

NOTICE OF INTENT

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

**Nurse Aide Training and Competency Evaluation Program
Medication Attendant Certified
Licensing Standards
(LAC 48:I.Chapter 100)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 100 as authorized by R.S. 36:254 and R.S. 40:2131-2141. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 112 of the 2022 Regular Session of the Louisiana Legislature revised the requirements for medication administration and medication attendant services provided in long-term care facilities. In compliance with Act 112, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the Nursing Aide Training and Competency Evaluation Program in order to update the licensing requirements for medication attendants certified that provide services in licensed long-term care facilities.

Title 48

**PUBLIC HEALTH-GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification**

Chapter 100. Nurse Aide Training and Competency Evaluation Program

Subchapter G. Medication Attendant Certified

§10080. Definitions

Abuse—1. – 4. Repealed.

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.

Licensed Nurse—a licensed registered nurse (RN) or a licensed practical nurse (LPN) who is acting within the scope of practice of his/her respective licensing board(s) and/or certifications.

Licensed Practical Nurse (LPN)—a person who practices practical nursing and who is licensed to practice practical nursing in accordance with R.S. 38:961, or current law.

Licensed Long-Term Care Facility (LLCF)—nursing home as defined in R.S. 40:2009.2 and an adult residential care provider as defined in R.S. 40:2166.3.

Medication Attendant Certified (MAC)—a person certified by LDH to administer medications to licensed long-term care facility residents, hereafter referred to as a MAC.

Medication Error-the observed or identified preparation or administration of medications or biologicals that is not in accordance with:

1. the prescriber's order(s);
2. manufacturer's specifications regarding the preparation and administration of the medication or biological; or
3. accepted professional standards and principles that apply to professionals providing services. Accepted professional standards and principles include any state practice regulations and current commonly accepted health standards established by national organizations, boards, and councils.

Medication Error Rate-is determined by calculating the percentage of medication errors observed during a medication administration observation. The numerator in the ratio is the total number of errors that the HSS survey team observes, both significant and non-significant. The denominator consists of the total number of observations, or opportunities for errors, and includes all the doses the HSS survey team observed being administered plus the doses ordered but not administered. The equation for calculating a medication error rate is as follows: medication error rate equals number of errors observed divided by the opportunities for errors times 100.

Nurse Aide-Repealed.

Nursing Facility or Nursing Home—an institution licensed pursuant to R.S. 40:2009.1–2009.10.

Nursing Home—Repealed.

Registered Nurse (RN)—any individual licensed and/or certified in accordance with R.S. 37:911 et seq. or current law to engage in the practice of nursing as defined in R.S. 37:913, or current law.

Significant Medication Error—one which causes the resident discomfort or jeopardizes health or safety. The significance of medication errors is a matter of professional judgement. A significant medication error shall be determined based on the resident's condition, drug category, and frequency of error.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1413 (July 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 46:29 (January 2020), LR 49:

§10081. General Provisions

A. The LDH establishes provisions for the use of MACs in LLCFs. The department shall maintain a registry of individuals who have, at a minimum:

1. passed a qualifying CNA examination and are in good standing;
2. completed the state-approved MAC training course and competency evaluation through the Louisiana Community and Technical College System (LCTCS); and
3. ...

B. The MAC registry shall contain the following items:

1. a list of individuals who have successfully completed the approved MAC training curriculum and competency evaluation. Each individual listed shall have the following information maintained on the registry:
 - a. - iii. ...
 - iv. exploitation and misappropriation of property;
 - v. significant medication errors; and
 - vi. an accurate summary of findings after action on findings are final and after any appeal is ruled upon or the deadline for filing an appeal has expired;

B.1.j. - C. ...

D. Change of Information. A MAC certificate holder shall notify the department as soon as possible but no later than 30 days after changing his or her address, telephone number, e-mail address, or name.

E. ...

F. Letter of Certification. An initial letter of certification shall be valid for 12 months from the date of issuance.

1. - 3. Repealed.

G. A MAC may perform certain duties and functions delegated by a licensed RN and under direct supervision of a licensed nurse who is on-site and on duty at the LLCF. Although the performance of selected medication administration tasks are delegated to the MAC by the RN, the RN retains the accountability for the total nursing care of the resident, regardless of whether the care is provided solely by the RN or by the RN in conjunction with other licensed or unlicensed assistive personnel. The MAC shall:

1. function in accordance with applicable laws and rules relating to administration of medication and operation of a LLCF; and
2. comply with the department's rules applicable to such personnel used in a LLCF.

