John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Office of the Secretary

December 5, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

Approved for

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Forensic Supervised Transitional Residential and Aftercare Facilities – Licensing Standards.

The Department published a Notice of Intent on this proposed Rule in the October 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 10). A public hearing was held on November 29, 2016 at which only Louisiana Department of Health staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the January 20, 2017 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

REG/WJR/YME

Attachments (3)

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Forensic Supervised Transitional Residential and Aftercare Facilities Licensing Standards
(LAC 48:I.Chapters 72)

The Department of Health, Bureau of Health Services Financing proposes to repeal and replace LAC 48:I.Chapter 72 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 28:31-28:37. 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 and Hospitals, Bureau of Health Services Financing promulgated licensing standards for forensic supervised transitional residential and aftercare (FSTRA) facilities (*Louisiana Register*, Volume 37, Number 4). The department now proposes to repeal and replace the provisions governing FSTRA licensing standards to include language related to the culture change movement in nursing facilities, to update language to be consistent with licensing and enforcement processes, and to be more concise in providing regulatory information to providers and the public.

TITLE 48
PUBLIC HEALTH—GENERAL
Part 1. General Administration
Subpart 3. Licensing and Certification

Chapter 72. Forensic Supervised Transitional Residential and Aftercare Facilities Licensing Standards

Subchapter A. General Provisions

§7201. Introduction

A. These rules and regulations contain the minimum licensure standards for forensic supervised transitional residential and aftercare (FSTRA) facilities, pursuant to R.S. 28:31-28:37. These licensing regulations contain core requirements as well as module specific requirements, depending upon the services provided by the forensic supervised transitional residential and aftercare facility. The modules to be licensed under a FSTRA license are:

1. secure community supervised transitional/residential facility; and

2. secure forensic facility.

B. A forensic supervised transitional residential and aftercare facility serves clients referred by state forensic hospitals or state forensic inpatient psychiatric units operated by the Department of Health, including persons who are court ordered and persons who are on court ordered conditional release status. A FSTRA facility shall operate seven days per week, 24 hours a day.

C. The care and services to be provided through arrangement or by the facility shall include, but are not limited to, the following:

1. behavioral health services;

2. nutritional services;

3. medication management;

4. assistance with independent living skills;

5. recreational services; and

6. transportation services.

D. Key administrative personnel shall include the administrator, physician/psychiatrist and the registered nurse supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7203. Definitions

Activities of Daily Living (ADLs)—the functions or tasks which are performed by an individual in a typical day, either independently or with supervision/assistance. Activities of daily living may include, but are not limited to, bathing, dressing, eating, grooming, walking, transferring and/or toileting.

Administrator—the person responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

Assistance with Activities of Daily Living—services that provide assistance with activities of daily living. Such assistance may be the actual performance of the task for the individual, or may provide hands-on assist with the performance of the tasks, or may be supervision and prompting to allow the individual to self-perform such tasks.

Behavior Management—techniques, measures, interventions and procedures applied in a systematic fashion to promote positive behavioral or functional change which fosters the client's self-control, and to prevent or interrupt a client's behavior which threatens harm to the client or others.

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

Department—the Louisiana Department of Health (LDH).

Division of Administrative Law (DAL)—the administrative law tribunal authorized by law to hear and decide the administrative appeals for the department.

Forensic Clients—persons transitioned from a forensic facility established pursuant to R.S. 28:25.1(A) or (B).

Forensic Supervised Transitional Residential and Aftercare Facility—a facility that provides supervised transitional residential and aftercare services to forensic clients, including persons who are court ordered or who are on court ordered conditional release status. A forensic supervised transitional residential and aftercare facility shall provide clients, referred by state operated forensic facilities/hospitals and under court order or court ordered forensic conditional release, with individualized services to develop daily living skills and to prepare for vocational adjustment and reentry into the community.

Forensic Psychiatrist—a physician, currently licensed to practice medicine in Louisiana, who:

1. signs the order admitting the individual to the FSTRA facility;

2. maintains overall responsibility for the client's medical management; and

3. is readily available for consultation and collaboration with the FSTRA facility staff.

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

Instrumental Activities of Daily Living (IADLs)—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 are activities such as light housekeeping, food preparation and storage, grocery shopping, laundry, reminders to take medication, scheduling medical appointments, arranging transportation to medical appointments and accompanying the client to medical appointments.

Licensee—the person, partnership, company, corporation, association, organization, professional entity or other entity to whom a license is granted by the licensing agency and upon whom rests the ultimate responsibility and authority for the conduct of and services provided by the FSTRA facility.

Non-operational—the FSTRA facility is not open for continuous business operation 24 hours a day, seven days per week as stated on the licensing application and business location signage.

Secure Community Supervised Transitional/Residential Facility—a secure residential facility within the community that provides individualized services to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit. These services enable such persons to develop daily living skills and to prepare for vocational adjustment and reentry into the community.

Secure Forensic Facility—a secure residential facility located on the grounds of a state owned/operated hospital that

provides individualized services, including personal care services and medication administration, to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit. These services prepare such persons for transition to a less restrictive environment before transitioning to the community.

Therapeutic—process of intervention, in accordance with the treatment plan, that has the desirable effect of modifying or redirecting a client's behavior and/or emotional state in a positive or beneficial manner.

Treatment Plan—a comprehensive plan developed by the facility for each client that includes the services each client needs. It shall include the provision of medical/psychiatric, nursing and psychosocial services.

Unit—an integral, separate, segregated living space utilized only by either male, or by female clients, and who reside in that space of the licensed facility. Living spaces include the client's sleeping quarters and bathroom facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7205. Licensing Requirements

A. Any person or entity applying for a FSTRA license shall meet all of the core licensing requirements contained in this Subchapter as well as module specific requirements, unless otherwise specifically noted herein.

B. All facilities providing forensic supervised transitional residential and aftercare services shall be licensed by the department. A FSTRA facility shall not be established, opened, operated, managed, maintained or conducted in this state without a license issued by the Department of Health and Hospitals. Each facility shall be separately licensed.

C. The Department of Health is the only licensing authority for FSTRA facilities in the state of Louisiana. It shall be unlawful to operate a FSTRA facility without possessing a current, valid license issued by the department.

D. Each FSTRA license shall:

1. be issued only to the person or entity named in the license application;

2. be valid only for the facility to which it is issued and only for the specific geographic address of that facility;

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

4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the facility;

5. not be subject to sale, assignment, donation or other transfer, whether voluntary or involuntary; and

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

E. In order for the FSTRA facility to be considered operational and retain licensed status, the facility shall meet the following conditions.

1. When clients are present, the facility shall provide 24 hours a day, seven days per week supervision and the care and services sufficient to meet the needs of the clients, including but not limited to:

a. at least three direct care staff persons during the day and two awake staff during the night;

b. at least two direct care staff persons in each building and/or unit; and

c. a functional security system on all points of ingress and egress with 24-hour, seven days per week continuous monitoring by awake staff.

2. There shall be staff employed and available to be assigned to provide care and services to each client during all operational hours consistent with the behavioral health needs of each client.

3. The facility shall have provided services to at least two clients in the preceding 12-month period in order to be eligible to renew its license.

F. The licensed FSTRA facility shall abide by and adhere to any state law, rules, policy, procedure, manual, or memorandums pertaining to such facilities.

G. A separately licensed FSTRA facility shall not use a name which is substantially the same as the name of another such facility licensed by the department, unless the facility is under common ownership with other FSTRA facilities.

H. No branches, satellite locations or offsite campuses will be authorized for a FSTRA facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7207. Initial Licensing Application Process

A. An initial application for licensing as a FSTRA facility shall be obtained from the department. A completed initial license application packet for a facility shall be submitted to and approved by the department prior to an applicant providing services. An applicant shall submit a completed initial licensing packet to the department, which shall include:

1. a completed facility licensure application and the non-refundable licensing fee as established by statute;

2. a copy of the approval letter of the architectural facility plans from the Office of the State Fire Marshal and any other office/entity designated by the department to review and approve the facility's architectural plans;

3. a copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal;

4. a copy of the health inspection report with approval of occupancy from the Office of Public Health;

5. a copy of the statewide criminal background checks on the following persons:

a. all individual owners with a 5 percent or more ownership interest in the FSTRA facility entity;

b. facility administrators; and

c. members of the facility's board of directors, if applicable;

6. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least $50,000;

i. any state agency operating a FSTRA facility, or any entity operating a facility pursuant to a

cooperative endeavor agreement (CEA) with a state agency, shall be exempted from the line of credit requirement;

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

c. worker's compensation insurance;

7. if applicable, Clinical Laboratory Improvement Amendments (CLIA) certificate or CLIA certificate of waiver;

8. a letter-sized floor sketch or drawing of the premises to be licensed; and

9. any other documentation or information required by the department for licensure.

B. If the initial licensing packet is incomplete when submitted, the applicant will be notified of the missing information and will have 90 days from receipt of the notification 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 a facility shall 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, notification of such approval shall be forwarded to the applicant. Within 90 days of receipt of the

approval of the application, the applicant shall notify the department that the facility is ready and is requesting an initial licensing survey. If an applicant fails to notify the department within 90 days, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a licensed facility shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

D. When issued, the initial forensic supervised transitional residential and aftercare facility license shall specify the capacity of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7209. Types of Licenses

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

1. Full Initial License. The department shall issue a full license to the facility when the initial licensing survey finds that the facility is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees. The license

shall be valid until the expiration date shown on the license unless the license is modified, revoked, or suspended.

2. Provisional Initial License. The department shall issue a provisional initial license to the facility when the initial licensing survey finds that the facility is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, but the department determines that the noncompliance does not present a threat to the health, safety or welfare of the individuals receiving services. The provisional license shall be valid for a period not to exceed six months.

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

B. The department, in its sole discretion, may issue a provisional license to an existing licensed facility for a period not to exceed six months for the following reasons.

1. The existing facility has more than five deficient practices or deficiencies cited during any one survey.

2. The existing facility has more than three validated complaints in one licensed year period.

3. The existing facility has been issued a deficiency that involved placing a client at risk for serious harm or death.

4. The existing facility has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey.

5. The existing facility 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.

C. When the department issues a provisional license to an existing licensed facility, the department shall conduct an on-site follow-up survey at the facility prior to the expiration of the provisional license, and shall issue written notice of the results of the follow-up survey.

