow access to authorized departmental personnel to records; or

15. bribery, harassment, or intimidation of any resident designed to cause that resident to use the services of any particular ARCP.

E. In the event an ARCP license is revoked or renewal is denied, any owner, officer, member, manager, or director of such ARCP is prohibited from owning, managing, directing or operating another ARCP for a period of two years from the date of the final disposition of the revocation or denial action.

## F. Operation Without License and Penalty

1. An adult residential care provider shall not operate without a license issued by the department. Any such provider operating without a license shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$100 for each day of operation without a license up to a maximum of \$1,000 or imprisonment of not more than six months, or both. It shall be the responsibility of the department to inform the appropriate district attorney of the alleged violation to assure enforcement.

2. If an adult residential care provider is operating without a license issued by the department, the department shall have the authority to issue an immediate cease and desist order to that provider. Any such provider receiving such a cease and desist order from the department shall immediately cease operations until such time as that provider is issued a license by the department.

3. The department shall seek an injunction in the Nineteenth Judicial District Court against any provider who receives a cease and desist order from the department under Subsection B of this Section and who does not cease operations immediately. Any such provider against whom an injunction is granted shall be liable to the department for attorney fees, costs, and damages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1091 (June 2015).

### §6819. Notice and Appeal of License Denial, License Revocation and Denial of License Renewal

A. Notice of a license denial, license revocation or denial of license renewal shall be given to the provider in writing.

B. The ARCP has a right to an administrative reconsideration of the license denial, license revocation, or denial of license renewal. There is no right to an administrative reconsideration of a voluntary non-renewal or surrender of a license by the provider.

1. The ARCP shall request the administrative reconsideration within 15 days of the receipt of the notice of the license denial, license revocation, or denial of license renewal. The request for administrative reconsideration shall be in writing and received by the department within 15 calendar days of the provider's receipt of the notice letter from the department.

2. The request for administrative reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an administrative reconsideration is received by the Health Standards Section (HSS), an administrative reconsideration shall be scheduled and the provider will receive written notification.

4. The provider shall have the right to appear in person at the administrative reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the license denial, license revocation or denial of license renewal shall not be a basis for reconsideration.

6. The administrative reconsideration process is not in lieu of the administrative appeals process.

7. The provider will be notified in writing of the results of the administrative reconsideration.

C. The ARCP has a right to an administrative appeal of the license denial, license revocation, or denial of license renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the provider.

1. The ARCP shall request the administrative appeal within 30 days of the receipt of the results of the administrative reconsideration. The ARCP may forego its rights to an administrative reconsideration, and if so, the ARCP shall request an administrative appeal within 30 days of the receipt of the notice of the license denial, license revocation, or denial of license renewal. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law (DAL) or its successor.

2. The request for administrative appeal shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the DAL or its successor, the administrative appeal of the license revocation or denial of license renewal shall be suspensive, and the provider shall be allowed to continue to operate and provide services until such time as the DAL or its successor issues a final administrative decision.

4. If the secretary of the department determines that the violations of the ARCP pose an imminent or immediate threat to the health, welfare, or safety of a resident, the imposition of the license revocation or denial of license renewal may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the ARCP will be notified in writing.

5. Correction of a violation or a deficiency which is the basis for the license denial, license revocation, or denial of license renewal, shall not be a basis for the administrative appeal.

D. If an existing licensed ARCP has been issued a notice of license revocation and the provider's license is due for annual renewal, the department shall deny the license renewal application.

1. The denial of the license renewal application does not affect in any manner the license revocation.

2. If the final decision by DAL or its successor is to reverse the license denial, the denial of license renewal, or the license revocation, the provider's license will be re-

instated or granted upon the payment of any licensing or other fees due to the department.

E. There is no right to an administrative reconsideration or an administrative appeal of the issuance of a provisional initial license to a new ARCP. An existing provider who has been issued a provisional license remains licensed and operational and also has no right to an administrative reconsideration or an administrative appeal. The issuance of a provisional license to an existing ARCP is not considered to be a denial of license, a denial of license renewal, or a license revocation.

1. A follow-up survey may be conducted prior to the expiration of a provisional initial license to a new ARCP or the expiration of a provisional license to an existing provider.

2. A new provider that is issued a provisional initial license or an existing provider that is issued a provisional license shall be required to correct all noncompliance or deficiencies at the time the follow-up survey is conducted.

3. If all noncompliance or deficiencies have not been corrected at the time of the follow-up survey, or if new deficiencies that are a threat to the health, safety, or welfare of residents are cited on the follow-up survey, the provisional initial license or provisional license shall expire on its face and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

4. The department shall issue written notice to the provider of the results of the follow-up survey.

5. A provider with a provisional initial license or an existing provider with a provisional license that expires due to noncompliance or deficiencies cited at the follow-up survey, shall have the right to an administrative reconsideration and the right to an administrative appeal of the deficiencies cited at the follow-up survey.

a. The correction of a violation, noncompliance, or deficiency after the follow-up survey shall not be the basis for the administrative reconsideration or for the administrative appeal.

b. The administrative reconsideration and the administrative appeal are limited to whether the deficiencies were properly cited at the follow-up survey.

c. The provider must request the administrative reconsideration of the deficiencies in writing, which shall be received by the HSS within five calendar days of receipt of the notice of the results of the follow-up survey from the department. The request for an administrative reconsideration must identify each disputed deficiency or deficiencies and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

d. The provider must request the administrative appeal within 15 calendar days of receipt of the notice of the results of the follow-up survey from the department. The request for administrative appeal shall be in writing and shall

be submitted to the DAL or its successor. The request for an administrative appeal must identify each disputed deficiency or deficiencies and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

e. A provider with a provisional initial license or an existing provider with a provisional license that expires under the provisions of this section must cease providing services unless the DAL or its successor issues a stay of the expiration. The stay may be granted by the DAL or its successor upon application by the provider at the time the administrative appeal is filed and only after a contradictory hearing, and only upon a showing that there is no potential harm to the residents being served by the provider.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1092 (June 2015).

### **§6821. Complaint Investigations**

A. The department shall conduct complaint investigations in accordance with R.S. 40:2009.13 et seq.

B. Complaint investigations shall be unannounced.

C. Upon request by the department, an acceptable plan of correction must be submitted to the department for any complaint investigation where deficiencies have been cited.

D. A follow-up survey may be conducted for any complaint investigation where deficiencies have been cited to ensure correction of the deficient practices.

E. The department may issue appropriate sanctions, including but not limited to, civil fines, directed plans of correction, provisional licensure, denial of license renewal, and license revocation for non-compliance with any state law or regulation.

F. The department's surveyors and staff shall be given access to all areas of the ARCP and all relevant files during any complaint investigation. The department's surveyors and staff shall be allowed to interview any provider staff or resident as necessary or required to conduct the investigation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1093 (June 2015).

### **§6823. Statement of Deficiencies**

A. Any statement of deficiencies issued by the department to the ARCP must be posted in a readily accessible place on the licensed premises.

B. Any statement of deficiencies issued by the department to an ARCP must be available for disclosure to the public 30 days after the provider receives the statement of deficiencies or after the receipt of an acceptable plan of correction, whichever occurs first.

C. Unless otherwise provided in statute or in this licensing rule, a provider shall have the right to an administrative reconsideration of any deficiencies cited as a result of a survey or investigation.

1. Correction of the violation, noncompliance or deficiency shall not be the basis for the reconsideration.

2. The administrative reconsideration of the deficiencies shall be requested in writing and received by the department within 10 calendar days of receipt of the statement of deficiencies.

3. The request for an administrative reconsideration must identify each disputed deficiency or deficiencies and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

4. The request for administrative reconsideration of the deficiencies must be made to the department's Health Standard Section.

5. Except as provided for complaint surveys pursuant to R.S. 40:2009.13 et seq., and as provided for license denials, license revocations and denials of license renewals, the decision of the administrative reconsideration team shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

6. The provider shall be notified in writing of the results of the administrative reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1093 (June 2015).

### **§6825. Cessation of Business**

A. Except as provided in §6881 of these licensing regulations, a license shall be immediately null and void if an ARCP ceases to operate.

B. A cessation of business is deemed to be effective the date on which the ARCP stopped offering or providing services to the community.

C. Upon the cessation of business, the provider shall immediately return the original license to the Department.

D. Cessation of business is deemed to be a voluntary action on the part of the provider. The provider does not have a right to appeal a cessation of business.

E. Prior to the effective date of the closure or cessation of business, the ARCP shall:

1. give 30 days' advance written notice to:
  - a. HSS;
  - b. each resident's physician; and
  - c. each resident or resident's legal representative, if applicable; and

2. provide for an orderly discharge and transition of all of the residents in the ARCP.

F. In addition to the advance notice of voluntary closure, the ARCP shall submit a written plan for the disposition of all resident medical records for approval by the department. The plan shall include the following:

1. the effective date of the voluntary closure;
2. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed ARCP's residents' medical records;
3. an appointed custodian(s) who shall provide the following:
  - a. access to records and copies of records to the resident or authorized representative, upon presentation of proper authorization(s); and
  - b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction; and
4. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the closing provider, at least 15 days prior to the effective date of closure.

G. If an ARCP fails to follow these procedures, the owners, managers, officers, directors, and administrators may be prohibited from opening, managing, directing, operating, or owning an ARCP for a period of two years.

H. Once the ARCP has ceased doing business, the ARCP shall not provide services until the provider has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1094 (June 2015).

## **Subchapter B. Administration and Organization**

### **§6827. Governing Body**

A. Each ARCP shall have an identifiable governing body with responsibility for, and authority over, the policies and activities of the ARCP and ultimate authority for:

1. the overall operation of the ARCP;
2. the adequacy and quality of care;
3. the financial solvency of the ARCP and the appropriate use of its funds;
4. the implementation of the standards set forth in these regulations; and
5. the adoption, implementation and maintenance, in accordance with the requirement of state and federal laws and regulations and these licensing standards, of adult

residential care and administrative policies governing the operation of the ARCP.

B. The ARCP shall have documents identifying the following information regarding the governing body:

1. names and addresses of all members;
2. terms of membership;
3. officers of the governing body; and
4. terms of office of any officers.

C. The governing body shall be composed of one or more persons. When the governing body is composed of only one person, this person shall assume all of the responsibilities of the governing body.

D. When the governing body is composed of two or more persons, the governing body shall hold formal meetings at least twice a year. There shall be written minutes of all formal meetings and bylaws specifying frequency of meetings and quorum requirements.

E. Responsibilities of a Governing Body. The governing body of an ARCP shall:

1. ensure the ARCP's compliance and conformity with the provider's charter or other organizational documents;
2. ensure the ARCP's continual compliance and conformity with all relevant federal, state, local, and municipal laws and regulations;
3. ensure that the ARCP is adequately funded and fiscally sound;
4. review and approve the ARCP's annual budget;
5. designate a person to act as director and delegate sufficient authority to this person to manage the ARCP;
6. formulate and annually review, in consultation with the director, written policies concerning the provider's philosophy, goals, current services, personnel practices, job descriptions and fiscal management;
7. annually evaluate the director's performance;
8. have the authority to dismiss the director; and
9. meet with designated representatives of the department whenever required to do so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1094 (June 2015).

### §6829. Policy and Procedures

A. The ARCP shall have written policies and procedures approved by the governing body that, at a minimum, address the following:

1. confidentiality and security of files;
2. publicity and marketing;
3. personnel;

4. resident's rights;
5. grievance procedures;
6. resident's funds;
7. emergency preparedness planning procedures to include plans for evacuation and sheltering in place;
8. abuse and neglect;
9. incidents and accidents;
10. pre-residency screening and residency criteria and limitations;
11. medication management;
12. nursing services;
13. smoking;
14. pet policy;
15. resident responsibilities;
16. record-keeping;
17. infection control; and
18. any other area required in accordance with memorandums issued by the department's Health Standards Section.

B. Personnel Policies. An ARCP shall have written personnel policies that include:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision, and performance evaluation of staff members;
2. written job descriptions for each staff position;
3. policies which provide for staff, upon offer of employment, to have a health assessment as defined by the provider and in accordance with state *Sanitary Code*;
4. an employee grievance procedure;
5. abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment whether that abuse or mistreatment is done by another staff member, a family member, a resident or any other person;
6. a policy to prevent discrimination;
7. a policy that addresses the prohibitive use of social media;
8. a policy for conducting statewide criminal background history checks; and
9. a policy for checking the Direct Service Worker Registry and documentation of such checks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1095 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1976 (October 2017).

## Subchapter C. Residency Criteria, Person-Centered Service Plans, and Residency Agreements

### §6833. Pre-Residency and Continued Residency

A. Information to prospective residents. The ARCP shall provide to prospective residents written information regarding conditions for residency, services, costs, fees and policies/procedures. This written information shall include, but is not limited to the following:

1. the application process and the possible reasons for rejection of an application;
2. types of residents suitable to the ARCP;
3. services offered and allowed in the ARCP;
4. resident's responsibilities;
5. policy regarding smoking;
6. policy regarding pets;
7. fee structure, including but not limited to any additional costs for providing services to residents during natural disasters (e.g. tropical storms, hurricanes, floods, etc.):

- a. the ARCP shall develop and provide a formula with cost parameters for any additional charges incurred due to disasters; and

8. criteria for termination of residency agreement.