H. Persons employed as MACs in a LLCF shall comply with the requirements relating to CNAs as set forth in the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203 and minimum licensure standards for nursing facilities, and CNA training and competency evaluation, or subsequent amendments.

I. Restriction. While on duty, a MAC's sole function shall be to administer medications to residents. Persons employed as medication attendants in a LLCF may not be assigned additional responsibilities. If medication administration has been completed, they may assist in other areas.

J. LLCFs may count the MAC in required nursing hours.

J.1. - M. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1413 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1248 (May 2012), repromulgated LR 38:1412 (June 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:30 (January 2020), LR 49:

§10082. General Requirements

A. Prior to application for a certificate under this Chapter, all persons shall:

1. - 5. ...
6. be currently employed in a LLCF as a CNA on the first official day of an applicant's MAC training program;
7. have a minimum of one year experience in a LLCF; and

8. successfully pass a statewide criminal background/security check conducted by the State Police, or its designee, within 90 days of an applicant starting the MAC program and be free of abused substances as evidenced by periodic drug testing in accordance with the LLCF's policies and procedures. Verification of these results must be received by the training entity, documented, and maintained in the personnel file.

B. A MAC may not administer medication to a resident in a LLCF unless he/she:

1. ...
2. is currently enrolled in the state approved training course and is acting under the direct supervision of faculty.

C. The LCTCS training and competency evaluation program shall:

1. maintain qualified, approved RNs and LPNs for classroom and clinical instruction;
2. protect the integrity of the competency evaluations by keeping them secure;
3. utilize a pass rate of at least 80 percent for each individual student; and
4. assure the curriculum meets state requirements.

D. Clinical instruction shall be conducted in an approved LLCF with a ratio of no more than 5:1 under the direct supervision of the instructor.

1. - 4. Repealed.

E. Training programs that do not meet minimum standards and cannot provide an acceptable plan for correcting deficiencies shall be eliminated from participation.

F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1414 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1249 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:30 (January 2020), LR 49:

§10083. Certification Requirements

A. Initial Certification

1. be a CNA in good standing;
 - a. - b. Repealed.
2. be employed in a MAC approved LLCF;
3. meet requirements set forth in §10082; and
4. complete the required MAC training program.

B. Renewal Certification

1. A MAC certificate holder shall:

- a. be a CNA in good standing;
- b. have no findings on the MAC registry;
- c. submit the following documentation to the

registry prior to the expiration date of the certificate:

- i. a signed attestation acknowledging review of the current MAC requirements;
- ii. documentation of having completed four hours of state-approved continuing education administered by an approved institution focusing on medication administration, prior to expiration of the certificate; and
- iii. documentation of having worked at least 400 hours within the previous 12 months as a MAC in an LLCF.

1.d. - 3. Repealed.

C. Denial of Renewal. The department shall deny renewal of the certificate of a MAC who is in violation of this Chapter at the time of the application renewal.

1. - 3. Repealed.

D. Reciprocity. A person who holds a valid license, registration or certificate as a MAC issued by another state shall also be certified in Louisiana if the transferring state's training program is at least 120 hours or more and the applicant passed that state's-approved MAC competency examination.

1. The applicant shall initially submit an application for reciprocity to the CNA registry as set forth in the CNA training competency evaluation program, §10035 of this Chapter.

2. Once placed on the CNA registry in the state of Louisiana, the applicant may submit an application for reciprocity to the MAC Registry.

3. The application shall include a certified copy of the license or certificate for which the reciprocal certificate is requested.

4. The department shall contact the issuing agency to verify the applicant's status with the agency.

5. The applicant shall submit documentation of 400 hours employed as a MAC within the previous 12 months.

E. Expired Certification. A MAC whose certificate has expired shall not perform medication administration until the certificate has been reissued. The following criteria shall be met and documentation submitted to the registry for consideration of certificate re-issuance:

1. Documentation of 400 employment hours worked within the last 12 months in a LLCF as a MAC; and

2. A signed attestation acknowledging review of the current MAC requirements within 30 calendar days of expiration of the certification; or

3. Documentation supporting completion of a minimum of 40 hours of re-orientation of medication administration and the job duties of the MAC within 12 months of expiration of certification to be provided by a MAC approved LLCF. At a minimum the re-orientation shall:

- a. include authorized duties and prohibited duties described in this Subchapter, and the facility's medication administration policies;
- b. be provided by a licensed RN who is employed by the LLCF in which the MAC is currently employed; and
- c. include documentation of a competency evaluation through skills demonstration and written examination.