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

2. If the on-site follow-up survey determines that the facility has not corrected the deficient practices or has not maintained compliance during the period of the provisional license, the provisional license shall expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee, if no timely informal reconsideration or administrative appeal of the deficiencies cited is filed pursuant to this Chapter.

a. At the sole discretion of the department, the provisional license may be extended for a period, not to exceed 90 days, in order for the facility to correct the noncompliance or deficiencies.

D. When the department issues a provisional license as a result of the initial licensing survey, the facility shall submit a plan of correction to the department for approval, and shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct an on-site follow-up survey at the facility prior to the expiration of the provisional license and shall issue written notice to the facility of the results of the follow-up survey.

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

2. If all such noncompliance or deficiencies are not corrected on the follow-up survey, the provisional license shall expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee and any applicable facility need review approval for licensure.

a. At the sole discretion of the department, the provisional license may be extended for an additional period, not to exceed 90 days, in order for the facility to correct the noncompliance or deficiencies.

E. The license for a facility shall be valid for one year from the date of issuance, unless revoked, suspended or modified prior to that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7211. Licensing Surveys

A. Prior to the initial license being issued to the facility, an initial licensing survey shall be conducted on-site at the facility to assure compliance with licensing standards. The facility shall not provide services until the initial licensing survey has been performed and the facility found in

compliance with the licensing standards. The initial licensing survey shall be an announced survey.

B. In the event that the initial licensing survey finds that the facility is compliant with all licensing laws, regulations and other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the facility.

C. In the event that the initial licensing survey finds that the facility 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 clients, the department shall deny the initial license.

D. Once an initial license has been issued, 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.

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

1. An acceptable plan of correction may be required from a facility for any survey where deficiencies have been cited.

2. If deficiencies have been cited, regardless of whether an acceptable plan of correction is required, the department may issue appropriate sanctions, including, but not limited to:

a. civil monetary penalties;

b. directed plans of correction;

c. license revocations; and

d. denial of license renewal.

F. LDH surveyors and staff shall be:

1. given access to all areas of the facility and all relevant files during any licensing or other survey; and

2. allowed to interview any facility staff, or client as necessary to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7213. Changes in Licensee Information or Personnel

A. A facility license shall be valid only for the person or entity named in the license application and only for the specific geographic address listed on the license application.

B. Any change regarding the facility name, "doing business as" name, mailing address, phone number, or any combination thereof, shall be reported in writing to the department within five days of the occurrence. Any change regarding the facility name or "doing business as" name requires a change to the facility license and the required fee for the reissuance of an amended license.

C. Any change regarding the facility's key administrative personnel shall be reported in writing to the department within five days of the change.

1. Key administrative personnel include the administrator, physician/psychiatrist and the registered nurse supervisor.

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

a. name;

b. facility address;

c. hire date; and

d. qualifications.

D. A change of ownership (CHOW) of the facility shall be reported in writing to the department within five days of the change of ownership.

1. The license of a facility is not transferable or assignable. The license of a facility cannot be sold.

2. In the event of a CHOW, the new owner shall submit the legal CHOW document, all documents required for a new license, and the applicable licensing fee. Once all application requirements are completed and approved by the department, a new license shall be issued to the new owner.

3. A facility that is under license suspension, revocation, denial of license renewal or provisional licensure shall not undergo a CHOW.

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

F. A facility that intends to change the physical address of its geographic location is required to have plan review approval, Office of State Fire Marshall approval, Office of Public Health approval, compliance with other applicable licensing requirements, and an on-site licensing survey prior to the facility relocation.

1. Written notice of intent to relocate shall be submitted to the licensing section of the department when plan review request is submitted to the department for approval.

2. The relocation of the facility's physical address results in a new anniversary date and the full licensing fee shall be paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7215. Renewal of License

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

1. the license renewal application;

2. a copy of the current on-site inspection with approval for occupancy from the Office of the State Fire Marshal;

3. a copy of the current on-site inspection report with approval of occupancy from the Office of Public Health;

4. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least $50,000; any state agency operating a FSTRA facility, or any entity operating a FSTRA facility pursuant to a CEA with a state entity, shall be exempt from the line of credit requirement;

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

c. worker's compensation insurance;

5. the license renewal fee; and

6. any other documentation required by the department.

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

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license will result in the voluntary non-renewal of the FSTRA license.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7217. Denial of License, Revocation of License, Denial of License Renewal

A. In accordance with the provisions of the Administrative Procedure Act, the department may:

1. deny an application for a license;

2. deny a license renewal; or

3. revoke a license.

B. Denial of an Initial License

1. The department shall deny an initial license when the initial licensing survey finds that the facility is noncompliant with any licensing laws or regulations or with any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety, or welfare of the clients who will be served by the facility.

2. The department may deny an initial license for any of the reasons in this Chapter that a license may be revoked or denied renewal.

C. Voluntary Non-Renewal of a License

1. If a facility fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the facility.

2. If a facility fails to timely renew its license, the facility shall immediately cease and desist providing services, unless the facility is actively treating clients, in which case the facility shall comply with the following:

a. immediately provide written notice to the department of the number of clients receiving treatment at the facility;

b. immediately provide written notice to the prescribing physician and to the client or legal representative of the following:

i. notice of voluntary non-renewal;

ii. notice of closure; and

iii. plans for orderly transition of the client(s);

c. discharge and transition of each client within 15 days of voluntary non-renewal; and

d. notify the department of the location where records will be stored and the contact person for the records.

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

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

1. failure to be in substantial compliance with the FSTRA facility licensing laws, rules and regulations or with other required statutes, laws, ordinances, rules or regulations;

2. failure to comply with the terms and provisions of a settlement agreement or education letter with or from the

department, the Attorney General's office, any regulatory agency or any law enforcement agency;

3. failure to uphold clients' rights whereby deficient practices result in harm, injury, or death of a client;

4. negligent failure to protect a client from a harmful act of an employee or other client including, but not limited to:

a. mental or physical abuse, neglect, exploitation, or extortion;

b. any action posing a threat to a client's health and safety;

c. coercion;

d. threat or intimidation;

e. harassment; or

f. criminal activity;

5. failure to notify the proper authorities, as required by federal or state law, rules or regulations, of all suspected cases of:

a. mental or physical abuse, neglect, exploitation, or extortion;

b. any action posing a threat to a client's health and safety;

c. coercion;

d. threat or intimidation;

e. harassment; or

f. criminal activity;

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

a. application for initial license or renewal of license;

b. data forms;

c. clinical records, client records or facility records;

d. matters under investigation by the department or the Office of the Attorney General; or

e. information submitted for reimbursement from any payment source;

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

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

9. fraudulent operation of a facility by the owner, administrator, manager, member, officer or director;

10. an owner, officer, member, manager, administrator, director or person designated to manage or supervise client care has pled guilty or nolo contendere to a

felony, or has been convicted of a felony, as documented by a certified copy of the record of the court. For purposes of these provisions, conviction of a felony includes a felony relating to any of the following:

a. violence, abuse, or negligence of a person;

b. misappropriation of property belonging to another person;

c. cruelty, exploitation, or sexual battery of a person with disabilities;

d. a drug offense;

e. crimes of sexual nature;

f. a firearm or deadly weapon;

g. fraud or misappropriation of federal or state funds, including Medicare or Medicaid funds;

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

12. failure to allow or refusal to allow the department to conduct an investigation or survey, or to interview provider staff or clients;

13. failure to allow or refusal to allow access to facility or client records by authorized departmental personnel; or

14. failure to maintain all required elements of the proof of financial viability without interruption.

E. If an existing facility has been issued a notice of license revocation or suspension and the facility's license is due for annual renewal, the department shall deny the license renewal. The denial of the license renewal does not affect in any manner the license revocation.

F. If a facility license is revoked or renewal is denied, any owner, officer, member, director, manager or administrator of such facility may be prohibited from opening, managing, directing, operating or owning another FSTRA facility for a period of two years from the date of the final disposition of the revocation or denial action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7219. Notice and Appeal of License Denial, License Revocation and Denial of License Renewal

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

B. A facility has a right to an informal reconsideration of the license denial, license revocation or denial of license renewal. There is no right to an informal reconsideration of a voluntary non-renewal or surrender of a license by the facility.

1. The facility shall request the informal reconsideration within 15 calendar days of the receipt of the notice of the license denial, license revocation or denial of license renewal. The request for informal reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section.

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

3. If a timely request for an informal reconsideration is received by the Health Standards Section, an informal reconsideration shall be scheduled and the facility will receive written notification of the date of the informal reconsideration.

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

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

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

7. The facility will be notified in writing of the results of the informal reconsideration.

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

1. The facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the results of the informal reconsideration of the license denial, license revocation, or denial of license renewal. The facility may forego its rights to an informal reconsideration, and if so, the facility shall request the administrative appeal within 30 calendar 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).

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

3. If a timely request for an administrative appeal is received by the DAL, the administrative appeal of the license revocation or denial of license renewal shall be suspensive, and the facility shall be allowed to continue to operate and provide

services until such time as the department issues a final administrative decision.

a. If the secretary of the department determines that the violations of the facility pose an imminent or immediate threat to the health, welfare, or safety of a client, the imposition of the license revocation or license non-renewal may be immediate and may be enforced during the pendency of the administrative appeal. The facility shall be notified of this determination in writing.

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

D. If a timely administrative appeal has been filed by the facility on a license denial, denial of license renewal or license revocation, the DAL shall conduct the hearing in accordance with the Administrative Procedure Act.

1. If the final agency decision is to reverse the license denial, the denial of license renewal or the license revocation, the facility's license will be re-instated or granted upon the payment of any licensing or other fees due to the department and the payment of any outstanding sanctions due to the department.

2. If the final agency decision is to affirm the denial of license renewal or the license revocation, the

facility shall discharge any and all clients receiving services. Within 10 days of the final agency decision, the facility shall notify the department's licensing section in writing of the secure and confidential location of where its records will be stored.

E. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional license to a new facility. A facility that has been issued a provisional license is licensed and operational for the term of the provisional license. The issuance of a provisional license to an existing facility is not considered to be a denial of license, a denial of license renewal, or a license revocation.