B. The ARCP shall complete and maintain a pre-residency screening of the prospective resident to assess the applicant's needs and appropriateness for residency.

1. The pre-residency screening shall include:
  - a. the resident's physical and mental status;
  - b. the resident's need for personal assistance;
  - c. the resident's need for assistance with activities of daily living and instrumental activities of daily living; and
  - d. the resident's ability to evacuate the ARCP in the event of an emergency.

2. The pre-residency screening shall be completed and dated before the residency agreement is signed.

C. Prohibited Health Conditions. There are individuals who are not eligible for residency in ARCPs because their conditions and care needs are beyond the scope of the ARCP's capacity to deliver services and ensure residents' health, safety, and welfare. ARCPs may not enter into agreements with residents with such conditions. These prohibited health conditions include:

1. stage 3 or stage 4 pressure ulcers;
2. nasogastric tubes;
3. ventilator dependency;

4. dependency on BiPap, CPAP or other positive airway pressure device without the ability to self-administer at all times:

- a. exception. The resident may remain in the ARCP when a third party is available at all times to administer the positive airway pressure device during the hours of use;

5. coma;

6. continuous IV/TPN therapy (TPN—total parental nutrition, intravenous form of complete nutritional sustenance);

7. wound vac therapy (a system that uses controlled negative pressure, vacuum therapy, to help promote wound healing);

8. active communicable tuberculosis; and

9. any condition requiring chemical or physical restraints.

D. ARCP residents with a prohibited condition may remain in residence on a time limited basis provided that the conditions listed below are met. Time limited is defined as 90 days.

1. The resident, the resident's representative, if applicable, the resident's physician and the provider shall agree that the resident's continued residency is appropriate.

2. The resident's physician has certified that the condition is time limited and not permanent.

3. The ARCP is prepared to coordinate with providers who may enter the ARCP to meet time limited needs. Level 4 ARCPs may deliver or contract for the additional services to meet time limited needs pursuant to this Section.

4. In accordance with the terms of the residency agreement, the resident or the resident's representative, if applicable, shall provide for or contract with a third party provider for the delivery of services necessary to meet the residents' increased health and service needs which are beyond the scope of the services of the ARCP.

- a. It is the responsibility of the ARCP to assure that needed services are provided, even if those services are provided by the resident's family or by a third party or contracted provider. A copy of such third party contract shall be verifiable, in writing, and retained in the resident's record. The ARCP retains responsibility for notifying the resident or the resident's representative, if applicable, if services are not delivered or if the resident's condition changes.

5. The ARCP or an affiliated business owned in full or in part by the owner or any member of the board of directors shall not be the third party providing the services.

6. The care provided, as allowed under this section, shall not interfere with ARCP operations or create a danger to others in the ARCP.

E. In level 4 ARCPs, residents whose health needs increase may continue to reside in the ARCP and receive

intermittent nursing services from the ARCP in accordance with the PCSP if the services are within the scope provided for in these regulations.

F. In accordance with the terms of the residency agreement, residents who are receiving hospice services may continue to reside in all levels of the ARCP as long as the resident's physician, the ARCP, the resident and/or resident's legal representative, if applicable, deem that the resident's needs can be met.

G. Residency Agreement. The ARCP shall complete and maintain individual residency agreements with all persons who move into the ARCP or with the resident's representative where appropriate.

1. The ARCP residency agreement shall specify the following:

a. clear and specific criteria for residency, continued residency and termination of residency agreements and procedures for termination of residency agreements;

b. basic services provided;

c. optional services;

d. payment provisions for both basic and optional services, including the following:

i. service packages and any additional charges for services;

ii. regular/ordinary and extra fees;

iii. payer source;

iv. due dates; and

v. deposits;

e. procedures for the modification of the residency agreement, including provision of at least 30 days prior written notice to the resident of any rate change;

f. requirements around notice before voluntarily terminating the residency agreement;

g. refund policy;

h. the delineation of responsibility among the following parties: the ARCP, the resident, the family, the resident's representative and/or others;

i. residents' rights; and

j. grievance procedures.

2. The ARCP shall allow review of the residency agreement by an attorney or other representative chosen by the resident.

3. The residency agreement shall be signed by the director, or designee, and by the resident or the resident's representative if applicable.

4. The residency agreement shall conform to all relevant federal, state and local laws and requirements.

5. The residency agreement shall provide a process for involuntary termination of the residency agreement that includes, at a minimum, the following:

a. written notice of any adverse action for violation(s) of the terms of the residency agreement that includes the following:

i. notice shall allow the resident a minimum of 30 calendar days from date of delivery of written notice to vacate the ARCP premises; however, the advance notice period may be shortened to 15 calendar days for nonpayment of a bill for a stay at the ARCP; and

ii. the notice shall allow a minimum of 10 calendar days for resident's corrective action.

6. The residency agreement shall include provisions for the opportunity for a formal appeal to the DAL for any involuntary termination of the residency agreement in accordance with §6837.B.2-4, including but not limited to, contact information for the DAL.

7. A request for appeal shall be made within 30 calendar days of receipt of the written notice and the hearing shall be conducted by the DAL in accordance with the Administrative Procedure Act.

H. When the resident moves in, the ARCP shall:

1. obtain from the resident or if appropriate, the resident's representative, the resident's plan for both routine and emergency medical care which shall include:

a. the name of physician(s); and

b. provisions and authorization for emergency medical care;

2. provide the resident with a copy of the ARCP's emergency and evacuation procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1095 (June 2015).

### §6835. Person-Centered Service Plan

A. An assessment shall be initiated upon entry to the ARCP and completed within seven calendar days of the date that the resident moves into the ARCP to determine the service needs and preferences of the resident.

1. This assessment shall be kept in the resident's record.

2. If the resident's person-centered service plan includes staff administration of medication or intermittent nursing services, the assessment for those services shall be completed by a registered nurse.

B. Within 30 calendar days after the date the resident moves in, the ARCP designated staff in conjunction with the resident or the resident's representative, if applicable, shall develop a PCSP using information from the assessment. The PCSP shall include:

1. the services required to meet the resident's individual needs;
2. the scope, frequency, and duration of services;
3. monitoring that will be provided; and
4. who is responsible for providing the services, including contract or arranged services.

C. If the resident is enrolled in a home and community-based services waiver that includes ARCP as a service, a comprehensive plan of care prepared in accordance with policies and procedures established by Medicaid, or by a department program office, for reimbursement purposes may be substituted for the PCSP. If the resident needs services beyond those provided for in the comprehensive plan of care, the PCSP must be coordinated with the comprehensive plan of care.

D. A documented review of the PCSP shall be made at least every 90 calendar days and on an ongoing basis to determine its continued appropriateness and to identify when a resident's condition or preferences have changed. Changes to the plan may be made at any time, as necessary.

E. All plans, reviews and updates shall be signed by the resident or the resident's representative, if applicable, and the ARCP staff. If the resident's PCSP includes staff administration of medication or intermittent nursing services, a registered nurse shall also sign the plans, reviews and updates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1096 (June 2015).

### **§6837. Termination of Residency Agreements**

#### **A. Voluntary Termination of Residency Agreement**

1. The residency agreement shall specify:
  - a. the number of days and the process for notice required for voluntary termination of the residency agreement; and
  - b. the circumstances under which prepaid service charges and deposits are not refundable to the individual.

#### **B. Involuntary Termination of Residency Agreements**

1. The resident shall be allowed to continue residency in the ARCP unless one of the following occurs:
  - a. the resident's mental or physical condition deteriorates to a level requiring services that cannot be provided in accordance with these licensing regulations;
  - b. the resident's mental or physical condition deteriorates to a level requiring services that exceed those agreed upon in the residency agreement and PCSP;
  - c. the safety of other residents or staff in the ARCP is endangered;

- d. the health of other residents or staff in the ARCP would otherwise be endangered;
- e. the resident or resident's representative has failed to pay or has paid after timely notice in accordance with the residency agreement for a resident's stay at the ARCP; or
- f. the ARCP ceases to operate.

#### **2. Involuntary Termination Process**

a. The resident, the resident's representative, if applicable, and the state and local long-term care ombudsman shall be notified in writing of the intent to terminate the residency agreement.

b. The notice shall be written in a language and in a manner that the resident and the resident's representative, if applicable, understand.

c. The written notice shall be given no less than 30 calendar days in advance of the proposed termination; however, the advance notice period may be shortened to 15 days for nonpayment of a bill for a stay at the ARCP.

d. The written notice shall contain:

- i. the reason for the involuntary termination of the residency agreement;
- ii. the right to formally appeal the involuntary termination of the residency agreement to the DAL; and
- iii. contact information for the state and local long-term care ombudsman and for the DAL.

3. The resident and/or the resident's representative, if applicable, shall have the right to dispute any involuntary termination of the residency agreement in accordance with §6833.G.6-7.

4. The involuntary termination of the residency agreement shall be suspended until a final determination is made by the DAL.

5. If the involuntary termination of the residency agreement is upheld, the ARCP shall provide assistance in locating an appropriate residence and services.

C. Emergencies. If an emergency arises whereby the resident presents a direct threat of serious harm, serious injury or death to the resident, another resident, or staff, the ARCP shall immediately contact appropriate authorities to determine an appropriate course of action.

1. The resident's removal from the premises in response to an emergency does not constitute termination of the residency agreement. Required notice as described above shall be provided if the ARCP wishes to terminate the residency agreement.

2. The ARCP shall document the nature of the emergency and the ARCP's response to it.

3. The ARCP shall notify the resident's representative of all emergencies immediately after notification of the appropriate authorities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1097 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1252 (July 2018).

## Subchapter D. Adult Residential Care Provider Services

### §6839. General Provisions

A. The services provided by the ARCP are dependent in part upon the level for which they are licensed and in part upon the optional services that the ARCP elects to provide.

B. An ARCP shall ensure that services meet a resident's personal and health care needs as identified in the resident's PCSP, meet scheduled and unscheduled care needs, and make emergency assistance available 24 hours a day. These services shall be provided in a manner that does not pose an undue hardship on residents.

1. An ARCP shall respond to changes in residents' needs for services by revising the PCSP and, if necessary, by adjusting its staffing.

2. The ARCP shall provide adequate services and oversight/supervision including adequate security measures, 24 hours per day as needed for any resident.

3. The ARCP shall provide a sanitary environment to avoid sources and transmission of infections and communicable diseases with its policy meeting or exceeding the latest criteria established by the Centers for Disease Control and state *Sanitary Code*.

C. Number of Residents. The maximum number of residents that an ARCP shall serve will be based upon the level and plan as approved by the OSFM and/or the department's Health Standards Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1097 (June 2015).

### §6841. Required and Optional Services

A. Required Services. The ARCP must provide or coordinate, to the extent needed or desired by each resident, the following required services:

1. assistance with activities of daily living and instrumental activities of daily living;
2. meals;
3. basic personal laundry services or laundry facilities;
4. opportunities for individual and group socialization including regular access to the community resources;
5. transportation either provided or arranged by the ARCP;

6. housekeeping services essential for health and comfort of the resident (e.g., floor cleaning, dusting, changing of linens); and

7. a recreational program.

#### B. Optional Services

1. All levels of ARCPs may provide the services listed below. If these optional services are provided, they must be provided in accordance with the PCSP:

- a. medication administration;
- b. financial management; and
- c. specialized dementia care programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1098 (June 2015).

### §6843. Medication Administration

A. The ARCP shall have written policies and procedures on medication administration including self-administration, assistance with self-administration, gratuitous administration or third party administration, and staff administration of medications. There shall also be policies regarding obtaining and refilling medications, storing and controlling medications, disposing of medications, and documentation of medication administration.

B. The ARCP shall record in the resident's PCSP whether the resident can self-administer medication, needs assistance with self-administration, has gratuitous administration, or third party administration or requires staff administration of medication. The determination of the need for staff administration of medication will be made by the resident's physician after assessment of the resident, and after consultation with the resident, resident's legal representative if applicable, and the ARCP staff. The PCSP shall also include how the medication will be obtained and stored.

#### C. Levels of Administration

1. Self-Administration. Unless otherwise indicated in the PCSP, residents shall have the option to self-administer their own medications. Residents who are appropriate for this service will be aware of what the medication is, what it is for and the need for the medication. Self-medication means residents can maintain possession and control of their medications. However, the ARCP shall require the resident to undertake reasonable precautions to ensure the safety of other residents.

