

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

**Adult Residential Care Providers
Licensing Standards
(LAC 48:I.Chapter 68)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 68 as authorized by R.S. 36:254 and 40:2166.1-40:2166.8. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing standards for adult residential care providers (ARCPs) in order to: 1) establish requirements and limitations for visitation by clergy and immediate family members or other designated persons during a declared public health emergency; 2) adopt provisions governing the inactivation of the ARCP's license due to a declared or non-declared disaster or emergency; and 3) revise the language in the administrative Rule to ensure consistency with other licensing standards.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 68. Adult Residential Care Providers

Subchapter A. General Provisions

§6801. Introduction

A. ...

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:

B.1. - D. ...

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

E.1. - H. ...

1. Upon approval of the application for renewal of licensure, an existing ~~adult residential care (ARC) provider~~ARCP 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.)~~

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

3. If an existing ~~ARC provider~~ARCP is electing to begin providing medication administration after August 15, 2015, the ~~ARC provider~~ARCP 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~~ARCP 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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§6803. Definitions and Abbreviations

Cessation of Business—provider is non-operational and/or has stopped offering or providing services to the community.

Change of Ownership (CHOW)—the addition, substitution, or removal, whether by sale, ~~or~~ transfer, lease, gift, or

otherwise, of all or a portion of the assets a licensed health care provider subject to this rule by a person, corporation, or other equity interest entity which results in an ARCP. Examples of actions that constitute a CHOW or change of ownership include: controlling interest of assets or other equity interests of the licensed entity may constitute a CHOW of the licensed entity. An example of an action that constitutes a CHOW includes, but is not limited to, the leasing of the licensed entity.

~~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.~~1. - 4. Repealed.

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

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

~~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 living 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.~~

NOTE: Kitchenettes are not required in apartments designated for the specialized dementia care program.

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.

NOTE: Kitchenettes are not required in apartments designated for the specialized dementia care program.

~~*May* indicates permissible practices or services~~Repealed.

~~*Non-Operational*~~—the ARCP location is not open for business operation on designated days and hours as stated on the licensing application and business location signage.

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

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

~~*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 indicate mandatory requirements.~~ Repealed.

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), LR 47:

§6805. Licensure Requirements

A. All ARCPs shall be licensed by ~~the Department of Health and Hospitals~~ LDH. 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. - F. ...

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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§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. - 5.b. ...

6. proof of general ~~and professional~~ liability insurance of at least \$300,000 per occurrence;

7. proof of worker's compensation insurance as required by state law;

8. ~~if applicable, a clinical laboratory improvement amendments (CLIA) certificate or a CLIA certificate of waiver;~~ proof of professional liability insurance of at least \$100,000 per occurrence/\$300,000 per annual aggregate, or proof of self-insurance of at least \$100,000, along with proof of

enrollment as a qualified health care provider with the Louisiana Patient's Compensation Fund (PCF):

a. if the ARCP is self-insured and is not enrolled in the PCF, professional liability limits shall be \$1,000,000 per occurrence/\$3,000,000 per annual aggregate.

NOTE: The LDH/HSS shall specifically be identified as the certificate holder on any policies and any certificates of insurance issued as proof of insurance by the insurer or producer (agent).

9. ~~a completed disclosure of ownership and control information form~~if applicable, a clinical laboratory improvement amendments (CLIA) certificate or a CLIA certificate of waiver;

10. ~~a floor sketch or drawing of the premises to be licensed~~a completed disclosure of ownership and control information form;

11. ~~the days and hours of operation~~a floor sketch or drawing of the premises to be licensed;

12. ~~a facility need review approval for a level 4 ARCP~~the days and hours of operation;

13. ~~a copy of the letter approving architectural plans from the OSFM~~an FNR approval for a level 4 ARCP;

14. ~~the organizational chart of the ARCP~~a copy of the letter approving architectural plans from the OSFM; and

15. ~~any documentation or information required by the department for licensure.~~ the organizational chart of the ARCP;
and

16. any documentation or information required by the department for licensure.

B. ...

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~~FNR requirements.