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

1. The facility has five calendar days from the receipt of the department's notice of the results of the follow-up survey to submit a written request for informal reconsideration of the follow-up survey findings.

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

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

4. The facility has 15 calendar days from the receipt of the department's notice of the results of the follow-up survey to submit a written request for an administrative appeal.

G. A facility with a provisional license that expires under the provisions of this Chapter shall cease providing services and discharge clients unless the DAL issues a stay of the expiration.

1. A stay may be granted by the DAL upon application by the provider at the time the administrative appeal is filed and only:

a. after a contradictory hearing; and

b. upon a showing that there is no potential harm to the clients being served by the facility.

H. If a timely administrative appeal has been filed by a facility with a provisional license that has expired under the provisions of this Chapter, the DAL shall conduct the hearing in accordance with the Administrative Procedure Act.

1. If the final agency decision is to remove all deficiencies, the facility's license will be reinstated upon the payment of any licensing or other fees due to the department and the payment of any outstanding sanctions due to the department.

2. If the final agency decision is to uphold the deficiencies and affirm the expiration of the provisional license, the facility shall discharge all clients receiving services. Within 10 days of the final agency decision, the facility shall notify the department's licensing section in writing of the secure and confidential location of where records will be stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7221. Complaint Surveys

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

B. Complaint surveys shall be unannounced surveys.

C. A follow-up survey may be conducted for any complaint survey where deficiencies have been cited to ensure correction of the deficient practices. If the department determines that other action, such as license revocation, is appropriate, a

follow-up survey may not be required. The facility will be notified of any action.

D. The department may issue appropriate sanctions, including but not limited to, civil monetary penalties, directed plans of correction, and license revocations for deficiencies and non-compliance with any complaint survey.

E. LDH surveyors and staff shall be given access to all areas of the facility and all relevant files during any complaint survey. LDH surveyors and staff shall be allowed to interview any facility staff, client, or participant, as necessary or required to conduct the survey.

F. A facility which has been cited with violations or deficiencies on a complaint survey has the right to request an informal reconsideration of the validity of the violations or deficiencies. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department must receive the written request within 10 calendar days of the facility's receipt of the notice of the violations or deficiencies.

G. A complainant shall have the right to request an informal reconsideration of the findings of the complaint survey or investigation. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department must receive the written

request within 30 calendar days of the complainant's receipt of the results of the complaint survey or investigation.

H. An informal reconsideration for a complaint survey or investigation shall be conducted by the department as an administrative review. The facility or complainant shall submit all documentation or information for review for the informal reconsideration, and the department shall consider all documentation or information submitted. There is no right to appear in person at the informal reconsideration of a complaint survey or investigation. The facility's correction of the violation or deficiency shall not be the basis for the reconsideration. The facility and/or the complainant shall be notified in writing of the results of the informal reconsideration.

I. Except as provided pursuant to R.S. 40:2009.13, et seq., the informal reconsideration shall constitute final action by the department regarding the complaint survey or investigation, and there shall be no right to an administrative appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7223. Statement of Deficiencies

A. The following statements of deficiencies issued by the department to a facility shall be posted in a conspicuous place on the licensed premises:

1. the most recent annual survey statement of deficiencies; and

2. any subsequent complaint survey statement of deficiencies.

B. Any statement of deficiencies issued by the department to a facility shall be available for disclosure to the public 30 calendar days after the facility submits an acceptable plan of correction of the deficiencies or 90 calendar days after the statement of deficiencies is issued to the facility, whichever occurs first.

C. Unless otherwise provided in statute or in this Chapter, a facility shall have the right to an informal reconsideration of any deficiencies cited as a result of a survey or investigation.

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

2. The informal reconsideration of the deficiencies shall be submitted in writing within 10 calendar days of receipt of the statement of deficiencies, unless otherwise provided for in these provisions.

3. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section.

4. Except as provided for complaint surveys pursuant to R.S. 40:2009.11, et seq., and as provided in this Chapter for license denials, revocations, and denial of license renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

5. The facility shall be notified in writing of the results of the informal reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7225. Cessation of Business

A. A cessation of business or closure is deemed to be effective the date on which the facility stops providing services to the community or residents.

1. Except as provided in §7227 and §7228 of this Chapter, a license shall be immediately null and void if a FSTRA ceases to operate.

B. A cessation of business is considered to be a voluntary action on the part of the facility. As such, there is

no right to an informal reconsideration and no right to an administrative appeal of a cessation of business or closure.

C. Upon the cessation of business, the facility shall immediately return the original license to the department.

D. A facility that intends to close or cease operations shall comply with the following procedures:

1. give 30 days' advance written notice to the:

a. department;

b. forensic psychiatrist; and

c. ordering court of any conditional release client(s); and

2. provide for an orderly discharge and transition of all clients admitted to the facility.

E. In addition to the 30 days' advance written notice, the facility shall submit a written plan for the disposition of patient medical records for approval by the department. The plan shall include the following:

1. the effective date of the closure;

2. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed facility's patients medical records;

3. an appointed custodian(s) who shall provide the following:

a. access to records and copies of records to the patient or authorized representative, upon presentation of proper authorization(s); and

b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction; and

4. public notice regarding access to records in the newspaper with the largest circulation in close proximity to the closing facility, at least 15 days prior to the effective date of closure.

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

G. Once the facility has ceased doing business, the facility shall not provide services until the facility has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7227. Temporary Inactivation of a License Due to a Declared Disaster or Emergency

A. A facility 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 facility shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the facility 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 facility intends to resume operation as a FSTRA facility in the same service area;

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

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

e. provides a list of all clients and to where each client has been discharged or transferred;

2. the facility resumes operating as a FSTRA 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 FSTRA 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 FSTRA continues to submit required documentation and information to the department.

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

C. Upon completion of repairs, renovations, rebuilding or replacement, the FSTRA 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 FSTRA 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 facility resumes operating as a FSTRA in the same service area within one year.

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

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

E. No change of ownership in the FSTRA shall occur until such FSTRA has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as a FSTRA.

F. The provisions of this Section shall not apply to a FSTRA 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 FSTRA license and any applicable facility need review approval for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7228. Inactivation of License due to Non-Declared Emergency or Disaster

A. A FSTRA 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 FSTRA shall submit written notification to the Health Standards Section within 30 days of the date of the non-declared emergency or disaster stating that:

a. the FSTRA 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 FSTRA intends to resume operation as a FSTRA in the same service area;

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

d. the FSTRA'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 initiation of request may be granted at the discretion of the department.

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

3. the FSTRA 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 a FSTRA license, the department shall issue a notice of inactivation of license to the FSTRA.

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

D. The FSTRA shall resume operating in the same service area within one year of the approval of renovation/construction plans by OSFM and OPH as required.

1. Exception. If the FSTRA requires an extension of this timeframe due to circumstances beyond the FSTRA's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the FSTRA's active efforts to complete construction or repairs and the reasons for request for extension of the

FSTRA's inactive license. Any approvals for extension are at the sole discretion of the department.

E. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a FSTRA 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 FSTRA 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; 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 a FSTRA license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the FSTRA has met the requirements for licensure including the requirements of this Section.

Note: The licensed bed capacity of the reinstated license shall not exceed the licensed bed capacity of the FSTRA at the time of the request to temporarily inactivate the license.

G. No change of ownership of the FSTRA shall occur until such facility has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a FSTRA.

H. The provisions of this Section shall not apply to a FSTRA which has voluntarily surrendered its license and ceased operation.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7229. Temporary Inactivation of Licensed FSTRA Beds Due to Major Alterations

A. A FSTRA which is undergoing major alterations to its physical plant may request a temporary inactivation of a certain number of licensed beds providing that:

1. The FSTRA submits a written request to the licensing agency of the department seeking temporary inactivation of a certain number of its licensed bed capacity. Such written request shall include the following:

a. that the FSTRA has experienced or will experience a temporary interruption in the provisions of

services to its licensed bed capacity as a result of major alterations;

b. an attestation that the renovations are the sole causal factor in the request for temporary inactivation of a certain number of its licensed beds;

c. the anticipated start date of the temporary inactivation of a certain number of licensed beds;

d. the anticipated end date of the temporary inactivation of a certain number of licensed beds; and

e. the number of licensed beds requested to be inactivated temporarily;

2. the FSTRA ensures the health, safety and welfare of each client during the major alterations; and

3. the FSTRA continues to provide, and each client continues to receive, the necessary care and services to attain or maintain the client's highest practicable physical, mental, and psychosocial well-being, in accordance with each client's comprehensive assessment and plan of care.

B. Upon receiving a completed written request for temporary inactivation of a certain number of the licensed bed capacity of a FSTRA, the department shall issue a notice of temporary inactivation of a certain number of the FSTRA's licensed beds.

C. No change of ownership in the FSTRA shall occur until such FSTRA has completed the major alterations and has resumed operating at prior approved licensed bed capacity.

D. Upon completion of the major alterations and receiving a completed written request to reinstate the number of licensed beds of a FSTRA, the department may conduct a physical environment survey. If the FSTRA meets the requirements for licensure and the requirements under this Subsection, the department may issue a notice of reinstatement of the FSTRA's licensed bed capacity.

Note: The licensed bed capacity after major alterations are completed shall not exceed the licensed bed capacity of the FSTRA at the time of the request to temporarily inactivate a certain number of its licensed bed capacity prior to renovations.

E. The provisions of this Subsection shall not apply to a FSTRA which has voluntarily surrendered its license and ceased operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter B. Administration and Organization

§7231. Governing Body

A. A FSTRA shall have an identifiable governing body with responsibility for, and authority over, the policies and activities of the program/facility.

B. A FSTRA shall have documents identifying the following information regarding the governing body:

1. names and addresses of all members;

2. terms of membership;

3. officers of the governing body; and

4. terms of office of any officers.

C. When the governing body of a FSTRA is comprised of more than one person, the governing body shall hold formal meetings at least twice a year. There shall be written minutes of all formal meetings and bylaws specifying frequency of meetings and quorum requirements.

D. When the governing body is composed of only one person, this person shall assume all responsibilities of the governing body.