4. Failure to meet the certificate renewal or re-issuance requirements within 12 months from the expiration of the certification, will be considered a voluntary surrender of the MAC certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1415 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1249 (May 2012), amended by the Department of

Health, Bureau of Health Services Financing, LR 46:31 (January 2020), LR 49:

§10084. Coordinators, Instructors, and Trainers

A. Program Coordinator. The state-approved MAC training program shall have a program coordinator who provides general supervision of the training received by the MAC trainees.

1. The program coordinator shall be an RN and shall have the following experience and qualifications:

a. a minimum of two years of nursing experience, of which at least one year must be in caring for the elderly or chronically ill, obtained through employment in any of the following:

i. a LLCF unit;

ii. a geriatrics department;

iii. a chronic care hospital;

iv. other long-term care setting; or

v. experience in varied responsibilities

including, but not limited to, direct resident care or supervision and staff education; and

b. completion of Vocational Trade and Industrial Education (VTIE) or Career and Technical Trade and Industrial Education (CTTIE) licensure, "train the trainer" type program, or a master's degree or higher.

2. The program coordinator shall supervise no more than two MAC training programs simultaneously and shall be on the premises where the program is being conducted for at least 50 percent of the duration of the program.

3. - 4. Repealed.

B. Instructors. Instructors shall be RNs or LPNs in a ratio such that not less than 50 percent of the instructors are RNs and shall hold a current, unencumbered Louisiana nursing license or PTP. Licensed practical (vocational) nurses, under the direct supervision of the coordinator, may provide classroom and clinical skills instruction and supervision of trainees if they have two years of experience in caring for the elderly and/or chronically ill of any age or have equivalent experience.

1. Such experience may be obtained through employment in:

- a. a LLCF;
- b. a geriatrics department;
- c. a chronic care hospital; or
- d. another long-term care setting.

2. Experience in resident care, supervision and staff education is preferred.

3. The ratio of instructors to trainees in clinical training shall not exceed 1:5 and the ratio of instructors to trainees in the classroom shall not exceed 1:15.

4. - 5. Repealed.

C. Program Trainers. Qualified resource personnel from the health field may participate as program trainers as needed for discussion or demonstration of specialized medication procedures.

1. Qualified resource personnel shall have a minimum of one year of experience in their health care field and shall be licensed, registered and/or certified, if applicable, and may include:

- a. registered nurses;
- b. licensed practical/vocational nurses;
- c. pharmacists;
- d. dietitians;
- e. LLCF administrators;
- f. gerontologists;
- g. physical therapists and occupational therapists;
- h. activities specialists; and
- i. speech/language/hearing therapists.

2. All program trainers shall have a minimum of one year of current experience in caring for the elderly and/or chronically ill of any age or have equivalent experience.

3. The training program may utilize other persons such as residents, experienced aides, and ombudsmen as resource

personnel if these persons are needed to meet the planned program objectives or a specific unit of training.

D. Trainees

1. Each MAC trainee shall be clearly identified as a trainee during all clinical portions of the training.

Identification should be recognizable to residents, family members, visitors and staff.

a. - c. Repealed.

2. Trainees shall take the competency evaluation (through skills demonstration and written examination) within 30 days after completion of the training program. Trainees will be given a maximum of two opportunities within 90 days following completion of the training program to successfully complete the competency evaluation program.

3. If a trainee fails to successfully complete the competency evaluation program, he or she shall re-enroll in the approved training program.

4. - 30. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1415 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services

Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:31 (January 2020), LR 49:

§10085. Training Curriculum

A. The goal of the MAC training and competency evaluation program is the provision of safe, effective and timely administration of medication to residents by MACs who are able to:

1. communicate and interact completely on a one-to-one basis with residents as part of the team implementing resident care;

2. demonstrate sensitivity to the resident's emotional, social and mental health needs through skillful, directed interactions;

3. exhibit behavior to support and promote the rights of residents; and

4. demonstrate proficiency in the skills related to medication administration.