D. ...

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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§6809. Initial Licensing Surveys

A. - D. ...

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

components of a plan of correction shall:

a. address how corrective actions were accomplished for those residents found to have been affected by the deficient practice;

b. describe how other residents that have the potential to be affected by the deficient practice will be identified; and what will be done for them;

c. include the measures that will be put in place or the system changes that will be made to ensure that the deficient practice will not recur;

d. indicate how the facility plans to monitor its performance; and

e. include dates when corrective action will be completed. This date shall not exceed 60 days from exit date of survey.

2. ...

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~~ FNR approval.

E. - I. ...

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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§6811. Types of Licenses and Expiration Dates

A. - A.3. ...

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~~ three validated complaints in one licensed year period;

ii. the existing ARCP has ~~more than three validated complaints in one licensed year period~~ been issued a

deficiency that involved placing a participant at risk for serious harm or death;

iii. the existing ARCP has ~~been issued a deficiency that involved placing a participant at risk for serious harm or death~~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

iv. the existing ARCP ~~has failed to correct deficient practices within 60 days of being cited for such deficient practices or~~is not in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules, regulations, and fees at the time of ~~a follow-up survey; or~~renewal of the license.

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~~Repealed.

A.4.b. - B. ...

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.

B.2. - C. ...

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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§6813. Changes in Licensee Information or Personnel

A. - B.2.g. ...

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~~FNR 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. - F. ...

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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§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. - 6.b. ...

7. ~~general and~~proof of professional liability insurance ~~of at least \$300,000~~in accordance with §6807;

8. proof of ~~worker's compensation insurance;~~ and general liability insurance of at least \$300,000 per occurrence;

9. ~~any other documentation required by the department.~~proof of worker's compensation insurance as required by state law; and

10. any other documentation required by the department.

B. - C. ...

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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

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

A. - D.15. ...

E. ~~In the event an~~ When a licensed 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~~ receives a notice of license revocation or ~~denial action.~~ suspension, the ARCP shall notify its current residents and their representatives/family members (if applicable) of the license revocation or suspension action. The notice shall:

1. include the following:

a. the action taken by the department;

b. whether the facility is appealing the

action; and

c. information regarding a resident's rights to select another ARCP; and

2. be posted in a conspicuous place inside the licensed premises where residents can access the notice.

F. ~~Operation Without License and Penalty~~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.

~~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~~1. - 3. Repealed.

G. Operation Without License and Penalty

1. An ARCP 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 ARCP 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

§6817.B 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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

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

A. - C. ...

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.

C.2. - E.5.e. ...

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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§6823. Statement of Deficiencies

A. - C.3. ...

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

5. - 6. ...

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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§6825. Cessation of Business

A. Except as provided in §6881, §6882, and §6883 of these licensing regulations, a license shall be immediately null and void if an ARCP ceases to operate.

B. - H. ...

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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§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. - 15. ...

16. record-keeping including, but limited to the use of electronic signature authentication and identification for the electronic signature of a resident and/or the resident's representative in accordance with R.S. 40:1163.1 or current law;

17. infection control measures, including but not limited to the use of personal protective equipment (PPE), as appropriate; ~~and~~

18. ~~any other area required in accordance with memorandums issued by the department's Health Standards Section.~~ fall assessment and prevention; and

19. any other area required in accordance with memorandums issued by the department's HSS.

B. - B.9. ...

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), LR 47:

§6831. Visitation by Members of the Clergy During a Declared Public Health Emergency

A. For purposes of §6831 and §6832, a public health emergency (PHE) is a declaration made pursuant to the Louisiana Health Emergency Powers, R.S. 29:760 et seq.

B. For purposes of §6831 and §6832, clergy shall be defined as follows:

1. as a minister, priest, preacher, rabbi, imam, Christian Science practitioner; or

2. other similar functionary of a religious organization; or

3. an individual reasonably believed to be such a clergy member by the person consulting him.

C. For purposes of §6831 and §6832, immediate family shall mean the following in order of priority:

1. spouse;

2. natural or adoptive parent, child, or sibling;

3. stepparent, stepchild, stepbrother, or stepsister;

4. father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law, or sister-in-law;

5. grandparent or grandchild; or

6. spouse of a grandparent or grandchild; or

7. legal or designated representative of the resident.

D. For purposes of §6831 and §6832, resident shall mean a resident or client of a licensed ARCP in Louisiana, or the legal or designated representative of the resident or client.

