

Chapter 68. Adult Residential Care Providers

Subchapter A. General Provisions

§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.

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, transfer, lease, gift, or otherwise, of a licensed health care provider subject to this rule by a person, corporation, or other entity which results in a CHOW or change of 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.

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 (LDH).

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 LDH, Office of the Secretary, 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 living setting.

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.

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

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.

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.

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.

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 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.

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.

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1. sleeping;

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 liability insurance of at least \$300,000 per occurrence;

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

8. 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. if applicable, a clinical laboratory improvement amendments (CLIA) certificate or a CLIA certificate of waiver;

10. a completed disclosure of ownership and control information form;

11. a floor sketch or drawing of the premises to be licensed;

12. the days and hours of operation;

13. an FNR approval for a level 4 ARCP;

14. a copy of the letter approving architectural plans from the OSFM;

15. the organizational chart of the ARCP; and

16. 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

§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:

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 FNR 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.

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§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 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. 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 FNR 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.

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§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 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 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. 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.

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Subchapter D. Adult Residential Care Provider Services

§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, documentation of medication administration, and assistance with self-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;

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. 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 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.

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