B. Each MAC training program shall provide all trainees with a LLCF orientation that is not included in the required minimum 120 hours of core curriculum. The orientation program shall include, but not be limited to:

1. an explanation of the facility's organizational structure;

2. the facility's policies and procedures;
3. discussion of the facility's philosophy of care;
4. a description of the resident population; and
5. employee policies and procedures.

C. Core Curriculum. The curriculum content for the training program must include material which provides a basic level of knowledge and demonstrable skills for each individual completing the program. The content should include the needs of populations which may be served by an individual LLCF.

1. The core curriculum shall be a minimum of 120 hours in length which shall include a minimum of 45 clinical hours.

2. Each unit objective shall be behaviorally-stated for each topic of instruction. Each objective must state performance criteria which are measurable and will serve as the basis for the competency evaluation.

D. Minimum Curriculum. The training program shall be developed and conducted to ensure that each MAC, at a minimum, is able to demonstrate competency in the following areas including, but not limited to:

1. the basic principles of medication administration and the responsibilities of the MAC including:

- a. the role and functions of a MAC;

- b. the professional relationship between the MAC and the residents and their families; and
 - c. prohibited functions or duties;
 2. definition of nurse delegation;
 3. definition of the basic terms used in medication administration, including identification of the abbreviations used in medication orders and on the medication administration records;
 4. review of the various forms of medications;
 5. methods of medication administration including:
 - a. proper positioning of resident for various medication administrations; and
 - b. the value of good body alignment prior to and after medication administration;
 6. requirements for proper storage and security of medications;
 7. proper methods for disposal of drugs;
 8. infection control;
 9. basic anatomy and physiology;
 10. the functions of the gastrointestinal, musculoskeletal, integumentary, nervous, sensory, renal and urinary, reproductive, cardiovascular, respiratory, and endocrine systems;

- a. description of the common disorders associated with these systems; and
- b. the effect of aging on these systems;

11. definition of pharmacology including:

- a. medication classifications;
- b. a description of a controlled drug and how administration of these drugs differ;
- c. the cycle of a drug in the body; and
- d. side effects of medications;

12. the safe administration of all forms of oral medication including;

- a. a description of the difference among all forms of oral medication; and
- b. special precautions observed when administering time-released capsules, enteric-coated tablets and oral suspensions;

13. appropriate procedures to follow when the resident is nothing by mouth (NPO), dysphagic, refuses the medication, vomits the medication, or has allergies;

14. application of topical medications and the standard precautions utilized in administering a topical medication;

15. the safe instillation of ophthalmic drops and ointments;

16. the safe administration of nose drops;
17. proper technique for administration of inhalant medications including:
 - a. a description of when the MAC may administer an inhalant;
18. the safe administration of a rectal suppository;
19. the safe administration of a vaginal medication;
20. developing proficiency in measuring liquid medications in a medicine cup or syringe;
21. measuring apical pulse and/or blood pressure (B/P) prior to medication administration;
22. the importance of the "chain of command;"
23. developing effective communication and interpersonal skills;
24. maintaining communication with the licensed nurse including:
 - a. a description of the situations that must be reported to the nurse;
25. the purpose of the clinical record and the importance of timely, clear and complete documentation in the medication administration record;
26. methods for avoiding medication errors:
 - a. reporting and documentation requirements when medication errors occur;

27. a resident's rights related to medication administration;

28. a discussion of the "rights" of medication administration;

29. the application and certification; and

30. violations of the laws and rules that may result in disciplinary action and/or loss of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1416 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:32 (January 2020), LR 49:

§10086. Competency Evaluation

A. A competency evaluation shall be developed by the training entity and conducted to ensure that each trainee, at a minimum, is able to demonstrate competencies taught in each part of the training curriculum.

B. Written examinations shall be provided by the training entity or organizations approved by the department. The examination shall reflect the content and emphasis of the

training curriculum and will be developed in accordance with accepted educational principles.

1. - 12. Repealed.

C. The entity responsible for the training and competency evaluation shall report to the registry the names of all individuals who have satisfactorily completed the curriculum after the training is completed. Within 15 days after a MAC has successfully completed the training and competency evaluation, the training entity shall notify the registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1416 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:32 (January 2020), LR 49:

§10087. Authorized Duties

A. The MAC may perform certain duties and functions delegated by a licensed RN and under the direct supervision of a licensed nurse who is on-site and on duty. These authorized duties shall apply to MAC trainees under the supervision of the clinical instructor. The ratio of MACs to licensed nurses shall

not exceed two medication attendants to one licensed nurse at any given time.