E. A licensed ARCP shall comply with any federal law, regulations, requirement, order or guideline regarding visitation in ARCPs issued by any federal government agency during a declared PHE. The provisions of the licensing rules in §6829.F-I shall be preempted by any federal statute, regulation, requirement, order or guideline from a federal government agency that requires an ARCP to restrict resident visitation in a manner that is more restrictive than the rules.

F. An ARCP facility shall comply with any Louisiana state health officer (SHO) order or emergency notice regarding visitation in ARCPs during a declared PHE.

G. An ARCP facility shall comply with any executive order or proclamation issued by the governor of the state of Louisiana regarding visitation in ARCPs during a declared PHE.

H. The provisions of this Section regarding visitation by members of the clergy shall apply to all ARCPS licensed by the Department of Health.

I. Subject to the requirements of §6831.E-G, each ARCP shall allow members of the clergy to visit residents of the ARCP during a declared PHE when a resident, or his legal or designated representative, requests a visit with a member of the clergy, subject to the following conditions and requirements:

1. Each ARCP shall have a written policy and procedure addressing visitation by members of the clergy. A copy of the written policy and procedure shall be available, without cost, to the resident and his legal or designated representative, upon request. The ARCP shall provide a link to an electronic copy of the policy and procedure to a member of the clergy, upon request.

2. An ARCP's policy and procedure regarding clergy visitation may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the ARCP, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical consideration of an individual resident.

3. An ARCP's policy and procedure on clergy visitation shall, at a minimum, require the following:

a. that the ARCP give special consideration and priority for clergy visitation to residents receiving end-of-life care;

b. that a clergy member will be screened for infectious agents or infectious diseases, utilizing at least the current screening or testing methods and protocols recommended by the Centers for Disease Control and Prevention (CDC), as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods, or protocols, then the ARCP shall utilize those methods and protocols;

c. that a clergy member not be allowed to visit an ARCP resident if such clergy member has obvious signs or symptoms of an infectious agent, or infectious disease, or if such clergy member tests positive for an infectious agent, or infectious disease;

d. that a clergy member not be allowed to visit an ARCP resident if the clergy member refuses to comply with the provisions of the ARCP's policy and procedures or refuses to comply with the ARCP's reasonable time, place, and manner restrictions;

e. that a clergy member be required to wear PPE as determined appropriate by the ARCP, considering the resident's medical condition or clinical considerations; at the ARCP's discretion PPE may be made available by the ARCP to clergy members.

f. that an ARCP's policy and procedure include provisions for compliance with a Louisiana SHO order or emergency notice and with any governor's executive order or proclamation limiting visitation during a declared PHE; and

g. that an ARCP's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in ARCPs issued by any federal government agency during a declared PHE.

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, Bureau of Health Services Financing, LR 47:

§6832. Visitation by Immediate Family Members and Other Designated Persons During a Declared Public Health Emergency

A. A licensed ARCP shall comply with any federal law, regulation, requirement, order, or guideline regarding visitation in ARCPs issued by any federal government agency during a declared PHE. The provisions of the licensing rules in

§6832.B-E shall be preempted by any federal statute, regulation, requirement, order or guideline from a federal government agency that require an ARCP to restrict resident visitation in a manner that is more restrictive than the rules.

B. ARCPs shall comply with any Louisiana SHO order or emergency notice regarding visitation in ARCPs during a declared PHE.

C. ARCPs shall comply with any executive order or proclamation issued by the governor of the state of Louisiana regarding visitation in an ARCP during a declared PHE.

D. The provisions of this Section regarding visitation by immediate family members of the resident and other designated persons shall apply to all ARCPs licensed by the Department of Health.

E. Subject to the requirements of §6832.A-C, each ARCP shall allow immediate family members and other designated persons to visit a resident of the ARCP during a declared PHE when a resident, or his legal or designated representative, requests a visit with immediate family members and other designated persons, subject to the following conditions and requirements:

1. Each ARCP shall have a written policy and procedure addressing visitation by immediate family members and other designated persons. A copy of the written policy and

procedure shall be available, without cost, to the resident and his legal or designated representative, upon request. The ARCP shall provide a link to an electronic copy of the policy and procedure to immediate family members and other designated persons, upon request.