2. Assistance with Self-Administration. Unless otherwise indicated in the PCSP, residents may elect assistance with self-medication if it is a service offered by the ARCP. Residents who are appropriate for this service will be aware of what the medication is, what it is for and the need for the medication.

a. Assistance with self-administration may be provided by staff members who hold no professional licensure, as long as that employee has documented training on the policies and procedures for medication assistance, including the limitations of assistance. This training must be repeated at least annually.

b. Assistance with self-administration of medication shall be limited to the following:

i. reminding residents that it is time to take medication(s), where such medications have been prescribed for a specific time of day, a specific number of times per day, specific intervals of time or for a specific time in relation to mealtimes or other activities such as arising from bed or retiring to bed;

ii. reading the medication regimen as indicated on the container to the resident;

iii. physically assisting residents who are familiar with their medications by opening a medication container and/or providing assistance with pouring medications;

iv. offering liquids to residents who are familiar with their medications to assist that resident in ingesting oral medications; and

v. physically bringing a container of oral medications to residents.

c. Assistance with self-administration of medications shall not include:

i. administering injections of any kind;

ii. administering any prescription medications including, but not limited to, eye drops, ear drops, nose drops, liquid medications, inhalers, suppositories, or enemas;

iii. prompting or reminding a resident that it is time to take a PRN, or as-needed medication;

iv. crushing or splitting medications;

v. placing medications in a feeding tube; or

vi. mixing medications with foods or liquids.

### 3. Staff Administration of Medication

a. The ARCP shall administer medications to ARCP residents in accordance with their PCSP. Staff administration of medications may be provided by all levels of ARCPs.

b. Medications shall be administered only by an individual who is currently licensed to practice medicine or osteopathy by the appropriate licensing agency for the state, or by an individual who is currently licensed as an RN or LPN by the appropriate state agency.

c. In level 4 ARCPs only, staff administration of medication may include intravenous therapy. Intravenous therapy is permitted on a time limited basis and must be under the supervision of a licensed RN, physician, or advanced practice nurse.

d. The ARCP shall require pharmacists to perform a monthly review of all ordered medication regimens for

possible adverse drug interactions and to advise the ARCP and the prescribing health care provider when adverse drug interactions are detected. The ARCP shall notify the prescribing health care provider of the pharmacist's review related to possible adverse drug interactions, and shall have documentation of this review and notification in the resident's record.

### e. Medication Orders and Records

i. Medications, including over-the-counter medications, may be administered to a resident of an ARCP only after the medications have been prescribed specifically for the resident by an individual currently licensed to prescribe medications. All orders for medications shall be documented, signed and dated by the resident's licensed practitioner.

ii. Only an authorized licensed medical professional shall accept telephone orders for medications from a physician or other authorized practitioner. All telephone orders shall be documented in the resident's record. The telephone order shall be signed by the prescriber within 14 days of the issuance of the order.

iii. The ARCP is responsible for:

(a) complying with the physician orders, associated with medication administration;

(b) clarifying orders as necessary;

(c) notifying the physician of resident refusal of the medication or treatment; and

(d) notifying the physician of any adverse reactions to medications or treatments.

iv. All medications administered by staff to residents in an ARCP, including over the counter medications, shall be recorded on a medication administration record at the same time or immediately after the medications are administered.

v. The medication administration record shall include at least the following:

(a) the name of the resident to whom the medication was administered;

(b) the name of the medication administered (generic, brand or both);

(c) the dosage of the medication administered;

(d) the method of administration, including route;

(e) the site of injection or application, if the medication was injected or applied;

(f) the date and time of the medication administration;

(g) any adverse reaction to the medication; and

(h) the printed name and written or electronic signature of the individual administering the medication.

vi. Medication administration records and written physician orders for all over-the-counter medications, legend drugs and controlled substances shall be retained for period of not less than five years. They shall be available for inspection and copying on demand by the state regulatory agency.

vii. The most current edition of drug reference materials shall be available.

viii. All medication regimes and administration charting shall be reviewed by a licensed RN at least monthly to:

- (a). determine the appropriateness of the medication regime;
- (b). evaluate contraindications;
- (c). evaluate the need for lab monitoring;
- (d). make referrals to the primary care physician for needed monitoring tests;
- (e). report the efficacy of the medications prescribed; and
- (f). determine if medications are properly being administered in the ARCP.

#### 4. Contracted Third Party Administration

a. The ARCP or the resident or the resident's representative, if applicable, may contract with an individual or agency to administer resident's prescribed medications. The ARCP shall ensure that medications shall be administered by an individual who is currently professionally licensed in Louisiana to administer medications.

b. A copy of such third party contract shall be verifiable in writing and retained in resident's record. The ARCP retains responsibility for notifying the resident or resident's legal representative, if applicable, if services are not delivered or if the resident's conditions changes.

#### D. Storage of Medications

1. An ARCP shall not stock or dispense resident medications. Where medications are kept under the control or custody of an ARCP, the medications shall be packaged by the pharmacy and shall be maintained by the ARCP as dispensed by the pharmacist.

2. Medication stored by the ARCP shall be stored in an area inaccessible to residents and accessible only to authorized personnel. This area must be kept locked. Any other staff (e.g., housekeeping, maintenance, etc.) needing access to storage areas must be under the direct visual supervision of authorized personnel.

3. All medications must be stored in accordance with industry standards or according to manufacturer's recommendations.

4. If controlled substances prescribed for residents are kept in the custody of the ARCP, they shall be stored in a manner that is compliant with local, state and federal laws.

At a minimum, controlled substances in the custody of the ARCP shall be stored using a double lock system, and the ARCP shall maintain a system to account for the intake, distribution, and disposal of all controlled substances in its possession and maintain a written policy and procedure regarding such.

5. All other medications in the ARCP shall be stored using at least a single lock mechanism. This shall include medications stored in a resident's room whereby the staff and the resident have access to the medications. When residents self-administer their medications, the medications shall be stored in a locked area or container accessible only to the resident, resident's family and staff or may be stored in the resident's living quarters, if the room is single occupancy and has a locking entrance.

6. Any medication stored by the ARCP requiring refrigeration shall be kept separate from foods in separate containers within a refrigerator and shall be stored at appropriate temperatures according to the medication specifications. A daily temperature log must be maintained at all times for the refrigerator. No lab solutions or lab specimens may be stored in refrigerators used for the storage of medications or food.

7. The medication preparation area shall have an operable hand washing sink with hot and cold water, paper towels and soap or an alternative method for hand sanitization.

8. Medications shall be under the direct observation of the person administering the medications or locked in a storage area.

#### E. Labeling of Medications

1. All containers of medications shall be labeled in accordance with the rules of the Board of Pharmacy and any local, state, and federal laws.

2. Medication labels shall include appropriate cautionary labels (e.g., shake well, take with food, or for external use only).

3. Medications maintained in storage must contain the original manufacturer's label with expiration date or must be appropriately labeled by the pharmacy supplying the medications.

4. Any medications labeled for single resident use may not be used for more than one resident. One resident's medications cannot be used for another resident.

5. Any medication container with an unreadable label shall be returned to the issuing pharmacy for relabeling. Conditions that might affect readability include but are not limited to detachment, double labeling, excessive soiling, wear or damage.

#### F. Disposal of Medications

1. All medications and biologicals disposed of by the ARCP shall be according to ARCP policy and subject to all local, state and federal laws.

2. Expired medications shall not be available for resident or staff use. They shall be destroyed no later than 30 days from their expiration/discontinuation date.

3. Medications awaiting disposition must be stored in a locked storage area.

4. Medications of residents who no longer reside in the ARCP shall be returned to the resident or the resident's representative, if applicable. The resident or the resident's representative shall sign a statement that these medications have been received. The statement shall include the pharmacy, prescription number, date, resident's name, name and strength of the medication and amount returned. This statement shall be maintained in the resident's termination of services record.

5. When medication is destroyed on the premises of the ARCP, a record shall be made and filed at the ARCP according to ARCP policy.

a. This record shall include, but is not limited to:

- i. name of ARCP;
- ii. name of the medication;
- iii. method of disposal;
- iv. pharmacy;
- v. prescription number;
- vi. name of the resident;
- vii. strength of medication;
- viii. dosage of medication;
- ix. amount destroyed; and
- x. reason for disposition.

b. This record shall be signed and dated by the individual performing the destruction and by at least one witness.

c. The medication must be destroyed by a licensed pharmacist, RN or physician.

6. Controlled dangerous substances shall be destroyed in accordance with the provisions of LAC 46:LIII.2749.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1098 (June 2015).

#### **§6845. Intermittent Nursing Services**

A. Intermittent nursing services may be provided by level 4 ARCPs only. At no time shall an ARCP serve as provider for a resident whose condition is so unstable as to require continuous monitoring by licensed professional staff.

B. Where intermittent nursing services are provided, the following provisions shall apply.

1. All nursing services shall be provided in accordance with acceptable standards of practice and shall

be delivered as prescribed by the resident's physician and in accordance with the PCSP.

2. The ARCP shall have written policies and procedures governing intermittent nursing services, including but not limited to the following:

- a. responding to medical emergencies on all shifts;
- b. ensuring that there is sufficient nursing staff to meet the needs of the residents;
- c. ensuring that the ARCP's licensed nurse is notified of nursing needs as identified in the PCSP for each resident;
- d. defining the duties, responsibilities and limitations of the ARCP licensed nurse in policy and procedures;
- e. defining the policy for conducting nursing assessments;
- f. delegating and training of ARCP staff to assist with nursing services;
- g. coordinating with other third party contracted health service providers;
- h. documentation by nursing personnel; and
- i. infection control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1100 (June 2015).

#### **§6847. Transportation**

A. If the resident's condition is such that they are unable to manage their own transportation needs, the ARCP shall provide or arrange transportation for the following:

1. all medical services, including ancillary services for medically-related care;
2. scheduled personal services, including barber/beauty services;
3. scheduled personal errands; and
4. social/recreational opportunities.

B. The ARCP shall ensure and document that any vehicle used in transporting residents, whether such vehicles are operated by a staff member or any other person acting on behalf of the provider, is inspected and licensed in accordance with state law. The ARCP shall also have current commercial liability insurance.

C. When transportation services are provided by the ARCP, whether directly or by third party contract the provider shall:

1. document and ensure that drivers have a valid driver's license;

2. document and ensure that drivers have a valid chauffer's license or commercial driver's license with passenger endorsement upon hire, if applicable.

D. When transportation services are provided by the ARCP, the ARCP shall:

1. ensure drivers are trained in assisting residents in accordance with the individual resident's needs;

2. obtain documentation to ensure a safe driving record from the Louisiana Department of Motor Vehicles (DMV) upon hire and annually; and

3. ensure drivers meet personnel and health qualifications of other staff and receive necessary and appropriate training to ensure competence to perform duties assigned.

E. Vehicles shall be handicapped accessible or otherwise equipped to meet the needs of residents served.

F. Verifications by the ARCP shall not be required if the ARCP utilizes a third party transportation company that is authorized by the department to participate as an NEMT provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1100 (June 2015).

#### **§6849. Meals Provided by the ARCP**

A. For meals that are prepared and/or served by the ARCP, the ARCP shall offer to residents who choose to participate, a minimum of three varied, palatable meals per day, seven days a week.

1. Foods shall be prepared and served in a way that assures that they are appetizing, attractive, and nutritious and that promotes socialization among the residents.

2. The ARCP is permitted to offer liberalized diets. The nutritionist or licensed dietician may recommend to the physician to temporarily abate dietary restrictions and liberalize the diet to improve the resident's food intake.

B. The ARCP shall make reasonable accommodations, as stated in the residents' PCSP to:

1. meet dietary requirements, including following medically prescribed diets; however, nothing herein shall be construed to prohibit the ARCP from offering liberalized diets as recommended by the nutritionist or licensed dietician;

2. meet religious and ethnic preferences;

3. meet the temporary need for meals delivered to the resident's living area;

4. meet residents' personal routines and preferences; and

5. ensure snacks, fruits and beverages are available to residents at all times.

C. Staff shall be available in the dining area to assist with meal service, meal set up and to give individual attention as needed.

1. Dietary staff shall not store personal items within the food preparation and storage areas.

2. The kitchen shall not be used for dining of residents or unauthorized personnel.

3. Dietary staff shall use good hygienic practices.

4. Dietary employees engaged in the handling, preparation and serving of food shall use effective hair restraints to prevent the contamination of food or food contact surfaces.

5. Staff with communicable diseases or infected skin lesions shall not have contact with food if that contact will transmit the disease.

6. Garbage and refuse shall be kept in durable, easily cleanable, covered containers that do not leak and do not absorb liquids.

7. Containers used in food preparation and utensil washing areas shall be kept covered when meal preparation is completed and when full.

D. If a licensed dietitian is not employed full-time, the ARCP shall designate a full-time person to serve as the dietary manager.

1. The dietary manager who oversees food preparation may also fulfill other staff roles in the ARCP.

2. The dietary manager shall have Servsafe® certification.

E. Serving times for meals prepared and/or served by the ARCP shall be posted.

F. The menus for meals prepared and/or served by the ARCP, at a minimum, shall be reviewed and approved by a nutritionist or licensed dietician to assure their nutritional appropriateness for the setting's residents.

1. Menus shall be planned and written at least one week in advance and dated as served. The current week's menu shall be posted in one or more prominent place(s) for the current week in order to facilitate resident's choices about whether they wish to join in the meals prepared and/or served by the ARCP.