1. - 16. Repealed.

B. MACs may:

1. observe and report to the licensed nurse a resident's adverse reaction to a medication;

2. administer medications which require vital signs only with direct authorization from the licensed nurse prior to administration;

3. take and record vital signs prior to the administration of medication that could affect or change the vital signs;

4. in an emergency only, administer oxygen at 2 liters per minute per nasal cannula and immediately after the emergency, verbally notify the licensed nurse on duty and appropriately document the action and notification;

5. administer regularly prescribed medication only after personally preparing (setting up) the medications to be administered;

6. deliver and administer certain prescribed medications ordered by an authorized prescriber by the following methods:

a. orally;

b. topically (to intact skin only);

- c. drops and sprays for the eye, ear or nose;
- d. vaginally;
- e. rectally;
- f. transdermally;
- g. by metered dose oral inhalation; or
- h. sublingually;

7. record medications administered in the resident's chart and/or medication administration record;

8. chart medication effects and side effects;

9. administer medications which require vital signs, only with direct authorization from the licensed nurse prior to administration:

- a. the results of the vital signs must be documented in the clinical record;

10. administer pro re nata (prn), as needed medications only with direct authorization of the licensed nurse;

11. measure prescribed liquid medication only if verified by the licensed nurse prior to administration; and

12. crush prescribed medications only if ordered by the physician and verified by the licensed nurse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1416 (July 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 46:32 (January 2020), LR 49:

§10088. Prohibited Duties

- A. Medication attendants certified shall not:
 1. administer any controlled dangerous substances (schedules II through V) as set forth by the Drug Enforcement Agency or the Louisiana Board of Pharmacy;
 2. administer any medications by the following parenteral routes:
 - a. intramuscular;
 - b. intravenous;
 - c. subcutaneous;
 - d. intradermal; or
 - e. other routes restricted in department rules;
 3. administer any medication used for intermittent positive pressure breathing (IPPB) treatments;
 4. administer an initial dose of a medication that has not been previously administered to a resident as determined by the clinical record;
 5. calculate medication doses for administration;

6. administer medications or feedings by way of a tube inserted in a cavity of the body;
7. receive or assume responsibility for writing any verbal or telephone order from an authorized prescriber;
8. order new medications or medications whose directions have changed from the pharmacy;
9. apply topical medications that involve the treatment of skin that is broken;
10. steal, divert or otherwise misuse medication;
11. violate any provision of this Chapter;
12. procure or attempt to procure a certificate by fraudulent means;
13. neglect to administer prescribed medications in a responsible and timely manner;
14. perform a task involving the administration of a medication which requires:
 - a. an assessment of the patient's physical status;
 - b. an assessment of the need for the medication;
 - c. a calculation of the dose of the medication; or
 - d. the conversion of the dose;

15. perform a task involving the administration of a medication if the patient is unstable or has changing nursing needs, unless the supervising nurse is able to monitor the patient and the effect of the medication on the patient; or

16. administer medications if he/she is unable to do so with reasonable skill and safety to the resident if the resident is impaired by reason of excessive use of mood altering drugs, narcotics, chemicals or any other type of material.

B. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1417 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:32 (January 2020), LR 49:

§10089. Allegations of Medication Attendant Certified Wrong-Doing

A. - B.3.a. . .

C. Through the formal hearing process, determinations will be made on both the certificate for MAC pursuant to this

Section and the certificate for CNA practice in accordance with LAC 48:I. §10061-§10079.

1. If the allegation of wrongdoing results in determinations being made against both the MAC and CNA certification simultaneously, both certifications must be brought to informal dispute resolution or appeal together.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1417 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:33 (January 2020), LR 49:

§10090. Suspension, Revocation or Denial of Renewal

A. ...

B. The following are grounds for disciplinary actions:

1. ...

2. procuring or attempting to procure a certificate by fraudulent means;

3. violating any provision of this Chapter; or

4. knowingly making false claims or providing false, forged, or altered information in the resident's medical record

or providing false, forged, or altered documentation to the department.

C. - E.3. . .

F. The department shall investigate prior to making a final determination on a suspended certificate. During the time of suspension, the suspended certificate holder shall not perform as a MAC in any capacity.

1. - G.1. . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1417 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:33 (January 2020), LR 49:

§10091. Provider Participation and Responsibilities

A. An LLCF with a license that is in good standing with the department may apply to the department to utilize MACs. Upon receipt of a facility's application, the department shall review the facility's compliance history.