2. An ARCP's policy and procedure regarding visitation by immediate family members and other designated persons may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the ARCP, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical considerations of an individual resident.

3. An ARCP's policy and procedure on visitation by immediate family members and other designated persons shall, at a minimum, require the following:

a. that the ARCP give special consideration and priority for visitation by immediate family members and other designated persons to residents receiving end-of-life care;

b. that visitation by immediate family members of the residents and other designated persons will be screened for infectious agents or infectious diseases, utilizing at least the current screening or testing methods and protocols

recommended by the CDC, as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the ARCP shall utilize those methods and protocols;

c. that an immediate family member or other designated person not be allowed to visit an ARCP resident if such immediate family member or other designated person has obvious signs or symptoms of an infectious agent or infectious disease, or if such immediate family member or other designated person tests positive for an infectious agent or infectious disease;

d. that an immediate family member or other designated persons not be allowed to visit an ARCP resident if the immediate family member and other designated persons refuses to comply with the provisions of the ARCP's policy and procedure or refuses to comply with the provisions of the ARCP's policy and procedure or refuses to comply with the ARCP's reasonable time, place, and manner restrictions;

e. that immediate family members and other designated persons be required to wear PPE as determined appropriate by the ARCP, considering the resident's medical condition or clinical consideration; at the ARCP's discretion, PPE may be made available by the ARCP to immediate family members and other designated persons;

f. that an ARCP's policy and procedure include provisions for compliance with a Louisiana SHO order or emergency notice and with any governor's executive order or proclamation limiting visitation during a declared PHE; and

g. that an ARCP's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in ARCPs issued by any federal government agency during a declared PHE.

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

§6833. Pre-Residency and Continued Residency

A. - A.8. ...

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, including but not limited to, fall risk assessment;

b. - 2. ...

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. unstageable, stage 3, or stage 4 pressure ulcers;
2. use of feeding tubes, including but not limited to, nasogastric or gastrostomy tubes;

C.3. - H.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 41:1095 (June 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§6835. Person-Centered Service Plan

A. - A.1. ...

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~~ an RN.

B. - D. ...

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~~ The signature of the resident's PCSP ~~includes staff administration of medication or intermittent~~

~~nursing services, a registered nurse shall also sign the plans, reviews and updates~~representative on such documents may be submitted electronically in accordance with R.S. 40:1163.1 or current law pertaining to electronic signature authentication and identification, or signed in person.

F. All plans, reviews, and updates shall be signed by the ARCP staff. If the resident's PCSP includes staff administration of medication or intermittent nursing services, an RN 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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

Subchapter D. Adult Residential Care Provider Services

§6839. General Provisions

A. - B.2. ...

3. The ARCP shall provide a sanitary environment to avoid sources and transmission of infections and communicable diseases ~~with its policy meeting or exceeding~~which meet or exceed the latest criteria established by the ~~Centers for Disease Control~~CDC, Occupational Safety and Health Administration (OSHA), and ~~state~~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~~HSS.

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 47:

§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, and assistance with self-administration.

B. - C.2.b.v. ...

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

i. - iv. ...

v. placing medications in a feeding tube;

~~or~~

vi. mixing medications with foods or

liquids~~;~~ or

vii. filling a single day or multi-day pill
organizer for the resident.

3. Staff Administration of Medication

a. - c. ...

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.

B.3.e. - F.6. ...

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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§6845. Intermittent Nursing Services

A. - B.1. ...

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

a. - h. ...

i. infection control policies and procedures that meet or exceed the latest criteria established by the CDC, OSHA, and State Sanitary Code.

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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§6847. Transportation

A. - C. ...

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

1. ensure drivers are trained in cardio pulmonary resuscitation (CPR) and first aid, and in assisting residents in accordance with the individual resident's needs;

D.2 - F.

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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§6849. Meals Provided by the ARCP

A. H. ...

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

J. - P. ...

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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

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. - 12. ...

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 and the right to select another ARCP in accordance with §6817.E.1-2;

14. - 22. ...

23. be informed of how to lodge a complaint with the ~~Health Standards Section~~HSS, 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. - 24.a. ...