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

1. ensure the FSTRA 's compliance and conformity with the facility 's charter or other organizational documents;

2. ensure the FSTRA 's continual compliance and conformity with all relevant federal, state, local, and municipal laws and regulations;

3. ensure that the FSTRA is adequately funded and fiscally sound;

4. review and approve the FSTRA 's annual budget;

5. designate a person to act as Administrator and delegate sufficient authority to this person to manage the facility (a sole owner may be the administrator);

6. formulate and annually review, in consultation with the administrator, written policies concerning the FSTRA's philosophy, goals, current services, personnel practices, job descriptions and fiscal management;

7. annually evaluate the administrator's performance (if a sole owner is not acting as administrator);

8. have the authority to dismiss the administrator (if a sole owner is not acting as administrator);

9. meet with designated representatives of the department whenever required to do so;

10. inform designated representatives of the department prior to initiating any substantial changes in the services provided by the FSTRA; and

11. notify the Health Standards Section in writing at least 30 days prior to any change in ownership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7233. Policy and Procedures

A. The FSTRA shall establish procedures to assure written communication among staff to ensure safety and continuity of services to all clients.

B. Direct care employees shall have access to information concerning clients that is necessary for effective performance of the employee's assigned tasks.

C. Confidentiality and Security of Files. A FSTRA shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records and to whom records may be released.

D. The FSTRA shall allow designated representatives of the department, in the performance of their mandated duties, to inspect all aspects of the FSTRA's practices which impact clients and to interview any staff member or client relevant or as required for any survey or investigation.

1. The FSTRA shall make any information or records that the facility is required to have and any information reasonably related to assessment of compliance with these requirements available to the department.

2. The client's rights shall not be considered abridged by this requirement.

E. Procedures shall address the following.

1. Confidentiality of Records

a. The FSTRA shall maintain the confidentiality of all clients' records. Employees of the facility shall not disclose or knowingly permit the disclosure of any information concerning the client or his/her family, directly, or indirectly, to any unauthorized person.

b. The FSTRA may use material from records for teaching and research purposes, if names are deleted and other identifying information is disguised or deleted.

2. Release of Information

a. A FSTRA shall obtain the client's or legal representative's written, informed permission prior to releasing any information from which the client or his/her family might be identified, except to the department.

b. Identifying information may be given to appropriate authorities in cases of an emergency.

c. The FSTRA shall have a procedure by which representatives or family of clients is given an opportunity to receive information about the individual client in care of the facility.

3. Publicity

a. The FSTRA shall have written policies and procedures regarding the photographing and audio or audiovisual recordings of clients.

b. No client shall be photographed or recorded without the client's prior informed, written consent. Such consent cannot be made a condition for admission into, remaining in, or participating fully in the activities of the facility.

i. Consent agreements shall clearly notify the client of his/her rights under this regulation, shall specify precisely what use is to be made of the photograph or recordings, and are valid for a maximum of one year from the date of execution.

ii. Clients are free to revoke such agreements at any time, either orally or in writing.

c. All photographs and recordings shall be used in a way that respects the dignity and confidentiality of the client.

F. Personnel Policies. The FSTRA shall have written personnel policies that include:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision, and performance evaluation of staff members;

2. written job descriptions for each staff position including volunteers;

3. policies which provide for staff, either contracted or directly employed, to have a criminal background check, prior to offer of employment and, at least, annually thereafter. Such policy shall be defined in the facility's policy and procedures and in accordance with applicable state or federal laws;

4. policies which provide for staff, upon offer of employment, to have a health assessment, as defined in the facility 's policy and procedures. Such policies shall apply for any staff, either contracted or directly employed.

a. these policies shall, at a minimum, require that the FSTRA's staff, either contracted or directly employed, have no evidence of active tuberculosis and be retested on a time schedule as mandated by the Office of Public Health. Test results dated within one year prior to the offer of employment are acceptable for initial employment;

5. policies which provide for any FSTRA staff, either contracted or directly employed, who provide transportation of clients, to have a driving history report upon hire and annually thereafter;

6. an employee grievance procedure;

7. abuse reporting procedures that require all employees to report any incidents of neglect, abuse or mistreatment whether that neglect abuse or mistreatment is done

by another staff member, a family member, a client, or any other person;

a. These policies shall have, at a minimum, any reporting requirements to the facility administration, and to the department, as applicable; and

8. a written policy to prevent discrimination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter C. Admissions, Transfers and Discharges

§7235. Admissions

A. The facility shall have a clear and specific written description of admission policies and procedures. This written description shall include, but is not limited to the following:

1. the application process and the possible reasons for the rejection of an application;

2. types of clients suitable to the facility;

3. services offered and allowed in the facility; and

4. the facility's house rules.

B. Intake Evaluation

1. An intake evaluation shall take place on the first day of admission and shall include the client's:

a. demographic data;

b. family information; and

c. psychiatric and social background.

2. All of the facility's rules and regulations shall be reviewed with the client. A complete clothing inventory shall be completed and the client shall be assigned to a room.

C. Nursing Assessment

1. The licensed nurse shall complete a nursing assessment and review the client's medication(s). The client's medication administration records shall contain a detailed description of the client's:

a. medication;

b. dosage(s) of medication;

c. frequency medications should be taken; and

d. ability to self-administer medications.

D. Diagnostic Evaluation

1. The diagnostic evaluation shall include examination of the medical, psychosocial, social, behavioral and developmental aspects of the client's situation and reflect the need for services from a FSTRA.

2. Each medical evaluation shall include:

a. diagnoses;

b. summary of medical findings;

c. medical history;

d. mental and physical functional capacity;

e. prognosis; and

f. physician's recommendations.

E. An individualized plan of care for each client shall be developed upon admission and shall be revised to include recommended changes in the therapeutic plan. The plan to be followed in the event of emergency situations shall be specified in the plan of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7237. Mandatory Transfers and Discharges

A. The administrator/director shall, in coordination with the client, forensic aftercare facility, Community Forensic Service, and state level forensic coordinator (as appropriate), assist in planning and implementing the mandatory transfer or discharge of the client when:

1. the treatment plan goals and objectives are substantially met and a crisis relapse/prevention plan is developed and support systems are in place that allow the client to reside safely in a less restrictive environment;

2. the client's physician certifies that the client's physical condition necessitates transfer to a medical

facility or the client's psychiatric condition necessitates transfer to a higher level of care; or

3. the client's condition is such that he or she is:

a. a danger to self or others; or

b. is consistently disruptive to the peace and order of the facility, staff services, or other clients.

B. Emergency Discharge. The FSTRA shall immediately report to the Community Forensic Service, probation officer, state level forensic coordinator, and provider(s) of behavioral health services any program violations (i.e. illegal drugs, suspected or confirmed weapon possession or access, gross deterioration of behavior, or non-compliance with medication). The FSTRA in collaboration with the probation officer and community forensic staff, as appropriate, shall be responsible for the relocation of the client to an appropriate secure placement.

C. The facility shall initiate outpatient services for the client upon discharge and provide consultation to the client concerning where to obtain necessary medications, resources and follow-up outpatient behavioral health services.

D. Discharge Records

1. The following discharge information shall be recorded in the client's record:

a. date of discharge;

b. destination; and

c. reason(s) for leaving.

2. Discharge records shall be retained in a secured environment in accordance with the facility's policy and procedure for at least three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter D. Participation Requirements

§7241. Assessment, Service Coordination, and Monitoring

A. Once the client is admitted, the facility shall conduct an assessment to determine the needs of the client. The assessment shall be kept in the client's record and shall at a minimum, include:

1. the client's interests, likes and dislikes;

2. review of physical health, psycho-social status, and cognitive status and the determination of services necessary to meet those needs;

3. a summary of the client's health needs, if any, including medication(s), treatment and special diet orders obtained from licensed professionals with responsibility for the client's physical or emotional health;

4. a written description of the activities of daily living and instrumental activities of daily living for which the client requires assistance, if any, obtained from the client or the client's physician;

5. recreational and social activities in accordance with the client's treatment plan;

6. a plan for handling special emergency evacuation needs, if any; and

7. additional information or documents pertinent to the client's treatment planning, such as guardianship papers, power of attorney, living wills, do not-resuscitate orders, or other relevant medical documents.

B. Within 30 days after admission, the facility, with input from the client, shall develop a service plan using information from the assessment.

C. The service plan shall be responsive to the client's needs and preferences. The service plan shall include:

1. the client's needs;

2. the scope, frequency, and duration of services and monitoring that will be provided to meet the client's needs;

3. staff/providers responsible for providing the services; and

4. a plan for the implementation towards the least restrictive settings.

D. The client's service plan shall be revised by the designated licensed facility staff when a client's needs or condition changes. The revised service plan shall be signed by the client and the designated facility staff.

E. The service plan shall be monitored on an ongoing basis by facility staff to determine its continued appropriateness and to identify when a client's condition or preferences have changed. A documented review of the service plan by the licensed professional staff shall be made at least every quarter. However, changes to the plan may be made at any time, as necessary.

F. All service plans and reviews shall be signed by the client and by the designated licensed facility staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7243. Personal and Supportive Services

A. The facility shall provide adequate services and oversight/supervision, including adequate security measures, around the clock as needed for any client in accordance with the client's treatment plan.

B. Client Self-administration of Medications

1. The FSTRA shall have clear written policies and procedures on direct care staff assistance with client self-administration of medications.

2. The FSTRA shall assist clients in the self-administration of prescription and non-prescription medication(s) as agreed to in their contract or service plan and as allowed by applicable state statute and in accordance with the regulations of this section.

3. Assistance with self-administration of medications shall be limited to the following:

a. The client may be reminded to take his/her medication(s) when 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.

b. The medication regimen, as indicated on the container, may be read to the client.

c. The dosage may be checked according to the container label.

d. The staff may open the medicine container (i.e. bottle, pill organizer, blister pak, etc.) and/or provide assistance with pouring medications if the client lacks the physical ability to open the container or pour his/her own

medications and the client is cognitive of what the medication is, what the medication is for and the need for the medication.

i. Offering of liquids to a client who is familiar with his/her medications to assist that client in ingesting oral medications is allowed.

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

i. administering injections of any kind;

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

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

iv. crushing or splitting medications;

v. placing medications in a feeding tube; or

vi. mixing medications with foods or liquids.

4. An employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for assistance with client self-administration of medications including the limitations of this assistance. This training

shall be repeated and documented at least annually. Documentation shall include the signature of the employee initially and at least annually at time of training.