2. The ARCP shall furnish medically prescribed diets to all residents for which it is designated in the service plan.

3. Records of all menus as serviced shall be kept on file for at least 30 days.

4. All substitutions made on the master menu shall be recorded in writing.

G. Medically prescribed diets, prepared and/or served by the ARCP, shall be documented in the resident's record. There shall be a procedure for the accurate transmittal of dietary orders to the dietary manager when the resident does

not receive the ordered diet or is unable to consume the diet, with action taken as appropriate.

H. Food shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human consumption.

I. All food preparation areas (excluding areas in residents units) shall be maintained in accordance with LAC Title 51 *Sanitary Code*. Pets are not allowed in food preparation and serving areas.

J. If food is prepared in a central kitchen and delivered to separate physical sites, provision shall be made for proper maintenance of food temperatures and a sanitary mode of transportation.

#### K. Refrigeration

1. The ARCP's refrigerator(s) shall be maintained at a temperature of 41 degrees Fahrenheit or below.

2. The ARCP shall maintain daily temperature logs for all refrigerators and freezers.

3. Food stored in the refrigerator shall be covered, labeled, and dated.

L. The water supply shall be adequate, of a safe sanitary quality and from an approved source. Clean sanitary drinking water shall be available and accessible in adequate amounts at all times.

M. The ice scoop for ice machines shall be maintained in a sanitary manner with the handle at no time coming in contact with the ice.

N. Poisonous and toxic materials shall be appropriately identified, labeled and placed in locked cabinets which are used for no other purpose.

O. Written reports of inspections by OPH shall be kept on file in the ARCP.

P. If meals are provided by a third party service, the ARCP retains the responsibility to ensure that all regulations of this part are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1101 (June 2015).

### §6851. Specialized Dementia Care Programs

A. Scope and Purpose. The ARCP may establish a separate and distinct program to meet the needs of residents with Alzheimer's disease or a related disorder. The ARCP shall provide a program of individualized care based upon an assessment of the cognitive and functional abilities of residents who have been included in the program.

B. Any ARCP that offers such a program shall disclose this program to the department upon establishing the program or upon its discontinuance.

#### C. Policies and Procedures

1. An ARCP that advertises, promotes or markets itself as offering a specialized dementia care program shall have written policies and procedures for the program that are retained by the administrative staff and available to all staff, to members of the public, and to residents, including those participating in the program.

2. The ARCP shall have established criteria for inclusion in the specialized dementia care program.

3. Guidelines for inclusion shall be provided to the resident, his/her family, and his/her legal representative.

4. Door locking arrangements to create secured areas may be permitted where the clinical needs of the residents require specialized protective measures for their safety, provided that such locking arrangements are approved by the OSFM and satisfy the requirements established by the OSFM and in accordance with R.S. 40:1300.121 et seq.

a. If the services are provided in a secured area where special door locking arrangements are used, the ARCP shall comply with the requirements established for limited health care occupancies in accordance with the laws, rules and codes adopted by the OSFM.

b. The secured areas shall be designed and staffed to provide the care and services necessary for the resident's needs to be met.

c. There shall be sufficient staff to respond to emergency situations in the locked unit at all times.

d. PCSPs shall address the reasons for the resident being in the unit and how the ARCP is meeting the resident's needs.

e. There must be documentation in the resident's record to indicate the unit is the least restrictive environment possible, and placement in the unit is needed to facilitate meeting the resident's needs.

f. Inclusion in a program on the unit must be in compliance with R.S. 40:1299.53.

D. Staff Training. Training in the specialized care of residents who are diagnosed by a physician as having Alzheimer's disease, or a related disorder, shall be provided to all persons employed by the ARCP in accordance with the provisions established in §6867 of this Chapter.

E. Disclosure of Services. An ARCP that advertises or markets itself as offering a specialized dementia care program shall provide in writing the following to any member of the public seeking information about the program:

1. the form of care or treatment provided that distinguishes it as being especially applicable to or suitable for such persons;

2. the philosophy and mission reflecting the needs of residents living with dementia;

3. the criteria for inclusion in the program and for discontinuance of participation should that become appropriate;

4. the assessment, care planning and the processes for ensuring the care plan's responsiveness to the changes in the resident's condition;

5. the staffing patterns, training and continuing education;

6. the physical environment and design features appropriate to support the functioning of residents living with dementia;

7. the involvement of families and the availability of family support programs;

8. the activities that are specifically directed toward residents diagnosed with Alzheimer's or a related disorder including, but not limited to, those designed to maintain the resident's dignity and personal identity, enhance socialization and success, and accommodate the cognitive and functional ability of the resident;

9. the frequency of the activities that will be provided to such residents;

10. the safety policies and procedures and any security monitoring system that is specific to residents diagnosed with Alzheimer's or a related disorder including, but not limited to safety and supervision within the secured unit and within the secured exterior area; and

11. the program fees.

F. An ARCP that advertises or markets itself as having a specialized dementia care program shall provide a secured exterior area for residents to enjoy the outdoors in a safe and secure manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8 and R.S. 40:1300.121-125.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1102 (June 2015).

## Subchapter E. Resident Protection

### §6855. Resident Rights

A. ARCPs shall have a written policy on resident rights and shall post and distribute a copy of those rights. In addition to the basic civil and legal rights enjoyed by other adults, residents shall have the rights listed below. ARCP policies and procedures must be in compliance with these rights. Residents shall:

1. be encouraged in the exercise of their civil or legal rights, benefits or privileges guaranteed by the Constitution of the United States and the Constitution of the State of Louisiana including the right to be free of discrimination or segregation based upon race, sex, handicap, religion, creed, national background or ancestry with respect to residency;

2. be treated as individuals in a manner that supports their dignity;

3. be assured choice and privacy and the opportunity to act autonomously, take risks to enhance independence and share responsibility for decisions;

4. participate and have family participate, if desired, in the planning of activities and services;

5. receive care and services that are adequate, appropriate, and in compliance with contractual terms of residency, relevant federal and state laws, rules and regulations and shall include the right to refuse such care and services;

6. receive upon moving in, and during his or her stay, a written statement of the services provided by the ARCP and the charges for these services;

7. be free from mental, emotional, and physical abuse and neglect, from chemical or physical restraints, and from financial exploitation and misappropriation of property;

8. have records and other information about the resident kept confidential and released only with the written consent of the resident or resident's representative or as required by law;

9. expect and receive a prompt response regarding requests (service, information, etc.) from the director and/or staff;

10. have the choice to contract with a third-party provider for ancillary services for medically related care (e.g., physician, pharmacist, therapy, podiatry, hospice,) and other services necessary as long as the resident remains in compliance with the contractual terms of residency;

11. be free to receive visitors of their choice without restriction except where the residents share bedrooms or apartments:

a. where residents do share bedrooms or apartments, reasonable restrictions that provide for the health, safety, and privacy of other residents shall be allowed;

12. manage their personal funds unless this authority has been delegated to the ARCP or to a third party by the resident, the resident's legal representative, or an agency that has the authority to grant representative payee status or fiscal management authority to a third party;

13. be notified, along with their representative in writing by the ARCP when the ARCP's license status is modified, suspended, revoked or denied renewal and to be informed of the basis of the action;

14. have choices about participation in community activities and in preferred activities, whether they are part of the formal activities program or self-directed;

15. share a room with a spouse or other consenting adult if they so choose;

16. voice grievances and suggest changes in policies and services to staff, advocates or outside representatives without fear of restraint, interference, coercion, discrimination, or reprisal and the ARCP shall make prompt efforts to address grievances including with respect to the behavior of other residents;

17. remain in their personal living area unless a change in the area is related to resident preference or to conditions stipulated in their contract, or necessitated by situations or incidents that create hazardous conditions in the living area;

18. live in a physical environment which ensures their physical and emotional security and well-being;

19. bring service animals into the ARCP;

20. bring pets into the ARCP if allowed by the ARCP and kept in accordance with the policies of the ARCP;

21. contact their advocates as provided by law;

22. be fully informed of all residents' rights and all rules governing resident conduct and responsibilities;

23. be informed of how to lodge a complaint with the Health Standards Section, the Office of Civil Rights, the Americans with Disabilities Act, the Office of the State Ombudsman, and the Advocacy Center. Contact information including telephone numbers and addresses for these entities shall be posted in a prominent location which is easily accessible to residents; and

24. have the right to privacy in his/her apartment or room(s), including the right to have:

a. a closed apartment or room door(s); and

b. the ARCP personnel knock before entering the apartment or room(s) and not enter without the resident's consent, except in case of an emergency or unless medically contraindicated.

B. Publicity. No resident shall be photographed or recorded without the resident's prior informed, written consent.

1. Such consent cannot be made a condition for joining, remaining in, or participating fully in the activities of the ARCP.

2. Consent agreements shall clearly notify the resident of his/her rights under this regulation and shall specify precisely what use is to be made of the photograph or recordings. Residents are free to revoke such agreements at any time, either orally or in writing.

3. All photographs and recordings shall be used in a way that respects the dignity and confidentiality of the resident. Recordings from security cameras placed in common areas of the building are not subject to publicity requirements for consent and shall not be used for publicity purposes.

C. Each resident shall be fully informed of their rights and responsibilities, as evidenced by written acknowledgment, prior to or at the time of occupancy and when changes occur. Each resident's file shall contain a copy of the written acknowledgment, which shall be signed and dated by the director and the resident and/or the resident's representative, if applicable.

D. The ARCP shall prominently post the grievance procedure, resident's rights, and abuse and neglect procedures in an area accessible to all residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1103 (June 2015).

### **§6857. Restraints**

A. ARCPs are prohibited from the use of physical and chemical restraints. The ARCP shall establish and maintain a restraint free environment by developing individual approaches to the care of the resident as determined by resident assessments and PCSPs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1104 (June 2015).

### **§6859. Resident Representation and Grievance Procedures**

#### **A. Resident Association**

1. The provider shall have a formal process and structure by which residents, in representative groups and/or as a whole, are given the opportunity to advise the director regarding resident services and life at the ARCP.

a. Any resident association requests, concerns or suggestions presented through this process shall be addressed by the director within a reasonable time frame, as necessitated by the concern, request or suggestion.

2. Staff may attend the residency association meetings only upon invitation made by the residents of the ARCP.

B. Grievance Procedure. A provider shall establish and have written grievance procedures to include, but not limited to:

1. a formal process to present grievances;

2. a formal appeals process for grievances;

3. a process to respond to residents and resident association requests and written grievances within seven days; and

4. the maintenance of a log to record grievances, investigation and disposition of grievances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1104 (June 2015).

### **§6861. Resident Personal Property and Funds**

A. Personal Possessions. The ARCP may, at its discretion, offer safekeeping of valuable possessions. The ARCP shall have a written statement of its policy regarding the safekeeping of valuable possessions.

1. If the ARCP offers such a service, a copy of the written policy and procedures shall be given to a resident at the time of his/her occupancy.

2. The ARCP shall give the resident a receipt listing each item that the ARCP is holding in trust for the resident. A copy of the receipt shall be placed in the resident's record. The list shall be revised as items are added or removed.

#### B. Resident Funds

1. An ARCP may offer to safe keep residents' readily accessible personal funds up to \$200 and/or assist with management of funds in excess of \$200. The ARCP shall ensure that the resident's funds are readily available upon resident's request.

2. The residency agreement shall include the resident's rights regarding access to the funds, limits on incremental withdrawals, and the charges for the service, if any.

3. The ARCP shall provide a surety bond or otherwise provide assurance satisfactory to the secretary to assure the security of all personal funds entrusted to the ARCP.

4. If an ARCP offers the service of safekeeping readily accessible personal funds up to \$200, and if a resident wishes to entrust funds, the ARCP shall:

a. obtain written authorization from the resident and/or the resident's representative, if applicable, as to safekeeping of funds;

b. provide each resident with a receipt listing the amount of money the ARCP is holding in trust for the resident;

c. maintain a current balance sheet containing all financial transactions to include the signatures of staff and the resident for each transaction; and

d. afford the resident the right to examine the account during routine business hours.

5. If an ARCP offers the service of assisting with management of funds in excess of \$200, the following shall apply.

a. The ARCP shall obtain written authorization to manage the resident's funds from the resident and the representative if applicable.

b. The resident shall have access through quarterly statements and, upon request, financial records.

c. The ARCP shall keep funds received from the resident for management in an individual account in the name of the resident.

d. Unless otherwise provided by state law, upon the death of a resident, the ARCP shall provide the executor or director of the resident's estate, or the resident's representative, if applicable, with a complete accounting of all the resident's funds and personal property being held by the ARCP. The ARCP shall release the funds and property in accordance with all applicable state laws.