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; and

25. have the right to private and uncensored communications, including receiving and sending unopened mail.

B. - D. ...

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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§6861. Resident Personal Property and Funds

A. - B.2. ...

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

4. If an ARCP offers the service of ~~safekeeping~~ assisting with management of funds ~~up to~~ in excess of \$200, ~~and if a resident wishes to entrust funds,~~ the following ARCP shall apply.

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

b. ~~provide each resident with a receipt listing the amount of money the ARCP is holding in trust for the resident;~~ The resident shall have access through quarterly statements and, upon request, financial records.

c. ~~maintain a current balance sheet containing all financial transactions to include the signatures of staff and the resident for each transaction; and~~ The ARCP shall keep funds received from the resident for management in an individual account in the name of the resident.

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

5. If ~~an ARCP offers the service of assisting with management of funds in excess of \$200, the following shall apply~~ staff is named as representative payee by Social Security or the Railroad Retirement Board or as fiduciary by the U.S. 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 ~~obtain written authorization to manage the~~ any resident's personal funds ~~from the resident and the representative if applicable~~ 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 resident shall have access through quarterly statements and, upon request, financial records~~ 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 keep funds received from the resident for management in an individual account in the name of the resident~~ establish and maintain a system that assures a full, 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.

~~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~~6. -

6.c.ii. Repealed.

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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

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

§6863. General Provisions

A. - C. ...

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

E. - G. ...

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), LR 47:

§6865. Staffing Requirements

A. - A.1.b. ...

c. Director Qualifications

i. - ii.(d). ...

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). - (d). ...

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

(i). ...

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

(iii). LeadingAge. Gulf States; or

(iv). National Association of Long Term Care Administrators Board (NAB).

A.1.c.iv. - B.3. ...

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), LR 47:

§6867. Staff Training

A. - A.3.b. ...

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. - 5. ...

6. infection control, including, but not limited to PPE, as appropriate.

C. - C.5. ...

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. - d. ...

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

i. - ii. ...

iii. LeadingAge Gulf States; or

f. any of the nationally recognized organizations for long term care that offers continuing education for assisted living providers, such as NAB.

D.2. - E. ...

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~~All new employees ~~must~~shall receive such training within 90 days from the date of hire and annually as required in accordance with §6867.F.1-10.b.

2. - 2.b.ii. ...

c. Employees who have only incidental contact with residents shall receive general written information provided by the ARCP on interacting with residents with dementia within 90 days of employment and annually.

3. ...

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

i. - ii. ...

b. All other employees shall receive general written information provided by the ARCP on interacting with residents with dementia within 90 days of employment and annually.

4. - 10.b. ...

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), LR 47:

§6869. Record Keeping

A. - B.9. ...

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. - 14. ...

15. advance directives ~~and requirements for assistance in emergency evacuation~~ and/or Louisiana physician orders for scope of treatment (LaPOST), if any; ~~and~~

16. ~~documentation of any third party services provided and documentation of any notifications provided to the resident's representative regarding services.~~ requirements for assistance in emergency evacuation; and

17. documentation of any third party services provided and documentation of any notifications provided to the resident's representative regarding services.

D. - D.4. ...

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

D.6. - E.5. ...

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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

Subchapter G. Emergency Preparedness

§6879. Notification

A. - E. ...

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~~[PHE](#).

1. - 3. ...

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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§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-[either declared or non-declared, in accordance with state statutes.](#)

A.1. - G.2.f. ...

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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§6882. Inactivation of License Due to a Declared Disaster or Emergency

A. An ARCP licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766, may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

1. the licensed provider shall submit written notification to the HSS within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the ARCP has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

b. the licensed ARCP intends to resume operation as an ARCP in the same service area;

c. includes an attestation that the emergency or disaster is the sole causal factor in the interruption of the provision of services;

d. includes an attestation that all residents have been properly discharged or transferred to another provider; and

e. provides a list of each resident and where that resident is discharged or transferred to;

2. the licensed ARCP resumes operating as an ARCP in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

3. the licensed ARCP continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and

4. the licensed ARCP continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate an ARCP license, the department shall issue a notice of inactivation of license to the ARCP.

C. Upon completion of repairs, renovations, rebuilding or replacement, an ARCP which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met.