5. A competency evaluation shall be developed and conducted to ensure that each direct care staff person that assists a client with the self-administration of medications is able to demonstrate competency in the training areas pursuant to §7243.B.1-4.

a. Documentation of such competency evaluation of each direct care staff person shall be maintained and readily available in the facility's records.

6. Unlicensed employees shall not perform medication administration which is separate and apart from the performance of assistance of a client with the self-administration of medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7245. Nutrition

A. The facility shall provide three varied, palatable meals a day, seven days a week. Meals shall take into account clients' preferences and needs.

B. Menus shall be planned and written at least one week in advance and dated as served. The current week's menu shall be posted in one or more conspicuous places in the facility.

C. The facility shall provide medically prescribed diets as ordered by the client's physician. These menus shall be planned or approved by a licensed registered dietician (LRD) and shall include nourishing snacks. The LRD shall be available for consultation as needed and may be either contracted or directly employed by the facility.

D. The facility shall purchase and provide to the clients only food and drink of safe quality. The storage, preparation and serving techniques shall ensure that nutrients are retained and spoilage is prevented. Milk and milk products shall be Grade A and pasteurized.

E. Staff shall be available in the dining area to provide supervision as needed.

F. Written reports of inspections by the Louisiana Department of Health, Office of Public Health, Sanitarian Services shall be kept on file in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7247. Transportation Requirements

A. The facility shall have the capacity to provide or to arrange transportation for the following:

1. transportation to behavioral health services (i.e., community mental health center or addictive disorder clinic); and

2. all other related medical appointments.

B. The facility shall:

1. have automotive liability insurance coverage and have proof of such continuous coverage for any vehicle that provides client transportation and which is owned/operated by the facility and staff, either contracted or directly employed;

2. conform to all applicable state laws and regulations pertaining to drivers, vehicles and insurance; and

3. provide for safety of clients by ensuring all transportation drivers have current driving records and current driver's licenses in good standing.

C. The number of occupants allowed in a car, bus, station wagon, van, or any other type of transportation shall not exceed the number of manufacturer's issued seat belts for passengers and the number of passengers for which the vehicle is designed.

D. Provisions shall be made to accommodate clients who use assistive devices for ambulation.

E. Each vehicle shall be maintained in safe, operating condition.

F. If the center contracts with a commercial proprietor for transportation, such shall be licensed to provide commercial transportation. All rules established for transportation furnished by the center shall be observed by the contracted commercial proprietor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter E. Client Protection

§7251. Client Rights

A. The facility shall have a written policy on clients' civil rights and the practices of the facility shall assure that no client of a facility shall be deprived of civil or legal rights, benefits or privileges guaranteed by law or the Constitution of the United States solely by reason of status as a client of a facility. A copy of these rights shall be posted conspicuously in the facility.

B. In addition to the basic rights enjoyed by other adults, the facility's written policy on rights shall assure that clients shall be afforded the rights enumerated in R.S. 28:171.

C. The client shall receive, upon admission and during his/her stay, a written statement of the services provided by the facility and the charges for these services.

D. The client shall be free from mental, emotional, and physical abuse and neglect and assured that no chemical restraints will be used.

E. The facility shall ensure that records and other information about the client are kept confidential and released only with a client's expressed written consent or in accordance with state law.

F. In accordance with facility policy and pursuant to R.S. 28:171, the facility shall ensure that the client:

1. receives a timely response to a request from the administrator/director and/or staff;

2. has access to private telephone communication;

3. is able to send and receive mail promptly and unopened;

4. is notified in writing by the facility when the facility's license status is suspended, revoked or limited, and to be informed of the basis of the licensing agency's action;

5. is allowed to select a health care provider and arrange for the services, at his/her own expense, which are not available through the facility as long as the client remains in

compliance with the conditions of his/her admission to the facility;

6. is encouraged and assisted to exercise rights as a citizen;

7. is allowed to voice grievances and suggest changes in policies and services to either staff or outside representatives without fear of restraint, interference, coercion, discrimination, or reprisal;

8. is fully informed of all client rights and all rules governing client conduct and responsibilities; and

9. is allowed to consult freely with counsel of their choice.

G. Each client shall be fully informed of these rights and of all rules and regulations governing client conduct and responsibilities, as evidenced by written acknowledgment, prior to or at the time of admission, and when changes occur.

1. Each client's file shall contain a copy of the written acknowledgment which shall be signed and dated by the director or his/her designee, the client and/or representative.

H. The facility shall establish and have written grievance procedures that include, but are not limited to:

1. a formal process to present grievances; and

2. a process to investigate and to respond to grievances in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter F. Facility Responsibilities

§7255. General Provisions

A. Facilities shall comply and show proof of compliance with all relevant standards, regulations and requirements established by state, local and municipal regulatory bodies. It is the facility's responsibility to secure the approvals from the following entities:

1. LDH, Health Standards Section;

2. Office of Public Health;

3. Office of State Fire Marshal;

4. city fire department, if applicable; and,

5. the applicable local governing authority (e.g., zoning, building department or permit office).

B. The administrator/director or person authorized to act on behalf of the administrator/director shall be accessible to facility staff or designated representatives of LDH at all times.

1. Updated electronic mail and/or telephonic contact information of key administrative personnel shall be provided to the department's Health Standards Section.

C. The facility shall have an administrative file that includes:

1. the Articles of Incorporation or certified copies thereof, if incorporated, or partnership documents, if applicable;

2. a current copy of the approved constitution and/or bylaws of the governing body;

3. a current roster of the governing body membership which includes the members' addresses;

4. written policies and procedures approved by the owner/governing body that address the following:

a. confidentiality and security of files;

b. publicity;

c. personnel;

d. client's rights;

e. grievance procedure;

f. safekeeping of personal possessions, if applicable;

g. clients' funds, if applicable;

h. emergency and evacuation procedures;

i. abuse and neglect;

j. critical incidents;

k. admissions and discharge procedures;

l. assistance with client self-administration of medication;

m. driver training, safety and responsibilities while transporting clients; and

n. policies related to client transportation; either contracted or provided by facility staff;

5. the minutes of formal governing body meetings;

6. an organizational chart of the FSTRA;

7. all leases, contracts and purchase-of-service agreements to which the FSTRA is a party, which includes all appropriate credentials;

8. insurance policies:

a. every facility shall maintain in force at all times a comprehensive general business insurance policy or policies in an amount adequate to cover all foreseeable occurrences. The insurance shall include coverage for any:

i. personal or professional negligence, malpractice or misconduct by facility owners or employees;

ii. injuries received by any client while being transported by facility staff or third-party contractors; and

iii. injuries sustained by any client while in the facility; and

9. Incident/Accident Reports.

D. The facility shall maintain a personnel record for each employee. At a minimum, this file shall contain the following:

1. the application for employment and/or résumé of education, training, and experience;

2. evidence of a criminal history check prior to an offer of employment and annually thereafter, in accordance with state laws and regulations;

3. evidence of applicable professional credentials, licensing or certifications according to state law;

4. documentation of Tuberculosis test results and any other facility required medical examinations;

5. documentation of reference checks or employee screening in accordance with facility policy;

6. annual performance evaluation;

7. the employee's hire and termination dates;

8. documentation of orientation and annual training, including but not limited to safety and transportation of clients; and

9. documentation of a current, valid and unrestricted driver's license if driving or transporting clients.

E. The facility shall not release an employee's personnel record without the employee's written permission, except as required by state law.

F. The facility shall have a personnel record for each employee to be kept on the premises or at the corporate office. These records shall be made available and accessible to the survey staff within one hour of request by department surveyors.

1. All records shall be maintained in an accessible, standardized order and format, and shall be retained and disposed of in accordance with state laws.

2. A facility shall have sufficient space, facilities and supplies for providing effective record keeping services, either electronically or via paper documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7257. Core Staffing Requirements

A. Each facility shall be staffed to properly safeguard the health, safety and welfare of the clients, as required by these regulations. At a minimum, the following staff positions are required; however, one person may occupy more than one position.

B. Consulting Forensic Psychiatrist

1. Each facility shall have a qualified physician, currently licensed to practice medicine in Louisiana, who:

a. signs the order admitting the individual to the facility;

b. maintains overall responsibility for the client's medical management; and

c. is readily available for consultation and collaboration with the facility staff.

2. The forensic psychiatrist may act as consultant by employment on staff, by contract, or by arrangement with state agency.

C. Administrator/Director

1. Each facility shall have a qualified administrator/director who is an on-site employee and is responsible for the day-to-day management, supervision and operation of the facility.

2. During periods of temporary absence of the administrator/director, there shall be a responsible staff person designated to be in charge that has the knowledge and responsibility to handle any situation that may occur.

3. There shall be a responsible staff person designated to be in charge on the premises of the facility 24 hours per day.

4. The administrator/director shall be at least 21 years of age and have the responsibility and authority to carry out the policies of the facility.

5. The administrator/director shall meet one of the following criteria upon date of hire:

a. possess a bachelor's degree from an accredited institution plus one year of administrative experience in the fields of health care, behavioral health services, or forensics;

b. possess an associate's degree from an accredited institution plus two years of administrative experience in the fields of health care, behavioral health services, or forensics; or

c. in lieu of a degree, possess six years of administrative experience in health care, behavioral health services, or forensics.

6. Documentation of the administrator/director's qualifications shall be maintained on file at the facility.

D. Nursing Services

1. The facility shall provide a sufficient number of nursing service personnel consisting of registered nurses, licensed practical nurses and other staff to provide nursing care to all clients in accordance with the client's treatment plan.

2. Registered Nurse (RN). The facility shall employ or contract with at least one RN who is responsible for the overall delivery and supervision of nursing services.

a. The RN shall be currently licensed by, and in good standing with, the state nursing board of Louisiana. No individual who is unlicensed may be employed, either directly or by contract, by the facility as an RN.

b. The RN shall:

i. be on-site or available by telephone during the day time hours of the facility;

ii. develop policies and procedures related to the delivery of nursing services; and

iii. provide medication management through administration, supervision, education and training.

3. Licensed Practical Nurse (LPN). The facility shall employ or contract with LPNs to meet the nursing needs of the clients.

a. The LPN shall be currently licensed by, and in good standing with, the state nursing board of Louisiana. No individual who is unlicensed may be employed, either directly or by contract, by the facility as a LPN.

b. LPNs may administer medication and deliver nursing services as provided by Louisiana law or applicable regulations.