B. If a facility is non-compliant with program regulations, the department shall take into consideration the

findings that resulted in the facility's noncompliance before making a determination whether or not to allow the facility to utilize MACs. Emphasis shall be placed on deficiencies cited in the area of medication administration such as significant medication errors, medication error rates and repeat deficiencies of such.

C. The department may deny a facility's request to use MACs if it is determined that, based upon the compliance history, the safety and well-being of residents would be jeopardized. If the facility is denied participation, the facility may ask for a reconsideration and review of the circumstances which contributed to the denial of the application.

1. knowingly making false claims, or providing false, forged, or altered information or documentation to the department, law enforcement, or authorized agencies shall permanently render revocation of the LLCF's participation in the MAC program.

D. The following application information shall be submitted to the HSS for consideration of approval of MAC utilization:

1. the number of beds for the entire LLCF and beds per unit;
2. the total resident capacity for the LLCF;

3. the type of LLCF;

4. policy and procedure describing the plan for orientation, utilization of MACs, tracking and trending of medication errors for MACs, including orientation of all staff to the role of MACs;

5. documentation of the number and type of medication errors in the year prior to the utilization of MACs; and

6. a statement that the LLCF will utilize the MACs in accordance with the department's rules and regulations and will provide evaluation information as indicated.

E. A facility's application that is not complete within 90 calendar days of receipt by the department shall be considered null and void.

F. Approved LLCFs shall have written policies and procedures that a minimum, address the MAC's role, responsibilities, authorized duties, prohibited duties, and medication errors.

G. Disqualification of MAC program. The department may sanction a facility and/or revoke a facility's participation in the MAC program for a period of two years, if it is determined by the department that, based upon the facility's compliance history, the safety and well-being of residents is jeopardized by the facility's non-compliance with licensing standards. The

department may also sanction and/or revoke a facility's participation in the MAC program, if the facility provides false statements and/or documentation concerning their MAC program. If the facility's participation is revoked, the facility may ask for a reconsideration and review of the circumstances which contributed to the revocation of participation in the MAC program.

H. **Reinstatement of MAC Provider Participation.** A LLCF who has lost their MAC program and/or nurse aide training and competency evaluation programming (NATCEP) program due to non-compliance resulting in substandard quality of care, harm or immediate jeopardy, including but not limited to medication errors, may re-apply to participate in the MAC program upon the end of the two-year period of the prohibition timeframe. If the facility's participation in the MAC program is revoked for providing false statements or documentation, the facility may not reapply for reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:

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 no impact on family functioning, stability and autonomy as described in R.S. 49:972.

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 the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have a positive impact on small businesses since it ensures that the legislative mandates relative to the licensing of providers of medication administration services are clearly and accurately reflected in the administrative Rule.

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 November 29, 2022.

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 November 9, 2022. 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 November 29, 2022 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 November 9, 2022. 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

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person Preparing Statement: Veronica Dent Dept.: Health
Phone: 342-3238 Office: Bureau of Health Services Financing
Return Address: P.O. Box 91030 Rule Title: Nurse Aide Training and Competency
Baton Rouge, LA Evaluation Program
Medication Attendant Certified
Licensing Standards
Date Rule
Takes Effect: January 20, 2023

SUMMARY
(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 22-23. It is anticipated that \$3,888 will be expended in FY 22-23 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

In compliance with Act 112 of the 2022 Regular Session of the Louisiana Legislature, this proposed rule amends the provisions governing the Nurse Aide Training and Competency Evaluation Program in order to update the licensing requirements for medication attendants certified (MACs) that provide services in licensed long-term care facilities. This proposed rule updates the existing licensure requirements for MACs in the *Louisiana Administrative Code* to align with legislative mandates. It is anticipated that implementation of this proposed rule will not result in costs to MACs and licensed long-term care facilities in FY 22-23, FY 23-24, and FY 24-25, but will be beneficial by ensuring that the language in the administrative rule accurately reflects current licensure requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tasheka Dukes
Signature of Agency Head or Designee

Tasheka Dukes, RN
Deputy Assistant Secretary
LDH Health Standards Section
Typed Name & Title of Agency Head or Designee

10/7/2022
Date of Signature

Alan H. Borken
Signature of Legislative Fiscal Officer or Designee

10/7/22
Signature of Legislative Fiscal Officer or Designee