6. If ARCP staff is named as representative payee by Social Security or the Railroad Retirement Board or as fiduciary by the US Department of Veterans Affairs, in addition to meeting the requirements of those agencies, the ARCP shall hold, safeguard, manage and account for the personal funds of the resident as follows.

a. The ARCP shall deposit any resident's personal funds in excess of \$50 in an interest bearing account (or accounts) separate from the ARCP's operating accounts, and that credits all interest earned on the resident's funds to that account. In pooled accounts, there shall be a separate accounting for each resident's share.

b. The ARCP shall maintain a resident's personal funds that do not exceed \$50 in a non-interest bearing account, interest bearing account, or petty cash fund.

c. The ARCP shall establish and maintain a system that assures a full and complete and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the ARCP on the resident's behalf.

i. The system shall preclude any comingling of resident funds with ARCP funds or with the funds of any person other than another resident.

ii. The individual financial record shall be available through quarterly statements and on request to resident and/or the resident's representative, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1104 (June 2015).

## Subchapter F. Requirements Related to Staff, Record-Keeping and Incident Reports

### §6863. General Provisions

A. The ARCP shall have qualified staff sufficient in number to meet the scheduled and unscheduled needs of residents and to respond in emergency situations.

B. Sufficient direct care staff shall be employed or contracted to ensure provision of personal assistance as required by the resident's PCSP.

C. Additional staff shall be employed as necessary to perform office work, cooking, house cleaning, laundering, and maintenance of buildings, equipment and grounds.

D. A staff member trained in the use of cardio pulmonary resuscitation (CPR) and first aid shall be on duty at all times.

E. Staff shall have sufficient communication and language skills to enable them to perform their duties and interact effectively with residents and staff.

F. The ARCP shall maintain a current work schedule for all employees showing actual coverage for each 24-hour day.

G. Criminal history checks and offers of employment shall be completed in accordance with R.S. 40:1203.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1105 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1976 (October 2017).

### §6865. Staffing Requirements

A. At a minimum the following staff positions are required. For ARCPs level 2 through 4, one person may occupy more than one position in the ARCP but shall not be in this position on the same shift. In a level 1 ARCP, one person may occupy more than one staff position on the same shift.

1. Director. Each ARCP shall have a qualified director who is responsible for the day-to-day management, supervision, and operation of the ARCP and who shall be on-site no less than 20 hours per week.

a. During periods of temporary absence of the director, there shall be a responsible staff person designated to be in charge 24 hours per day, seven days per week that has the knowledge and responsibility to handle any situation that may occur.

b. The director shall be at least 21 years of age and have the responsibility and authority to carry out the policies of the provider.

#### c. Director Qualifications

i. For levels 1 and 2, the director shall meet one of the following criteria upon date of hire:

(a). have at least an associate's degree from an accredited college plus one year of experience in the fields of health, social services, geriatrics, management or administration; or

(b). in lieu of an associate's degree from an accredited college three years of experience in health, social services, geriatrics, management, administration; or

(c). a bachelor's degree in geriatrics, social services, nursing, health care administration or related field.

ii. For levels 3 and 4, the director shall meet one of the following criteria upon date of hire:

(a). a bachelor's degree plus two years of administrative experience in the fields of health, social services, geriatrics, management or administration;

(b). in lieu of a bachelor's degree, six years of administrative experience in health, social services, geriatrics, management or administration;

(c). a master's degree in geriatrics, health care, human service related field, management or administration; or

(d). be a licensed nursing facility administrator.

iii. Additionally, for level 4 ARCPs the director shall have successfully completed an adult residential care/assisted living director certification/training program consisting of, at a minimum, 12 hours of training that has been approved by any one of the following organizations:

(a). Louisiana Board of Examiners of Nursing Facility Administrators;

(b). Louisiana Assisted Living Association (LALA);

(c). LeadingAge Gulf States;

(d). Louisiana Nursing Home Association (LNHA); or

(e). any of the national assisted living associations, including the:

(i). National Center for Assisted Living (NCAL);

(ii). Assisted Living Federation of America (ALFA); or

(iii). LeadingAge.

iv. Training shall begin within six months and completed within 12 months of being appointed director.

v. Two years of experience as an assisted living director may be substituted in lieu of the certification requirements.

vi. Documentation of the director's qualifications shall be maintained on file at the ARCP.

2. Designated Recreational/Activity Staff. There shall be an individual designated to organize and oversee the recreational and social programs of the ARCP.

#### 3. Direct Care Staff

a. The ARCP shall demonstrate that sufficient and trained direct care staff is scheduled and on-site to meet the 24-hour scheduled and unscheduled needs of the residents.

b. The ARCP shall be staffed with direct care staff to properly safeguard the health, safety and welfare of clients.

c. The ARCP shall employ direct care staff to ensure the provision of ARCP services as required by the PCSP.

d. Staff shall not work simultaneously at more than one ARCP on the same shift.

e. A direct care staff person who is not in the ARCP, but who is scheduled on the shift as on call shall not be included as direct care staff on any shift.

f. The ARCP shall maintain a current work schedule for all employees indicating adequate coverage for each 24-hour day.

#### B. Nursing Staff

1. In ARCPs that offer staff medication administration and level 4 ARCPs, the ARCP shall provide a sufficient number of RNs and LPNs to provide services to all residents in accordance with each resident's PCSP 24 hours per day.

2. Nursing Director

a. Level 4 ARCPs shall employ or contract with at least one RN who shall serve as the nursing director and who shall manage the nursing services. The nursing director need not be physically present at all times at the ARCP; however, the nursing director or his or her designee shall be on call and readily accessible to the ARCP 24 hours a day.

b. The nursing director, in conjunction with the resident's physician, shall be responsible for the preparation, coordination and implementation of the health care services section of the resident's PCSP.

c. The nursing director shall review and oversee all LPNs and direct care personnel with respect to the performance of health related services.

d. The nursing director shall be licensed by, and in good standing with, the Louisiana State Board of Nursing, and shall comply with all applicable licensing requirements.

3. Licensed Practical Nurses (LPNs). LPNs employed by or contracted with shall be licensed by, and in good standing with, the Louisiana State Board of Practical Nursing, and shall comply with all applicable nursing requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1105 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1977 (October 2017).

**§6867. Staff Training**

A. All staff shall receive the necessary and appropriate training to assure competence to perform the duties that are assigned to them.

1. All staff shall receive any specialized training required by law or regulation to meet resident's needs.

2. The ARCP shall maintain documentation that orientation and annual training has been provided for all current employees.

3. Orientation shall be completed within 14 days of hire and shall include, in addition to the topics listed in §6867.B, the following topics:

- a. the ARCP's policies and procedures; and
- b. general overview of the job specific requirements.

B. The following training topics shall be covered in orientation and annually thereafter for all staff and ARCP contracted providers having direct contact with residents:

1. residents' rights;

2. procedures and requirements concerning the reporting of abuse, neglect, exploitation, misappropriation and critical incidents;

3. building safety and procedures to be followed in the event of any emergency situation including instructions in the use of fire-fighting equipment and resident evacuation procedures including safe operation of fire extinguishers and evacuation of residents from the building;

4. basic sanitation and food safety practices;

5. requirements for reporting changes in resident's health conditions; and

6. infection control.

C. Training for Direct Care Staff

1. In addition to the topics listed in §6867.A.3 and §6867.B, orientation for direct care staff shall include an evaluation to ensure competence to provide ADL and IADL assistance. A new employee shall not be assigned to carry out a resident's PCSP until competency has been demonstrated and documented.

2. In addition to the required dementia training in §6867.F, direct care staff shall receive 12 hours of annual training which shall be recorded and maintained in the employee personnel file.

3. Annual training shall address the special needs of individual residents and address areas of weakness as determined by the direct care staff performance reviews.

4. All direct care staff shall receive certification in cardiac pulmonary resuscitation and adult first aid within the first 90 days of employment. The ARCP shall maintain the documentation of current certification in the staff's personnel file.

5. The requirements of §6867.C.1 may qualify as the first year's annual training requirements. However, normal supervision shall not be considered to meet this requirement on an annual basis.

D. Continuing Education for Directors

1. All directors shall obtain 12 continuing education units per year that have been approved by any one of the following organizations:

- a. Louisiana Assisted Living Association (LALA);
- b. Louisiana Board of Examiners of Nursing Facility Administrators;
- c. LeadingAge Gulf States;
- d. Louisiana Nursing Home Association (LNHA);

or

e. any of the national assisted living associations, including:

- i. National Center for Assisted Living (NCAL);
- ii. Argentum (formerly ALFA); or
- iii. LeadingAge;

2. Topics shall include, but not be limited to:

- a. person-centered care;
- b. specialty training in the population served;
- c. supervisory/management techniques; and
- d. geriatrics.

E. Third-Party Providers. A general orientation and review of ARCP policies and procedures is required to be provided to third-party providers entering the building to serve residents.

F. Dementia Training

1. All employees shall be trained in the care of persons diagnosed with dementia and dementia-related practices that include or that are informed by evidence-based care practices. New employees must receive such training within 90 days from the date of hire.

2. All employees who provide care to residents in a specialized dementia care Program shall meet the following training requirements.

a. Employees who provide direct face-to-face care to residents shall be required to obtain at least eight hours of dementia-specific training within 90 days of employment and eight hours of dementia-specific training annually. The training shall include the following topics:

- i. an overview of Alzheimer's disease and other forms of dementia;
- ii. communicating with persons with dementia;
- iii. behavior management;
- iv. promoting independence in activities of daily living; and
- v. understanding and dealing with family issues.

b. Employees who have regular contact with residents, but who do not provide direct face-to-face care, shall be required to obtain at least four hours of dementia-specific training within 90 days of employment and two hours of dementia training annually. This training shall include the following topics:

- i. an overview of dementias; and
- ii. communicating with persons with dementia.

c. Employees who have only incidental contact with residents shall receive general written information provided by the ARCP on interacting with residents with dementia.

3. Employees who do not provide care to residents in a special dementia care program shall meet the following training requirements.

a. Employees who provide direct face-to-face care to residents shall be required to obtain at least two hours of dementia-specific training annually. This training shall include the following topics:

- i. an overview of Alzheimer's disease and related dementias; and
- ii. communicating with persons with dementia.

b. All other employees shall receive general written information provided by the ARCP on interacting with residents with dementia.

4. Any dementia-specific training received in a nursing or nursing assistant program approved by the department or its designee may be used to fulfill the training hours required pursuant to this Section.

5. ARCPs may offer a complete training curriculum themselves, or they may contract with another organization, entity, or individual to provide the training.

6. The dementia-specific training curriculum shall be approved by the department or its designee. To obtain training curriculum approval, the organization, entity, or individual shall submit the following information to the department or its designee:

- a. a copy of the curriculum;
- b. the name of the training coordinator and his/her qualifications;
- c. a list of all instructors;
- d. the location of the training; and
- e. whether or not the training will be web-based.

7. A provider, organization, entity, or individual shall submit any content changes to an approved training curriculum to the department, or its designee, for review and approval.

a. Continuing education undertaken by the ARCP does not require the department's approval.

8. If a provider, organization, entity, or individual, with an approved curriculum, ceases to provide training, the department shall be notified in writing within 30 days of cessation of training. Prior to resuming the training program, the provider, organization, entity, or individual shall reapply to the department for approval to resume the program.

9. Disqualification of Training Programs and Sanctions. The department may disqualify a training curriculum offered by a provider, organization, entity, or individual that has demonstrated substantial noncompliance with training requirements including, but not limited to:

- a. the qualifications of training coordinators; or
- b. training curriculum requirements.

10. Compliance with Training Requirements

a. The review of compliance with training requirements will include, at a minimum, a review of:

- i. the documented use of an approved training curriculum; and
- ii. the provider's adherence to established training requirements.

b. The department may impose applicable sanctions for failure to adhere to the training requirements outlined in this Section.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1106 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1977 (October 2017).

### §6869. Record Keeping

A. Administrative Records. The ARCP shall have an administrative record that includes:

1. the articles of incorporation or certified copies thereof, if incorporated, by-laws, operating agreements, or partnership documents, if applicable;
2. the written policies and procedures approved annually by the owner/governing body that address the requirements listed in this Subchapter;
3. the minutes of formal governing body meetings;
4. the organizational chart of the ARCP;
5. all leases, contracts, and purchase of service agreements to which the ARCP is a party, which includes all appropriate credentials;
6. insurance policies; and
7. copies of incident/accident reports.

B. Personnel Records. An ARCP shall maintain a personnel record for each employee. At a minimum, this file shall contain the following:

1. the application for employment, including the resume of education, training, and experience, if applicable;
2. a criminal history check, prior to an offer of employment, in accordance with state law;
3. evidence of applicable professional or paraprofessional credentials/certifications according to state law, rule or regulation;
4. documentation of any state or federally required medical examinations or medical testing;
5. employee's hire and termination dates;
6. documentation of orientation and annual training of staff;
7. documentation of a valid driver's license, documentation of a valid chauffeur's or commercial driver's license with passenger endorsement, if applicable, and Louisiana DMV record for any employee that transports residents;
8. documentation of reference checks; and
9. annual performance evaluations. An employee's annual performance evaluation shall include his/her interaction with residents, family, and other providers.