E. Direct Care Staff

1. The facility shall ensure that an adequate number of trained direct care staff, either contracted or directly employed, is available to meet the needs of the clients in accordance with the client's scheduled and unscheduled needs.

2. Direct care staff may include care assistants, activities personnel, or other staff who provide direct care services to clients on a regular basis.

3. Direct care staff shall have the following qualifications:

a. a minimum of a high school diploma, eighteen years of age and six months of experience working with adults with a serious and persistent behavioral health diagnosis; or

b. two years of experience working with adults with a serious and persistent behavioral health diagnosis.

4. The facility shall have at least two direct care staff on site when there is at least one client at the facility.

5. The facility shall demonstrate that sufficient staff is scheduled and available (working) to meet the 24-hour scheduled and unscheduled needs of the clients. At a minimum, there shall be one direct care staff person on duty for every 15 clients.

6. The facility shall not share direct care staff with another licensed facility. (Staff cannot fill two staff positions on the same shift at different licensed facilities.)

F. The facility shall maintain a current work schedule for all employees, either contracted or directly employed, including relief workers, ensuring adequate coverage for each day and night shift.

G. Facility professional staff shall be licensed and/or certified by the appropriate state licensing or certification board(s) of Louisiana. The license and/or certification shall be current, unrestricted and in good standing.

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

I. A facility shall provide, as needed, consultation(s) with a licensed registered dietician, either directly employed or contracted.

J. Direct Care Staff Orientation and Training

1. Prior to providing services to clients, the FSTRA shall provide a 20-hour documented orientation including, but not limited to the following:

a. the policies and procedures of the facility, including program components;

b. emergency and evacuation procedures;

c. training in proper fire and emergency safety procedures including:

i. CPR;

ii. the Heimlich Maneuver;

iii. first aid;

iv. crisis management; and

v. risk reduction;

d. effective communication skills for forensic, behavioral health clients;

e. confidentiality and HIPAA requirements;

f. trainings and intervention programs as deemed appropriate and mutually agreed upon by Community Forensic Services and the state level forensic coordinator;

g. client's rights;

h. procedures and requirements regarding the reporting of abuse, neglect and critical incidents; and

i. transportation safety and responsibilities for staff that transport clients.

2. Orientation for direct care staff shall include an additional five days of supervised training. Training, at a minimum, shall include the following:

a. training in client care services (ADLs & IADLs) provided by the facility;

b. infection control to include blood borne pathogens;

c. crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses; and

d. any specialized training to meet clients' needs.

3. A new employee, either contracted or directly employed, shall not be given sole responsibility for the implementation of a client's program plan until this orientation and training is completed.

a. The new employee, either contracted or directly employed, shall sign a statement certifying that such training has occurred and this shall be maintained in the new employee's personnel file.

4. Orientation and five days of supervised training shall meet the first year's annual training requirements.

5. All direct care staff, either contracted or directly employed, shall receive certification in adult first aid and CPR within the first 30 days of employment.

a. Documentation of such certification shall be maintained in the personnel file of each direct care staff person.

K. Annual Training

1. A facility shall ensure that each direct care worker, contracted or directly employed, participates in and satisfactorily completes a minimum of 16 hours of training each year to ensure continuing competence.

Note: Orientation and normal supervision shall not be considered as meeting this requirement.

2. The facility shall document that direct care staff receives training on an annual basis in:

a. the facility's policies and procedures;

b. emergency and evacuation procedures;

c. client's rights;

d. the procedures and legal requirements concerning the reporting of abuse and critical incidents;

e. client care services (ADL'S & IADL'S);

f. infection control to include blood borne pathogens; and

g. any other areas that may require specialized training to meet clients' needs including but not limited to, driver safety in transporting clients.

3. All direct care staff, either contracted or directly employed, shall have documentation of current certification in adult first aid and CPR.

4. The administrator/director shall participate annually in at least 12 hours of continuing education in the

field of behavioral health and specialized training in the population served and/or supervisory/management techniques.

5. Each employee shall sign a statement of understanding certifying that annual training has occurred.

L. A competency evaluation shall be developed and conducted to ensure that, at a minimum, each direct care staff person is able to demonstrate competencies in the training areas in §7257.I-J.Core Staffing Requirements.

1. Documentation of such competency evaluation of each direct care staff person shall be maintained and readily available in the agency's records.

M. An employee's annual performance evaluation shall include his/her interaction with clients, family, staff and other providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7259. Client Records

A. The facility shall maintain a separate record for each client. Such records shall be current and complete and shall be maintained in the facility or in a central administrative location readily available to facility staff and to the department.

B. All records shall be maintained in an accessible, standardized order and format, either electronically and/or in paper form, and shall be retained and disposed of in accordance with state laws.

C. The facility shall have sufficient space, equipment, and supplies for providing effective record keeping services.

D. The facility shall have a secured storage area that ensures the safeguarding of all electronic or paper client records and that prevents loss from, including but not limited to, fire or water.

E. Each record shall contain at least the following information:

1. the client's identifying and personal information including:

a. the client's name;

b. date of birth;

c. sex;

d. Social Security number;

e. previous home address; and

f. marital status, if applicable;

2. dates of admission and discharge;

3. names, addresses, and telephone numbers of responsible persons to be notified in case of accident, death or other emergency;

4. name, address, and telephone number of a physician and dentist to be called in an emergency;

5. ambulatory status;

6. the client's plan/authorization for routine and emergency medical care, as required;

7. the client's written authorization for a representative and their name, address and telephone number, if applicable;

8. the pre-admission assessment by a forensic psychiatrist and admission agreement;

9. findings of the assessment and any special problems or precautions identified;

10. the service plan, updates, and quarterly reviews;

11. continuing record of any illness, injury or medical or dental care when it impacts the client's ability to function or the services he/she needs;

12. a record of all personal property and funds which the client has entrusted to the facility;

13. reports of any client complaints or grievances and the conclusion or disposition of these reports;

14. incident reports; and

15. written acknowledgments that the client has received clear verbal explanations and:

a. copies of his/her rights and the house rules;

b. written procedures for safekeeping of valuable personal possessions of clients; and

c. a written statement explaining the client's rights regarding personal funds and the right to examine his/her record.

F. All information and records obtained from or regarding clients shall be securely stored and kept confidential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7261. Abuse and Neglect

A. The facility shall have comprehensive written procedures concerning client abuse and neglect to include provisions for:

1. training and maintaining staff awareness of abuse prevention, current definitions of abuse and neglect, reporting requirements and applicable laws;

2. protecting clients from abuse inflicted by other clients, employees or third parties, including but not limited to, criminal prosecution of the offending person and his/her permanent removal from the facility;

3. ensuring that regulations stipulated in this rule for reporting any incidents involving abuse and neglect are followed;

4. ensuring that the administrator/director completes an investigation report within 10 working days; and

5. ensuring that the client is protected from potential harassment during such investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7263. Critical Incidents

A. A facility shall have written procedures for the reporting and documentation of unusual incidents and other situations or circumstances affecting the health, safety or well-being of a client(s) (i.e. death by unnatural causes, injuries, fights or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect). Critical incidents shall be defined by facility policy, approved by the facility's governing body and reviewed at least annually.

1. Such procedures shall ensure timely verbal reporting to the director or designee and a preliminary written report within 24 hours of the incident.

2. Copies of all critical incident reports shall be kept as part of the client's record and a separate copy shall be kept in the administrative file of the facility.

B. Incident/Accident Report. When an incident occurs, a detailed report of the incident shall be documented. At a minimum, the incident report shall provide documentation of the following:

1. the circumstances under which the incident occurred;

2. the date and time the incident occurred;

3. the location where the incident occurred (bathroom, bedroom, street, lawn, etc.);

4. immediate treatment and follow-up care;

5. the names and addresses of witnesses;

6. the date and time the family or representative was notified;

7. any symptoms of pain and injury discussed with the physician; and

8. the signatures of the staff completing the report, client, and administrator/director.

C. When an incident results in the death of a client, involves abuse or neglect of a client, or entails any serious threat to the client's health, safety or well-being, a facility shall:

1. immediately take appropriate corrective action to protect the client and to prevent further incidents;

2. report the incident verbally to the administrator within two hours of the time of the incident;

3. notify the appropriate law enforcement authority in accordance with state law, but no later than 24 hours after the time of the incident;

4. verbally notify the family or the client's representative as soon as possible but no later than two hours after the time of the incident, with written notification to follow within 24 hours;

5. notify the Department of Health, Health Standards Section, and other appropriate authorities in accordance with state law, with written notification to the above agencies to follow within 24 hours of the time of the incident;

6. provide follow-up written reports to all of the persons and agencies identified in this §7261.C; and

7. document its compliance with all of the above procedures for each incident and shall keep such documentation (including any written reports or notifications) in the client's file. A separate copy of all such documentation shall be kept in the facility's administrative file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7265. Personal Possessions

A. The facility may, at its discretion, offer to clients the service of safekeeping their valuable possessions. The facility shall have a written statement of its policy.

B. If the facility offers such a service, a copy of the written policy and procedures shall be given to a client at the time of his/her admission.

C. The facility shall give the client a receipt listing each item that it is holding in trust for the client. A copy of the receipt shall be placed in the client's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7267. Client Funds

A. The facility's admission agreement shall include the client's rights regarding personal funds and list the services offered and charges, if any.

B. The facility shall offer safekeeping and management of a client's funds. If a client chooses to entrust funds with the facility, the facility shall obtain written authorization from

the client and/or his/her representative for the safekeeping and management of the funds.

C. The facility shall:

1. provide each client with an account statement on a quarterly basis with a receipt listing the amount of money the facility is holding in trust for the client;

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

3. provide a list or account statement regarding personal funds upon request of the client;

4. maintain a copy of each quarterly account statement in the client's record;

5. keep the funds received from the client in a separate interest-bearing account; and

6. not commingle the clients' funds with the facility's operating account.

D. The facility shall develop, implement, and follow written policies and procedures to protect client funds.

E. Unless otherwise provided by state law, upon the death of a client, the facility shall provide the executor or administrator of the client's estate or the client's representative, as agreed upon in the admission agreement, with

a complete account statement of the client's funds and personal property of the client being held by the facility.