1. The ARCP shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening.

a. The license reinstatement request shall inform the department of the anticipated date of opening, and shall request scheduling of a licensing survey.

b. The license reinstatement request shall include a completed licensing application with appropriate licensing fees.

2. The provider resumes operating as an ARCP in the same service area within one year.

D. Upon receiving a completed written request to reinstate an ARCP license, the department shall conduct a licensing survey. If the ARCP meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the ARCP license.

1. The licensed capacity of the reinstated license shall not exceed the licensed capacity of the ARCP at the time of the request to inactivate the license.

E. No CHOW in the ARCP shall occur until such ARCP has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as an ARCP.

F. The provisions of this Section shall not apply to an ARCP which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the ARCP license.

§6883. Inactivation of License Due to a Non-Declared Disaster or Emergency

A. A licensed ARCP in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

1. the licensed ARCP shall submit written notification to the HSS within 30 days of the date of the non-declared emergency or disaster stating that:

a. the ARCP has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

b. the licensed ARCP intends to resume operation as an ARCP provider in the same service area;

c. the licensed ARCP attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. the licensed ARCP's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility.

NOTE: Pursuant to these provisions, an extension of the 30-day deadline for the initiation of request may be granted at the discretion of the department.

2. the licensed ARCP continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fee and outstanding civil monetary penalties and/or civil fines; and

3. the licensed ARCP continues to submit required documentation and information to the department, including, but not limited to cost reports.

B. Upon receiving a completed written request to temporarily inactivate an ARCP license, the department shall issue a notice of inactivation of license to the ARCP.

C. Upon the facility's receipt of the department's approval of request to inactivate the facility's license, the facility shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the facility, if applicable, to the OSFM and the OPH as required.

D. The licensed ARCP shall resume operating as an ARCP in the same service area within two years of the approval renovations/construction plans by the OSFM and the OPH as required.

EXCEPTION: If the facility requires an extension of this timeframe due to circumstances beyond the facility's control, the department will consider an extended time period to complete construction or repairs. Such written requests for extension shall show facility's active efforts to complete construction or repairs and the reasons for request for extension of facility's inactive license. Any approval for extension is at the sole discretion of the department.

E. Upon completion of repairs, renovations, rebuilding or replacement of the facility, an ARCP which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. the ARCP shall submit a written license reinstatement request to the licensing agency of the department;

2. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing or physical environment survey, where applicable; and

3. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

F. Upon receiving a completed written request to reinstate an ARCP license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the facility has met the requirements for licensure including the requirements of this Subsection.

G. No CHOW in the ARCP shall occur until such ARCP has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as an ARCP.

H. The provisions of this Subsection shall not apply to an ARCP which has voluntarily surrendered its license and ceased operation.

I. Failure to comply with any of these provisions of this Subsection shall be deemed a voluntary surrender of the ARCP license.

Subchapter H. Physical Environment

§6885. General Requirements and Authority

A. - B. ...

C. Design Criteria. The project shall be designed in accordance with the following criteria:

1. - 2.

3. the current department licensing regulations for ~~adult residential care providers~~ARCPS.

D. - P. ...

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), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§6889. Resident Dining and Common Areas

A. - J. ...

K. Adult Residential Care Providers in Shared Businesses

1. ...

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.

3. Nothing in this Section shall prohibit a health care provider occupying the same building, premises, or physical location as another health care provider from utilizing the

entrance, hallways, stairs, elevators, or escalators of another health care provider to provide access to its separate entrance.

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 47:

§6891. Resident Personal Space

A. - C.9. ...

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. - b. ...

c. a kitchenette that can be distinguished by sight from other areas in the apartment;

NOTE: Kitchenettes are not required in apartments designated for the specialized dementia care program.

d. - e. ...

2. Square Footage in Level 3 and 4 ARCPs

a. Efficiency/studio apartments shall have a minimum of ~~250~~200 net square feet of floor space, excluding bathrooms and closets and/or wardrobes.

b. - 13. ...

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), LR 47:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by allowing clergy and immediate family members, or other designated persons to visit ARCP residents during a declared public health emergency.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on August 29, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary

ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on August 9, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on August 26, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after August 9, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips

Secretary