C. Resident Records. An ARCP shall maintain a separate record for each resident. Such record shall be current and complete and shall be maintained in the ARCP in which the resident resides and readily available to ARCP staff and department staff. Each record shall contain the information below including but not limited to:

1. resident's name, marital status, date of birth, sex, Social Security number, and previous home address;
2. date of initial residency and date of termination of residency;
3. location of new residence following move-out;
4. name, address and telephone number of the resident's representative;
5. names, addresses, and telephone numbers of individuals to be notified in case of accident, death, or other emergency;
6. name, address, and telephone number of a physician to be called in an emergency;
7. ability to ambulate;
8. resident's plan/authorization for routine and emergency medical care;
9. the pre-residency assessment and service agreement;
10. assessment and any special problems or precautions;
11. individual PCSP, updates, and quarterly reviews;
12. continuing record of any illness, injury, or medical or dental care when it impacts the resident's ability to function without assistance with ADLs and IADLs or impacts the services the resident requires, including but not limited to all orders received from licensed medical practitioners;
13. a record of all personal property and funds which the resident has entrusted to the ARCP;
14. written and signed acknowledgment that the resident has been informed and received verbal explanation and copies of his/her rights, the house rules, written procedures for safekeeping of his/her valuable personal possessions, written statement explaining his/her rights regarding personal funds, and the right to examine his/her record;
15. advance directives and requirements for assistance in emergency evacuation; and
16. documentation of any third party services provided and documentation of any notifications provided to the resident's representative regarding services.

D. Maintenance and Storage of Records. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of in accordance with state laws. An ARCP shall have sufficient space, facilities, and supplies for providing effective storage of

records. The ARCP shall maintain the resident's records in the following manner.

1. Each resident and/or resident's legal representative, if applicable, upon written or oral request, shall have the right to inspect and/or copy his or her records during normal business hours in accordance with state and federal law.

a. After receipt of his/her records for inspection, the ARCP shall provide, upon request and two working days' notice, at a cost consistent with the provisions of applicable state law, photocopies of the records or any portions thereof.

2. The ARCP shall not disclose any resident records maintained by the ARCP to any person or agency other than the ARCP personnel, law enforcement, the department, or the attorney general's office, except upon expressed written consent of the resident or his or her legal representative, or when disclosure is required by state or federal law or regulations.

3. The ARCP shall maintain the original records in an accessible manner for a period of five years following a resident's death or vacating the ARCP.

4. The original resident records, while the resident maintains legal residence at the ARCP, shall be kept on the ARCP premises at all times, unless removed pursuant to subpoena.

5. In the event of a change of ownership, the resident records shall remain with the ARCP.

6. An ARCP which is closing shall notify the department of the plan for the disposition of residents' records in writing within 30 days prior to closure. The plan shall include where the records will be stored and the name, address and phone number of the person responsible for the resident and personnel records.

7. If the ARCP closes, the ARCP owner(s) shall store the resident records for five years from the date of closure within the state of Louisiana.

#### E. Confidentiality and Security of Records

1. The ARCP shall have written procedures for the maintenance and security of records specifying:

- a. who shall supervise the maintenance of records;
- b. who shall have custody of records; and
- c. to whom records may be released. Release shall be made in accordance with any and all federal and state laws.

2. The ARCP shall have a written procedure for protecting clinical record information against loss, destruction, or unauthorized use.

3. The ARCP shall ensure the confidentiality of all resident records, including information in a computerized record system, except when release is required by transfer to another health care institution, law, third-party payment contractor, or the resident. Information from, or copies of, records may be released only to authorized individuals, and

the ARCP shall ensure that unauthorized individuals cannot gain access to or alter resident records.

4. Employees of the ARCP shall not disclose or knowingly permit the disclosure of any information concerning the resident or his/her family, directly or indirectly, to any unauthorized person.

5. The ARCP shall obtain the resident's, and if applicable, the resident's representative's written, informed permission prior to releasing any information from which the resident or his/her family might be identified, except to the department. Identification information may be given to appropriate authorities in case of an emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1107 (June 2015).

#### §6871. Incident and Accident Reports

A. An ARCP shall have written procedures for the reporting and documentation of accidents, incidents and other situations or circumstances affecting the health, safety or well-being of a resident or residents. The procedures shall include:

1. a provision that the director or his/her designee shall be immediately verbally notified of accidents, incidents and other situations or circumstances affecting the health, safety or well-being of a resident or residents; and

2. a provision that staff shall be trained on the reporting requirements.

B. An ARCP shall report to HSS any incidents suspected of involving:

1. abuse;
2. neglect;
3. misappropriation of personal property regardless of monetary value; or
4. injuries of unknown origin. Injuries of unknown origin are defined as:

a. the source of the injury was not observed by any person or the source of the injury could not be explained by the resident; or

b. the injury is suspicious because of the extent of the injury or the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma).

C. The initial report of the incident or accident is due within 24 hours of occurrence or discovery of the incident.

D. After submission of the initial 24-hour report, a final report shall be submitted within five business days regardless of the outcome.

E. Report Contents. The information contained in the incident report shall include, but is not limited to the following:

1. circumstances under which the incident occurred;
2. date and time the incident occurred;
3. where the incident occurred (bathroom, apartment, room, street, lawn, etc.);
4. immediate treatment and follow-up care;
5. name and address of witnesses;
6. date and time family or representative was notified;
7. symptoms of pain and injury discussed with the physician; and
8. signatures of the director, or designee, and the staff person completing the report.

F. When an incident results in death of a resident, involves abuse or neglect of a resident, or entails any serious threat to the resident's health, safety or well-being, an ARCP director or designee shall:

1. immediately report verbally to the director and submit a preliminary written report within 24 hours of the incident to the department;
2. notify HSS and any other appropriate authorities, according to state law and submit a written notification to the above agencies within 24 hours of the suspected incident;
3. immediately notify the family or the resident's representative and submit a written notification within 24 hours;
4. immediately notify the appropriate law enforcement authority in accordance with state law;
5. take appropriate corrective action to prevent future incidents and provide follow-up written report to all the above persons and agencies as per reporting requirements; and
6. document its compliance with all of the above procedures for each incident and keep such documentation (including any written reports or notifications) in the resident's file. A separate copy of all such documentation shall be kept in the provider's administrative file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1108 (June 2015).

## **Subchapter G. Emergency Preparedness**

### **§6875. Emergency Preparedness Plan**

A. The ARCP shall have an emergency preparedness plan designed to manage the consequences of all hazards, declared disasters or other emergencies that have the potential to disrupt the ARCP's ability to provide care and treatment and/or threatens the lives or safety of the residents. The ARCP shall follow and execute its emergency

preparedness plan in the event or occurrence of a disaster or emergency.

1. Emergency events include, but are not limited to hurricanes, floods, fires, chemical or biological hazards, power outages, tornados, tropical storms and severe weather.

B. The ARCP will work in concert with the local parish Office of Emergency Preparedness (OEP) in developing plans.

C. Upon the department's request, an ARCP shall present its plan for review. At a minimum, the plan shall include and address the elements listed below.

1. The plan shall be individualized and site specific. All information contained in the plan shall be current and correct. The ARCP's plan shall follow all current applicable laws, standards, rules or regulations.

2. Upon request, the plan shall be made available to representatives of the following offices:

- a. OSFM;
- b. OPH; and
- c. local Office of Homeland Security.

3. The plan shall contain census information, including transportation needs for current census and available capacity.

4. The plan shall contain a clearly labeled and legible master floor plan(s) that indicates the following:

a. the areas in the ARCP, either in the resident's apartment or the other areas of the ARCP, that are to be used by residents as shelter or safe zones during emergencies;

b. the location of emergency power outlets, if available (if none are powered or all are powered, this shall be stated as such on the plan); and

c. the locations of posted, accessible, emergency information.

5. The plan shall provide for floor plans or diagrams to be posted and those plans or diagrams shall clearly indicate:

a. that specific room or apartment's location, the fire exits, the fire evacuation routes, locations of alarm boxes and fire extinguishers, and written fire evacuation procedures shall be included on one plan; and

b. a separate floor plan or diagram with safe zones or sheltering areas for non-fire emergencies shall indicate areas of building, apartments, or rooms that are designated as safe or sheltering areas.

6. The plan shall include a detailed list of what will be powered by emergency generator(s), if the ARCP has a generator.

7. The plan shall be viable and promote the health, safety and welfare of the residents.

8. The plan shall include a procedure for monitoring weather warnings and watches and evacuation orders from local and state emergency preparedness officials. This procedure will include:

- a. who will monitor;
- b. what equipment will be used; and
- c. procedures for notifying the director or responsible persons.

9. The plan shall provide for the delivery of essential care and services to meet the needs of the residents during emergencies, who are housed in the ARCP or by the ARCP at another location, during an emergency.

10. The plan shall contain information about staffing when the ARCP is sheltering in place or when there is an evacuation of the ARCP. Planning shall include documentation of staff that have agreed to work during an emergency and contact information for such staff. The plan shall include provisions for adequate, qualified staff as well as provisions for the assignment of responsibilities and duties to staff.

11. The plan shall include procedures to notify each resident's family or responsible representative whether the ARCP is sheltering in place or evacuating to another site. The plan shall include which staff is responsible for providing this notification. If the ARCP evacuates, notification shall include:

- a. the date and approximate time that the ARCP is evacuating;
- b. the place or location to which the ARCP is evacuating, including the:
  - i. name;
  - ii. address; and
  - iii. telephone number.

12. The plan shall include the procedure or method whereby each ARCP resident has a manner of identification that is provided to them to be attached to his/her person. Residents shall be instructed to keep the identification on their person at all times in the event of sheltering in place or evacuation. The following minimum information shall be included with the resident:

- a. current and active diagnosis;
- b. medications, including dosage and times administered;
- c. allergies;
- d. special dietary needs or restrictions; and
- e. next of kin or responsible person and contact information.

13. The plan shall include an evaluation of the building and necessary systems to determine the ability to withstand wind, flood, and other local hazards that may affect the ARCP. If applicable, the plan shall also include an

evaluation of each generator's fuel source(s), including refueling plans and fuel consumption.

14. The plan shall include an evaluation of the ARCP's surroundings to determine lay-down hazards, objects that could fall on the ARCP, and hazardous materials in or around the ARCP, such as:

- a. trees;
- b. towers;
- c. storage tanks;
- d. other buildings;
- e. pipe lines;
- f. chemicals;
- g. fuels; or
- h. biologics.

15. For ARCPs that are geographically located south of Interstate 10 or Interstate 12, the plan shall include the determinations of when the ARCP will shelter in place and when the ARCP will evacuate for a storm or hurricane and the conditions that guide these determinations.

16. If the ARCP shelters in place, the ARCP's plan shall include provisions for seven days of necessary supplies to be provided by the ARCP prior to the emergency event, to include:

- a. drinking water or fluids;
- b. non-perishable food; and
- c. other provisions as needed to meet the contractual obligations and current level of care requirements of each resident.

17. The plan shall include a posted communications plan for contacting emergency services and monitoring emergency broadcasts and whose duty and responsibility this will be. The communications plan will include a secondary plan in the event primary communications fail.

18. The plan shall include how the ARCP will notify the local Office of Emergency Preparedness and the department when the decision is made to shelter in place or evacuate and whose responsibility it is to provide this notification.

D. The ARCP shall have transportation or arrangements for transportation for evacuation, hospitalization, or any other services which are appropriate and to meet the contractual obligations and current level of care requirements of each resident.

1. Transportation or arrangements for transportation shall be adequate for the current census and meet the ambulatory needs of the residents.

2. Transportation or arrangements for transportation shall be for the evacuation from and return to the ARCP or as needed to meet the contractual obligations or current level of care requirements of each resident.

E. The ARCP director, or designee, shall make the decision to evacuate or shelter in place after reviewing all available and required information on the storm, the ARCP, the ARCP's surroundings, and in consultation with the local office of Emergency Preparedness. In making the decision to shelter in place or evacuate, the ARCP shall consider the following:

1. under what conditions the ARCP will shelter in place;
2. under what conditions the ARCP will close or evacuate; and
3. when will these decisions be made.

F. The ARCP accepts all responsibility for the health and well-being of all residents that shelter with the ARCP before, during, and after the storm.

G. The ARCP shall have a plan for an on-going safety program to include:

1. inspection of the ARCP for possible hazards with documentation;
2. monitoring of safety equipment and maintenance or repair when needed and/or according to the recommendations of the equipment manufacturer, with documentation;
3. investigation and documentation of all accidents or emergencies;
4. fire control and evacuation planning with documentation of all emergency drills; and
5. all aspects of the ARCP's plan, planning, and drills which shall meet the requirements of the OSFM.

H. The ARCP shall inform the resident and/or the resident's representative of the ARCP's emergency plan and ongoing safety plan and the actions to be taken. Current emergency preparedness plan information shall be available for review by the resident or the resident's representative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1109 (June 2015).