F. A client with a personal fund account managed by an FSTRA facility may sign an account agreement acknowledging that any funds deposited into the personal account by, or on the client's behalf, are jointly owned by the client and his legal representative or next of kin. The account agreement shall state that:

1. the funds in the account shall be jointly owned with the right of survivorship;

2. the funds in the account shall be used by, for or on behalf of the client;

3. the client or the joint owner may deposit funds into the account; and

4. the client or joint owner may endorse any check, draft or other monetary instrument to the order of any joint owner, for deposit into the account.

G. If a valid account agreement has been executed by the client, upon the client's death, the facility shall transfer the funds in the client's personal fund account to the joint owner within 30 days of the client's death.

H. If a valid account agreement has not been executed, upon the client's death, the facility shall comply with the federal and state laws and regulations regarding the

disbursement of funds in the account and the properties of the deceased. The facility shall abide by the procedures of the Louisiana Department of the Treasury and the Louisiana Uniform Unclaimed Property Act for the handling of funds of a deceased client that remain unclaimed.

I. The provisions of this Section shall have no effect on federal or state tax obligations or liabilities of the deceased client's estate. If there are other laws or regulations which conflict with these provisions, those laws or regulations will govern over and supersede the conflicting provisions.

J. A termination date of the account and the reason for termination shall be recorded on the client's participation file. A notation shall read, "to close account." The endorsed cancelled check with check number noted on the ledger sheet shall serve as sufficient receipt and documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7269. Contraband

A. There shall be no contraband, illegal drugs, controlled dangerous substances or any medications that are not prescribed to a client, on the campus of the facility. Clients may be subjected to random periodic drug testing as a

requirement for residency at the facility. A positive drug test shall be reported to the attending psychiatrist and the applicable court.

B. The facility shall have written policies defining contraband and procedures for staff to follow when contraband is discovered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter G. Safety and Emergency Preparedness

§7271. General Provisions

A. The facility shall have an emergency preparedness plan designed to manage the consequences of natural disasters or other emergencies that could disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the clients and/or the community it serves. The emergency preparedness plan shall be made available, upon request or if mandated to do so, to local, parish, regional and/or state emergency planning organizations, the department and the Office of the State Fire Marshal.

B. At a minimum, the emergency preparedness plan shall include:

1. identification of potential hazards that could necessitate an evacuation, including internal and external disasters such as a natural disaster, acts of bioterrorism, weapons of mass destruction, labor work stoppage or industrial or nuclear accidents;

2. emergency procedures for evacuation of the facility;

3. procedures in the case of interruption of utility services in a way that affects the health and safety of clients;

4. identification of the facility and an alternate facility to which evacuated clients would be relocated;

5. the estimated number of clients and staff that would require relocation in the event of an evacuation;

6. the system or procedure to ensure that medical charts accompany clients in the event of a client evacuation and that supplies, equipment, records and medications would be transported as part of an evacuation; and

7. the roles and responsibilities of staff members in implementing the disaster plan.

C. The facility shall conduct and document fire drills once per quarter, one drill per shift every 120 days, at varying times of the day. Each employee, either contracted or directly employed, shall participate in at least one drill annually.

D. The facility shall immediately notify the Health Standards Section and other appropriate agencies of any fire, disaster or other emergency that may present a danger to clients or require their evacuation from the facility.

E. The facility shall have access to 24-hour telephone service, and shall either post telephone numbers of emergency services, including the fire department, police department, medical services, poison control and ambulance services or show evidence of an alternate means of immediate access to these services.

F. General Safety Practices

1. The facility shall not maintain any firearm or chemical weapon in the living units of the facility.

2. The facility shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to the contents. Such materials shall be maintained only as necessary and shall be used in a manner that ensures the safety of clients, staff and visitors.

3. The facility shall ensure that an appropriately equipped first aid kit is available in the living units and in all vehicles used to transport clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter H. Physical Environment

§7275. General Provisions

A. Location

1. The area to be licensed as a FSTRA facility shall meet all of the licensing regulations established for FSTRA facilities.

2. A facility that is located within any other facility shall be secure and have its own identifiable staff, space and storage. The facility shall have a separate entrance, separate dining area and separate common areas.

3. A facility that accepts both male and female clients shall not assign male and female clients to reside within the same unit of the licensed facility.

B. General Appearance and Conditions

1. Heating, cooling and ventilation systems shall permit comfortable conditions.

2. Furniture that is clean, safe and operable, where applicable, shall be available to facilitate usage by the number of clients in the facility.

3. The facility shall have sufficient space and equipment to accommodate the full range of program activities and services.

4. The facility shall be flexible and adaptable for large and small groups and individual activities and services.

5. There shall be sufficient office space to permit staff to work effectively and without interruption.

6. There shall be adequate storage space for program and operating supplies.

C. Interior Space

1. Floors and steps shall have a non-slippery surface and kept dry when in use by the clients.

2. Doorways and passageways shall be kept clear to allow free and unhindered passage.

3. The facility shall provide an appropriate controlled-egress system on all required exit doors and doors leading to other areas of the facility unless prior approval of an alternative method for prevention of client elopement from the facility has been obtained from the authority (Office of the State Fire Marshal) having jurisdiction over such matters.

4. All staff shall have a key to locked exit doors.

5. All operable windows shall be equipped with a mechanism to limit exterior openings to prevent elopement.

6. Windows used for ventilation to the outside and exterior doors used for ventilation shall be screened and in good repair.

7. The facility shall be constructed, equipped, and maintained in operating condition and kept free of hazards.

8. The facility shall have sufficient storage space for administration records, locked areas for medications, cleaning supplies (janitorial), food service (supplies) and lawn maintenance (equipment).

9. There shall be evidence of routine maintenance and cleaning programs in all areas of the facility.

10. The facility shall have an effective pest control program. Pest control services may be provided by maintenance personnel of the facility or by contract with a pest control company. If pest control chemicals are stored in the facility, they shall be kept in a locked location.

11. The facility shall have an area for the safe and secure maintenance and storage of medical records and other facility files, records and manuals.

D. Bedrooms

1. Single rooms shall contain at least 100 square feet and multi-bed rooms shall contain at least 80 square feet per bed, exclusive of fixed cabinets, fixtures, and equipment. An existing state owned or operated hospital that converts a building, unit or wing to a facility shall contain a minimum of 65 square feet per bed in a multi-bed room.

2. Any client room shall not contain more than four beds.

a. Beds shall be of solid construction, appropriate to the size and age of the client and have a clean, comfortable, non-toxic fire-retardant mattress that fits the bed.

b. Cots or other portable beds are to be used in emergencies only.

3. Rooms shall have at least a 7 1/2 foot ceiling height over the required area.

a. In a room with varying ceiling heights, only portions of the room with a ceiling height of at least 7 1/2 feet are allowed in determining usable space.

4. There shall be at least three feet between beds.

5. There shall be sufficient and satisfactory separate storage space for clothing, toilet articles and other personal belongings of clients.

6. Doors to individual bedrooms shall not be equipped with locks or any other device that would prohibit the door from being opened from either side.

7. The facility shall not use any room that does not have a window as a bedroom space.

8. The facility shall provide sheets, pillows, bedspreads and blankets that are of good quality for each client. Linens that are torn or worn shall not be used.

9. Each client shall have his/her own dresser or other adequate storage space for private use and designated space for hanging clothing in proximity to the bedroom occupied by the client.

10. The facility shall not assign clients to a space that is not part of the licensed facility.

E. Bathrooms

1. The number of toilets and hand-washing facilities shall not be less than one designated, segregated male bathroom facility and one designated, segregated female bathroom facility per 13 clients.

a. Post promulgation of this rule, facilities seeking to change geographic location or new construction, and that have not received plan review approval, the number of toilets and hand-washing facilities shall be in accordance with current, applicable state laws, rules and regulations.

2. A bathroom facility shall have wash basins with hot and cold water, flush toilets, and bath or shower facilities with hot and cold water according to client care needs.

3. Bathrooms shall be so placed as to allow access without disturbing other clients during sleeping hours.

4. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene, unless clients are individually given such items.

a. Clients shall be provided individual items such as hair brushes and toothbrushes.

5. Tubs and showers shall have slip proof surfaces.

6. The facility shall have toilets and baths or showers that allow for individual privacy, unless the clients in care require assistance.

7. Toilets, wash basins and other plumbing or sanitary facilities in the facility shall, at all times, be maintained in operable condition and shall be kept free of any materials that might clog or otherwise impair their operation.

8. The facility shall have separate toilet facilities for staff.

F. Furnishings

1. The facility shall be sufficiently furnished to meet the needs of the clients. All furnishings and equipment shall be kept clean, safe and operable, where applicable.

2. Adequate furniture shall be available and shall be appropriate for use by the clients in terms of comfort and safety.

3. Furnishings shall include tables and chairs sufficient in number to serve all clients.

G. Kitchen

1. A facility that has a kitchen area shall meet all health and sanitation requirements and shall be of sufficient size to accommodate meal preparation for the proposed number of clients.

2. Kitchens used for meal preparations shall have the equipment necessary for the preparation, serving and storage and clean-up of all meals regularly served to all clients and staff. All equipment shall be maintained in proper working order.

3. The facility's refrigerator(s) shall be maintained at a temperature of 45 degrees Fahrenheit or below. Freezers shall be maintained at a temperature of 0 degrees Fahrenheit or below. Thermometers shall be provided for all refrigerators and freezers. The facility shall maintain logs of temperatures of the refrigerator and freezers. Abnormal temperatures shall be reported to management and arrangements made for repair/service. Documentation of such shall be maintained.

4. The facility shall ensure that all dishes, cups and glasses used by clients are free from chips, cracks or other defects and are in sufficient number to accommodate all clients.

5. If food is prepared in a central kitchen and delivered to the facility, provisions shall be made and approved

by the Department of Health, Office of Public Health, Sanitarian Services for proper maintenance of food temperatures and a sanitary mode of transportation.

H. Medication Storage and Monitoring

1. The facility shall have policies and procedures for the storage, administration and disposal of both prescription and over-the-counter medications.

2. There shall be a designated secure area for the storage, preparation, and proper disposal of medications.

3. Medications that require refrigeration shall be stored in a separate secured refrigerator (not with food, beverages, etc.).