### **§6877. Emergency Plan Activation, Review and Summary**

A. Following an event or occurrence of a disaster or emergency, whether the ARCP shelters in place or evacuates, upon request by the department the ARCP shall submit a written summary attesting how the ARCP's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

1. pertinent plan provisions and how the plan was followed and executed;
2. plan provisions that were not followed;
3. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

4. contingency arrangements made for those plan provisions not followed; and

5. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths.

B. The ARCP's emergency plan(s) shall be activated at least annually, either in response to an emergency or in a planned drill. All staff shall be trained and have knowledge of the emergency plan.

C. All ARCPs must conduct egress and relocation drills in accordance with the requirements of the OSFM and the applicable edition of the NFPA 101 Life Safety Code published by the NFPA.

1. All staff shall participate in at least one drill annually.

2. Fire extinguishers shall be conspicuously hung, kept easily accessible, shall be visually examined monthly and the examination shall be recorded on a tag which is attached to the fire extinguisher. Fire extinguishers shall also be inspected and maintained in accordance with manufacturers' and applicable NFPA requirements. Each fire extinguisher shall be labeled to show the date of such inspection and maintenance.

D. In addition to the exercises for emergencies due to fire, the ARCP plan shall be activated at least once per year for emergencies due to a disaster other than fire, such as storm, flood, and other natural disasters. The activation(s) shall include an exercise for shelter-in-place and an exercise for evacuation. The ARCP shall document the exercise for shelter-in-place and the exercise for evacuation.

E. The ARCP's performance during the activation of the plan shall be evaluated annually by the ARCP and the findings shall be documented in the plan. Records shall be kept to document the evacuation times and participation. Such records shall be maintained at the ARCP and shall be readily available to the OSFM upon request.

F. The plan shall be revised if indicated by the ARCP's performance during the emergency event or the planned drill.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1111 (June 2015).

### **§6879. Notification**

A. The emergency preparedness plan shall specify the following:

1. list of all persons, agencies, authorities to be notified and routinely updated contact information;
2. process of notification;
3. verification or documentation of attempted notification; and
4. back-up communication plans and procedures.

B. An ARCP shall immediately notify the HSS program desk and other appropriate agencies of any fire, disaster or other emergency that may present a danger to residents or require their evacuation from the ARCP.

C. In the event that an ARCP evacuates, temporarily relocates or temporarily ceases operations at its licensed location as a result of an evacuation order issued by the state, local or parish Office of Homeland Security Emergency Preparedness (OHSEP), the ARCP must immediately give notice to the HSS and Governor's Office of Homeland Security Emergency Preparedness (GOHSEP) by facsimile or e-mail of the following:

1. the date and approximate time of the evacuation; and

2. the locations of where the residents have been placed, whether this location is a host site for one or more of the ARCP residents.

D. In the event that an ARCP evacuates, temporarily relocates or temporarily ceases operations at its licensed location for any reason other than an evacuation order, the ARCP must immediately give notice to the HSS by facsimile or e-mail of the following:

1. the date and approximate time of the evacuation; and

2. the location of where the residents have been placed, whether this location is a host site for one or more of the ARCP residents.

E. If there are any deviations or changes made to the locations of the residents that was given to the HSS and the local OEP, then both HSS and the local OEP shall be notified of the changes within 48 hours of their occurrence.

F. Effective immediately upon notification of an emergency declared by the Secretary, all ARCPs licensed in Louisiana shall file an electronic report with the ESF-8 Portal and its applications during a declared emergency, disaster, or a public health emergency.

1. The electronic report shall be filed as prescribed by the department throughout the duration of the disaster or emergency event.

2. The electronic report shall include but not be limited to the following:

- a. status of operation;
- b. availability of beds;
- c. generator status, if applicable;
- d. evacuation destination(s) and status;
- e. shelter in place status;
- f. current census;
- g. emergency evacuation transportation needs categorized by the following types:

i. red—high risk patients that need to be transported by advanced life support ambulance due to

dependency on mechanical or electrical life sustaining devices or very critical medical condition;

ii. yellow—residents who are not dependent on mechanical or electrical life sustaining devices, but cannot be transported using normal means (buses, vans, cars), may need to be transported by an ambulance; however, in the event of inaccessibility of medical transport, buses, vans or cars may be used as a last resort; or

iii. green—residents who need no specialized transportation may be transported by car, van, bus or wheelchair accessible transportation; and

h. any other information as requested by the department.

3. There shall be a plan and procedures to file the report if primary communications fail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1111 (June 2015).

**§6881. Authority to Re-open After an Evacuation, Temporary Relocation or Temporary Cessation of Operation**

A. The following applies to any ARCP that evacuates, temporarily relocates or temporarily ceases operation at its licensed location due to an emergency.

1. The ARCP must immediately give written notice to HSS by hand delivery, facsimile or e-mail of the following information:

- a. the date and approximate time of the evacuation;
- b. the sheltering host site(s) to which the ARCP is evacuating; and
- c. a list of residents being evacuated, which shall indicate the evacuation site for each resident.

2. Within 48 hours, the ARCP must notify HSS of any deviations from the intended sheltering host site(s) and must provide HSS with a list of all residents and their locations.

3. If there was no damage to the licensed location due to the emergency event, and there was no power outage of more than 48 hours at the licensed location due to the emergency event, the ARCP may reopen at its licensed location and shall notify HSS within 24 hours of reopening. For all other evacuations, temporary relocations, or temporary cessation of operations due to an emergency event, an ARCP must submit to HSS a written request to reopen, prior to reopening at the licensed location. The request to reopen shall include:

- a. a damage report;
- b. the extent and duration of any power outages;
- c. the re-entry census;
- d. staffing availability;

- e. access to emergency or hospital services; and
- f. availability and/or access to food, water, medications and supplies.

B. Upon receipt of a reopening request, the department shall review and determine if reopening will be approved. The department may request additional information from the ARCP as necessary to make determinations regarding reopening.

C. After review of all documentation, in order to assure that the ARCP is in compliance with the licensing standards including, but not limited to, the structural soundness of the building, the sanitation code, staffing requirements and the execution of emergency plans, the department shall issue a notice of one of the following determinations:

1. approval of reopening without survey;
2. surveys required before approval to reopen will be granted. Surveys may include OPH, Fire Marshall and Health Standards; or
3. denial of reopening.

D. The HSS, in coordination with state and parish OHSEP, will determine the ARCP's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services and necessary supplies.

E. The HSS will give priority to reopening surveys.

F. Upon request by the department, the ARCP shall submit a written summary attesting how the ARCP's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

1. pertinent plan provisions and how the plan was followed and executed;
2. plan provisions that were not followed;
3. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
4. contingency arrangements made for those plan provisions not followed;
5. a list of all injuries and deaths of residents that occurred during execution of the plan, evacuation and temporary relocation including the date, time, causes and circumstances of the injuries and deaths; and
6. a summary of all request for assistance made and any assistance received from the local, state, or federal government.

G. Sheltering in Place. If an ARCP shelters in place at its licensed location during an emergency event, the following will apply.

1. The ARCP must immediately give written notice to the HSS by hand delivery, facsimile or e-mail that the ARCP will shelter in place.
2. Upon request by the department, the ARCP shall submit a written summary attesting how the ARCP's

emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

- a. pertinent plan provisions and how the plan was followed and executed;
- b. plan provisions that were not followed;
- c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
- d. contingency arrangements made for those plan provisions not followed;
- e. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths; and
- f. a summary of all request for assistance made and any assistance received from the local, state, or federal government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1112 (June 2015).

## Subchapter H. Physical Environment

### §6885. General Requirements and Authority

A. The standards in this Subchapter shall apply to any ARCP constructed after the effective date of this rule, alterations, additions or substantial rehabilitation to an existing ARCP, or adaptation of an existing building to create an ARCP. Cosmetic changes to the ARCP such as painting, flooring replacement or minor repairs shall not be considered an alteration or substantial rehabilitation.

B. An ARCP shall submit architectural plans and construction documents to the OSFM. The regulations and codes governing new ARCPs also apply if and when the ARCP proposes to begin operation in a building not previously and continuously used as an ARCP licensed under these regulations.

C. Design Criteria. The project shall be designed in accordance with the following criteria:

1. the requirements of the OSFM;
2. Part XIV (Plumbing) of the *Sanitary Code* (LAC 51), state of Louisiana; and
3. the current department licensing regulations for adult residential care providers.

D. Life Safety Code Occupancy Requirements. Any ARCP that provides services to four or more residents who are not capable of taking action for self-preservation under emergency conditions without the assistance of others shall meet the construction requirements established for limited care health care occupancies and codes adopted by the OSFM. All level 4 ARCPs shall meet limited care health care occupancies and codes adopted by the OSFM.

E. During power outages or other emergencies, level 4 ARCPs shall have the ability to generate power for emergency lighting, designated power outlets and temperature control.

F. Waivers. The secretary may, within his or her sole discretion, grant waivers to physical environment requirements insofar as they do not conflict with the requirements of the OSFM or OPH. Requests for waivers are considered on the following basis.

1. The ARCP must demonstrate how resident health and safety and the maintenance of a homelike environment are not compromised.

2. No waiver shall be approved that results in an ARCP that is not physically distinct from any residential care facility, nursing home or hospital.

3. No waiver shall be approved which results in a living environment that does not provide all required physical features and/or does not provide sufficient space to permit residents to carry out, with or without assistance, all the functions necessary for independent living.

4. The ARCP shall demonstrate its ability to completely fulfill all other requirements of the service.

5. The department shall make a written determination of the request.

6. Waivers are not transferable in an CHOW and are subject to review or revocation upon any change in circumstances to the waiver.

G. All ARCPs licensed under these regulations shall be designed and constructed to substantially comply with pertinent local and state laws, codes, ordinances and standards. All new construction shall be in accordance with Louisiana *Uniform Construction Code* in effect at the time of original licensure.

H. Practices that create an increased risk of fire are prohibited. This includes, but is not limited to:

1. space heaters;
2. the accumulation or storage within the ARCP of combustible materials such as rags, paper items, gasoline, kerosene, paint or paint thinners; or
3. the use of extension cords or multi-plug adapters for electrical outlets, except ARCPs may utilize transient voltage surge protectors or surge suppressors with microprocessor electronic equipment such as computers or CD/DVD recorders or players. Any transient voltage surge protectors or surge suppressors shall have a maximum UL rating of 330v and shall have a functioning protection indicator light. ARCPs may not use transient voltage surge protectors or surge suppressors that do not function completely or for which the protection indicator light does not work.

#### I. Safety Standards for Smoking

1. Adult residential care providers may elect to prohibit smoking in the ARCP or on the grounds or both. If

an ARCP elects to permit smoking in the ARCP or on the grounds, the ARCP shall include the following minimal provisions, and the ARCP shall ensure the following.

a. In ARCPs equipped with sprinkler systems, the ARCP may designate a smoking area or areas within the ARCP. The designated area or areas shall have a ventilation system that is separate from the ventilation system for non-smoking areas of the ARCP. ARCPs lacking a sprinkler system are prohibited from designating smoking areas within the ARCP.

b. Smoking shall be prohibited in any room or compartment where flammable liquids, combustible gases or oxygen is used or stored, and any general use/common areas of the ARCP. Such areas shall be posted with "no smoking" signs.

c. Smoking by residents assessed as not capable of doing so without assistance shall be prohibited unless the resident is under direct supervision.

d. Ashtrays of noncombustible material and safe design shall be placed in all areas where smoking is permitted.

e. Metal containers with self-closing cover devices into which ashtrays may be emptied shall be placed in all areas where smoking is permitted.

#### J. Kitchen/Food Service

1. Each ARCP shall comply with all applicable regulations relating to food service for sanitation, safety and health as set forth by state, parish and local health departments.

2. The ARCP shall have a central or a warming kitchen.

3. The kitchen of an ARCP shall be in compliance with the requirements of Part XXIII of the Louisiana *Sanitary Code* (LAC 51).

4. Level 3 and 4 ARCPs may opt out of having a central kitchen if meals are prepared in an off-site location.

a. ARCPs opting out shall have a kitchen area to hold, warm and serve food prepared at the off-site location. This kitchen area shall meet the Louisiana *Sanitary Code* requirements for food safety and handling.

b. Meals and snacks provided by the ARCP but not prepared on-site shall be obtained from or provided by an entity that meets the standards of state and local health regulations concerning the preparation and serving of food.

c. Opting out does not exempt ARCPs from meeting dining room space that is separate and distinct as referenced above in physical separation standards.

5. In ARCPs that have commercial kitchens with automatic extinguishers in the range hood, the manufacturer's recommendations regarding portable fire extinguishers shall be followed.

6. The kitchen and food preparation area shall be well lit, ventilated, and located apart from other areas to prevent food contamination in accordance with the state *Sanitary Code*.

7. An adequate supply of eating utensils (e.g., cups, saucers, plates, glasses, bowls, and flatware) will be maintained in the ARCP's kitchen to meet the needs of the communal dining program. Eating utensils shall be free of chips or cracks.

8. An adequate number of pots and pans shall be provided for preparing meals.

9. Each ARCP shall have adequate storage space. All storage space shall be constructed and maintained to prevent the invasion of rodents, insects, sewage, water leakage or any other contamination. Shelving shall be of sufficient height from the floor to allow cleaning of the area underneath the bottom shelf. All items shall be stored in accordance with state *Sanitary Code*.

10. Food waste shall be placed in garbage cans with airtight fitting lids and bag liners. Garbage cans shall be emptied daily.

#### K. Laundry

1. Each ARCP shall have laundering facilities unless commercial laundries are used.

a. The laundry shall be located in a specifically designed area that is physically separate and distinct from residents' rooms and from areas used for dining and food preparation and service.

b. There shall be adequate rooms and spaces for sorting, processing and storage of soiled material.

c. Laundry rooms shall not open directly into a resident's personal living area or food service area.

2. Domestic washers and dryers for the use by residents may be provided in resident areas provided they are installed and maintained in such a manner that they do not cause a sanitation problem, offensive odors, or fire hazard.

3. Supplies and equipment used for housekeeping and laundry will be stored in a separate locked room. All hazardous chemicals will be stored in compliance with OPH requirements.

#### L. Lighting

1. All in-door areas of an ARCP shall be well lighted to ensure residents' safety and to accommodate need.

2. Night-lights for corridors, emergency situations and the exterior shall be provided as needed for security and safety.

3. All rooms shall have working light switches at the entrance to each room.

4. Light fixtures in resident general use or common areas shall be equipped with covers to prevent glare and hazards to the residents.

#### M. HVAC/Ventilation

1. The ARCP shall provide safe HVAC systems capable of maintaining a temperature range of 71-81 degrees Fahrenheit.

2. Filters for heaters and air conditioners shall be provided as needed and maintained in accordance with manufacturer's specifications.

N. If the ARCP uses live-in staff, staff shall be provided with adequate, separate living space with a private bathroom. This private bathroom is not to be counted as available to residents.

O. An ARCP shall have space that is distinct from residents' living areas to accommodate administrative and record-keeping functions.

P. An ARCP shall have a designated space to allow private discussions with individual residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1113 (June 2015).

#### §6887. Physical Appearance and Conditions

A. The ARCP shall be constructed, equipped, and maintained in good repair and free of hazards.

1. Potentially hazardous areas include, but are not limited to:

- a. steep grades;
- b. cliffs;
- c. open pits;
- d. swimming pools;
- e. high voltage boosters; or
- f. high speed roads.

2. Potentially hazardous areas shall be fenced off or have natural barriers to protect residents.

B. An accessible outdoor recreation area is required and shall be made available to all residents and include walkways suitable for walking and benches for resting. Lighting of the area shall be equal to a minimum of five foot-candles.

C. ARCPs shall have an entry and exit drive to and from the main building entrance that will allow for picking up and dropping off residents and for mail deliveries. ARCPs licensed after the effective date of this Rule shall have a covered area at the entrance to the building to afford residents protection from the weather.

D. If the ARCP maintains a generator on the grounds of the ARCP, it shall be fenced off or have natural barriers to protect residents.

#### E. Waste Removal and Pest Control

1. Garbage and rubbish that is stored outside shall be stored securely in covered containers and shall be removed on a regular basis.

2. Trash collection receptacles and incinerators shall be separate from outdoor recreational space and located as to avoid being a nuisance to neighbors.

3. The ARCP shall have an effective pest control program through a pest control contract.

F. Signage. The ARCP's address shall be displayed so as to be easily visible from the street.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1114 (June 2015).

### **§6889. Resident Dining and Common Areas**

A. The ARCP shall provide common areas to allow residents the opportunity for socialization. Common areas shall not be confined to a single room.

B. The ARCP shall meet the following requirements for resident dining and common areas.

1. The common areas shall be maintained to provide a clean, safe and attractive environment for the residents.

2. Each ARCP shall have dining room and common areas easily accessible to all residents.

3. Dining rooms and common areas shall be available for use by residents at appropriate times to provide periods of social diversion and individual or group activities.

4. Common areas and dining rooms shall not be used as bedrooms.

C. Square Footage. Square footage requirements for common areas and dining room(s) are as follows.

1. Common areas shall be separate from the dining room with a combined total square footage of at least 60 square feet per resident as based on licensed capacity. Common areas do not include corridors and lobby areas for the purposes of calculation.

2. The ARCP shall have at least 20 square feet of designated dining space per resident if dining will be conducted in one seating. If dining will be conducted in two seatings, 10 square feet per resident will be required. ARCPs will document their dining seating plan, and maintain the documentation for review by the department.

D. Residents of the ARCP shall have access to the outdoors for recreational use. The parking lot shall not double as recreational space.

E. If the ARCP accepts residents that have dementia or cognitive impairments that make it unsafe for them to leave the building or grounds without supervision, an enclosed area shall be provided adjacent to the ARCP so that such residents may go outside safely.

F. With the exception of level 1 ARCPs, the ARCP shall provide public restrooms of sufficient number and location to serve residents and visitors. Public restrooms shall be located close enough to common areas to allow residents to participate comfortably in activities and social opportunities.

G. For every 40 residents, there shall be, at a minimum, one dedicated telephone available for use in common areas when a telephone line is not provided in each apartment.

1. The telephone shall allow unlimited local calling without charge.

2. Long distance calling shall be possible at the expense of the resident or the resident's representative via personal calling card, pre-paid telephone card, or similar methods.

3. The telephone shall be located away from frequently used areas so that residents shall be able to make telephone calls in an at least auditory privacy.

H. In ARCPs housing residents in more than one building, covered walkways with accessible ramps are required for buildings that house residents and areas intended for resident use, such as laundry facilities, dining rooms or common areas.

I. An ARCP shall not share common living, or dining space with another entity licensed to care for individuals on a 24-hour basis.

J. Space used for administration, sleeping, or passage shall not be considered as dining or common areas.

K. Adult Residential Care Providers in Shared Businesses

1. Physical and Programmatic Separation. If more than one business occupies the same building, premises, or physical location, the ARCP shall be both physically and programmatically distinct from the business to which it is attached or of which it is a part. ARCPs shall comply with R.S. 40:2007.

2. Entrance. If more than one business occupies the same building, premises, or physical location, the ARCP shall have its own entrance. This separate entrance shall not be accessed solely through another business or health care provider. This separate entrance shall have appropriate signage and shall be clearly identifiable as belonging to the ARCP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1115 (June 2015).

### **§6891. Resident Personal Space**

A. Level 1 ARCP Bedroom Requirements

1. A level 1 ARCP shall ensure that each single occupancy bedroom space has a floor area of at least 100 net square feet and that each multiple occupancy bedroom space has a floor area of at least 70 net square feet for each

resident. Bathrooms and closets/wardrobes shall not be included in the calculation of square footage.

2. There shall be no more than two residents per bedroom. All shared living arrangements shall be agreed to in writing by both parties.

3. A room where access is through a bathroom or another bedroom shall not be approved or used as a resident's bedroom.

4. Privacy of residents shall be maintained in residents' personal space.

#### B. Level 2 ARCP Bedroom Requirements

1. A level 2 ARCP shall ensure that each single occupancy bedroom space has a floor area of at least 100 net square feet and that each multiple occupancy bedroom space has a floor area of at least 70 net square feet for each resident. Bathrooms and closets/wardrobes shall not be included in the calculation of square footage.

2. There shall be no more than two residents per bedroom. All shared living arrangements shall be agreed to in writing by both parties.

3. A room where access is through a bathroom or another bedroom shall not be approved or used as a resident's bedroom.

4. Privacy of residents shall be maintained in resident's personal space.

#### C. Requirements for Resident Bathrooms in Level 1 and 2 ARCPs

1. There shall be at least one bathroom for every four residents.

2. Bathrooms shall be equipped with one toilet, bathtub or shower, and a washbasin.

3. Grab bars and non-skid surfacing or strips shall be installed in all showers and bath areas.

4. Bathrooms shall have floors and walls of impermeable, cleanable, and easily sanitized materials.

5. Resident bathrooms shall not be utilized for storage or purposes other than those indicated by this Subsection.

6. Hot and cold-water faucets shall be easily identifiable and be equipped with scald control.

a. Hot water temperatures shall not exceed 120 degrees Fahrenheit.

7. Each bathroom shall be supplied with toilet paper, soap and towels.

8. Mirrors shall be provided and secured to the wall at convenient heights to allow residents to meet basic personal hygiene and grooming needs.

9. Bathrooms shall be located so that they open into the hallway, common area, or directly into the bedroom. If the bathroom opens directly into a bedroom, it shall be for the use of the occupants of that bedroom only.

#### D. Requirements for Resident Apartments in levels 3 and 4

1. All apartments in levels 3 and 4 shall be independent and shall contain at a minimum the following areas:

a. a bedroom/sleeping area that can be distinguished by sight from other areas in the apartment;

b. a bathroom;

c. a kitchenette that can be distinguished by sight from other areas in the apartment;

d. a dining/living area; and

e. a closet/wardrobe.

#### 2. Square Footage in Level 3 and 4 ARCPs

a. Efficiency/studio apartments shall have a minimum of 250 net square feet of floor space, excluding bathrooms and closets and/or wardrobes.

b. Resident apartments with separate bedrooms shall be at minimum 190 square feet in living area excluding bathrooms and 100 square feet for each bedroom excluding closets and/or wardrobes.

3. Privacy of residents shall be maintained in all apartments.

4. Each apartment shall have an individual lockable entrance and exit. All apartments shall be accessible by means of a master key or similar system that is available at all times in the ARCP and for use by designated staff.

5. No apartment shall be occupied by more than two residents regardless of square footage. All shared living arrangements shall be agreed to in writing by both residents.

a. It is recognized that there may be more individuals in an ARCP due to the resident and a spouse or partner sharing a living unit than is listed as the total licensed capacity.

6. Each apartment shall contain an outside window. Skylights are not acceptable to meet this requirement.

7. In new ARCPs licensed after the effective date of these regulations, the ARCP shall provide HVAC thermostats that can be individually controlled by the resident, with a locking mechanism provided, if required, to prevent harm to a resident.

8. Each apartment shall have a call system, either wired or wireless, monitored 24 hours a day by the ARCP staff.

9. Each apartment shall be equipped for telephone and television cable or central television antenna system.

10. Each apartment shall have access to common areas and dining room(s).

#### 11. Kitchenettes

a. For each apartment, the ARCP shall provide, at a minimum, a small refrigerator, a wall cabinet for food

storage, a small bar-type sink, and a counter with workspace and electrical outlets, a small cooking appliance, for example, a microwave or a two-burner cook top.

b. If the resident's assessment indicates that having a cooking appliance in the apartment endangers the resident, no cooking appliance shall be provided or allowed in the apartment or the cooking appliance may be disconnected.

12. Bathrooms. Each apartment shall have a separate and complete bathroom with a toilet, bathtub or shower, and sink. The bathrooms shall be ADA accessible.

a. Entrance to a bathroom from one bedroom shall not be through another bedroom.

b. Grab bars and non-skid surfacing or strips shall be installed in all showers and bath areas.

c. Bathrooms shall have floors and walls of impermeable, cleanable, and easily sanitized materials.

d. Resident bathrooms shall not be utilized for storage or purposes other than those indicated by this Subsection.

e. Hot and cold-water faucets shall be easily identifiable and be equipped with scald control.

i. Hot water temperatures shall not exceed 120 degrees Fahrenheit.

f. Each bathroom shall be equipped with an emergency call system that is monitored 24 hours a day by the ARCP staff.

13. Storage. The ARCP shall provide adequate portable or permanent closet(s) in the apartment for clothing and personal belongings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1115 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1977 (October 2017).

### §6893. Furnishings and Equipment

#### A. Common Areas

1. Furniture for shared living rooms and sitting areas shall include comfortable chairs, tables, and lamps.

2. All furnishings and equipment shall be durable, clean, and appropriate to its function. Furnishings shall be tested in accordance with the provisions of the applicable edition of the *NFPA 101 Life Safety Code*.

3. Windows shall be kept clean and in good repair and supplied with curtains, shades or drapes. Each window that can be opened shall have a screen that is clean and in good repair.

4. All fans located within seven feet of the floor shall be protected by screen guards.

5. Throw or scatter rugs, or bath rugs or mats shall have a non-skid backing.

6. Wastepaper baskets and trash containers used in the common areas shall be metal or approved washable plastic baskets.

#### B. Furnishings and Supplies

1. Each Facility shall strive to maintain a residential environment and encourage residents to use their own furnishings and supplies. However, if the resident does not bring their own furniture, the ARCP shall assist in planning and making arrangements for obtaining:

a. a bed, including a frame and a clean mattress and pillow;

b. basic furnishings, such as a private dresser or similar storage area for personal belongings that is readily accessible to the resident;

c. a closet, permanent or portable, to store clothing and aids to physical functioning, if any, which is readily accessible to the resident;

d. a minimum of two chairs;

e. blankets and linens appropriate in number and type for the season and the individual resident's comfort;

f. towels and washcloths; and

g. provisions for dining in the living unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1116 (June 2015).