4. The facility shall have a process for monitoring the inventory and reconciliation of prescribed controlled substances by authorized licensed staff. The process shall include the reporting of lost or missing medications by designated licensed staff in accordance with the Louisiana State Board of Pharmacy and applicable state law.

5. Medications may be administered from a secured medication dispensing central area of the facility.

I. Laundry

1. The facility shall provide for laundry services, either on-site or at an off-site location that is adequate to meet the needs of the clients.

2. For any provision of laundry service, available on-site or contracted, the facility shall ensure and maintain procedures to prevent cross contamination of soiled laundry with clean laundry.

3. If on-site, laundry facilities shall be located in a specifically designated area and there shall be adequate rooms and spaces for sorting, processing, and storage of soiled material.

4. Laundry rooms shall not open directly into client common areas or food service areas.

5. Domestic washers and dryers that are for the exclusive use of clients may be located in client areas, provided they are installed in such a manner that they do not pose a sanitation problem or safety risk.

J. Water Supply

1. An adequate supply of water, under pressure, shall be provided at all times.

2. Clean sanitary drinking water shall be available and accessible in adequate supply at all times. Disposable cups, if used, shall be stored in such a way as to prevent contamination.

3. When a public water system is available, a connection shall be made thereto. If water from a source other than a public water supply is used, the supply shall meet the

requirements set forth under the rules and regulations of the Office of Public Health (OPH).

4. The facility shall have a plan and policy for an alternative water supply in the event of interruption of water supply and for the prolonged loss of water.

K. All sewage shall be disposed of by means of either:

1. a public system where one is accessible within 300 feet; or

2. an approved sewage disposal system that is constructed and operated in conformance with the standards established for such systems by OPH.

L. Facility Exterior

1. The FSTRA shall maintain all areas of the facility that are accessible to the clients in good repair and free from any reasonably foreseeable hazard to health or safety.

2. All structures on the grounds of the facility shall be maintained in operating condition.

3. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on a regular basis.

4. Fences shall be in good repair and constructed in such a way as to provide safety and security.

5. Areas determined unsafe, including steep grades, open pits, swimming pools, high voltage boosters or high speed

roads shall be fenced or have natural barriers to protect clients.

6. Clients shall have access to safe, suitable outdoor recreational space.

7. The facility shall ensure that exterior areas are well lit at night.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter I. Secure Community Supervised Transitional/Residential Facility Module

§7279. General Provisions

A. Providers applying for the Secure Community Supervised Transitional/Residential (SCSTR) Facility module under the FSTRA facility license shall meet the core licensing requirement as well as the following module specific requirements.

B. A secure community supervised transitional/residential facility is a secure residential facility within the community that provides individualized services to develop daily living skills and to prepare for vocational adjustment and reentry into the community, to persons who are under a court-ordered forensic conditional release and who are referred by a state forensic hospital or a state forensic psychiatric unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7281. Operational Requirements

A. Staff Requirements

1. When clients are present, the facility shall provide 24-hour, seven day per week supervision and the care and services sufficient to meet the needs of the clients. Staffing shall consist of at least three direct care staff persons during the day, one of which shall be a licensed nurse and at least two awake staff during the night.

a. Requirements for the level of supervision provided and the specified time frame for day hours shall be defined by facility policy and approved by the facility governing body with documented annual review.

2. The facility shall have a licensed nurse on call when there are no licensed nurses on duty at the facility.

B. Admissions. The facility shall:

1. only accept clients referred by LDH state forensic facilities or those who are under a court-ordered forensic conditional release;

2. admit only those clients who have the ability to self-administer medications and provide for their own personal care needs;

3. admit male and female clients to reside in separate segregated and designated units of the licensed facility;

4. not admit more clients into care than the number specified on the facility's license; and

5. provide contact information, including the telephone number and mailing address, for the appropriate state protection and advocacy organization.

Note: the facility shall request from the HSS an increase in licensed bed capacity prior to accepting more clients than specified on the facility's license.

C. Assistance with Medication Self-Administration

1. The facility shall have clear written policies and procedures on medication self-administration.

2. The facility shall assist clients in the self-administration of prescriptions and non-prescription medication according to the client's service plan and as allowed by state laws and regulations. For assistance with self-administration, such clients shall have documented awareness of the medications to be taken.

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

a. the client may be reminded to take his/her medication;

b. the medication regimen, as indicated on the container, may be read to the client;

c. the dosage may be checked according to the container label;

d. staff may open the medicine container (i.e. bottle, mediset, blister pack, etc.) if the client lacks the ability to open the container; and

e. the client may be physically assisted in pouring or otherwise taking medications, so long as the client is cognitive of what the medication is, what it is for, and the need for the medication.

4. An unlicensed employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for medication assistance including the limitations of this assistance. Documentation shall include the signature of the employee. This training shall be repeated at least annually.

a. A competency evaluation shall be developed and conducted to ensure that each direct care staff person that assists a client with the self-administration of medications is able to demonstrate competency in the training areas pursuant to §7281.C1-4.

b. Documentation of such competency evaluation of each direct care staff person shall be maintained and readily available in the agency's records.

Note: Such training does not permit the unlicensed employee to perform medication administration which is separate and apart from the performance of assistance of a client with the self-administration of medications.

5. Medications shall be stored in a secure central location and not stored in the client's own room.

6. The facility may require the clients to come to a designated medication area to take their medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter J. Secure Forensic Facility Module

§7285. General Provisions

A. Providers applying for the secure forensic (SF) facility module under the FSTRA facility license shall meet the core licensing requirement as well as the following module specific requirements.

B. A secure forensic facility is a secure residential facility located on the grounds of a state owned or operated hospital that provides individualized services, including personal care services and medication administration, to persons

who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit, in order to prepare such persons for transition to a less restrictive environment before transitioning to the community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7287. Operational Requirements

A. The facility shall provide 24-hour, seven day per week supervision and the care and services sufficient to meet the needs of the clients. Staffing shall consist of at least three direct care staff persons during the day and two awake staff during the night. There shall be at least two direct care staff persons in each building and/or unit at all times when clients are present.

1. The facility shall have a RN on duty during the day shift to oversee the nursing services of the facility.

a. Requirements for the level of RN supervision provided and the specified time frame for day shift shall be defined by facility policy, approved by the governing body, reviewed and documented annually.

2. The facility shall have at least one licensed nurse on duty for each shift.

3. The facility shall provide for, either directly or through contract, a licensed medical doctor on call.

B. Admission

1. The facility shall:

a. admit clients who are under a court order or court ordered forensic conditional release and who are referred by a LDH state forensic facility;

b. not admit more clients into care than the number specified on the facility's license; and

c. provide contact information, including the phone number and mailing address, for the appropriate state protection and advocacy organization.

C. Client Services

1. The facility shall provide or coordinate, to the extent needed or desired by clients, the following services:

a. assistance provided by direct care staff, either employed or contracted, with activities of daily living and all instrumental activities of daily living;

b. medication administration by the licensed nurse;

c. opportunities for individual and group socialization;

d. services for clients who have behavior problems requiring ongoing staff support, therapeutic intervention, and supervision to ensure no danger or infringement of the rights of other clients or individuals;

e. household services essential for the health and comfort of clients (e.g. floor cleaning, dusting, bed making, etc.);

g. basic personal laundry services; and

h. a planned program of recreational activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

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 or autonomy as described in R.S. 49:972.

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.

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 and no direct or indirect cost to the provider to provide the same level of service. These provisions will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
November 29, 2016
9:30 a.m.

RE: Forensic Supervised Transitional
Residential and Aftercare
Facilities Licensing Standards
Docket # 11292016-1
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on November 29, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

Medicaid Policy and Compliance
Section

11/29/16
Date

DHH/BHSF PUBLIC HEARING

Topic – Forensic Supervised Transitional Residential and Aftercare Facilities – Licensing Standards

Date – November 29, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	Louisiana Dept. of Health 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	Medicaid Policy & Compliance
2.			
3.			
4.			
5.			
6.			

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Office of the Secretary

December 5, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Healthcare Services Provider Fees - Nursing Facility Services Providers.

The Department published a Notice of Intent on this proposed Rule in the October 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 10). A public hearing was held on November 29, 2016 at which only Louisiana Department of Health staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the January 20, 2017 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

REG/WJR/YME

Attachments (3)

Bienville Building • 628 N. Fourth St. • P.O. Box 629 • Baton Rouge, Louisiana 70821-0629
Phone: (225) 342-9500 • Fax: (225) 342-5568 • www.dhh.la.gov

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Healthcare Services Provider Fees
Nursing Facility Services Providers
(LAC 48:I.4001)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.4001 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 46:2625. 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 and Hospitals, Bureau of Health Services Financing, amended the provisions governing provider fees in order to place provider fees for pharmacy services in the appropriate section in the *Louisiana Administrative Code* (*Louisiana Register,* Volume 33, Number 1).

Act 675 of the 2016 Regular Session of the Louisiana Legislature directed the Department of Health to increase provider fees for nursing facilities. In compliance with Act 675, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing provider fees in order to increase the limit of the provider fee for nursing facilities (*Louisiana Register,* Volume 42, Number 9). This proposed Rule is being

promulgated to continue the provisions of the September 1, 2016 Emergency Rule.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 1. General

Chapter 40. Provider Fees

§4001. Specific Fees

A. - B.1. ...

2. The provider fee imposed for nursing facility services shall not exceed 6 percent of the average revenues received by providers of that class of services and shall not exceed $12.08 per occupied bed per day. The fee amount shall be calculated annually in conjunction with updating provider reimbursement rates under the Medical Assistance Program. Notice to providers subject to fees shall be given in conjunction with the annual rate setting notification by the Bureau of Health Services Financing.

C. - D. ...

E. - F. Reserved.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:100 (January 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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.

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.

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, but may increase direct or

indirect cost to the provider to provide the same level of service due to provider fees imposed on nursing facilities. This proposed Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the provider fees adversely impacts the provider's financial standing.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
November 29, 2016
9:30 a.m.

RE: Healthcare Services
Provider Fees
Nursing Facility Services Providers
Docket # 11292016-2
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on November 29, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

Medicaid Policy and Compliance Section

11/29/16
Date

DHH/BHSF PUBLIC HEARING

Topic – Healthcare Services Provider Fees Nursing Facility Services Providers

Date – November 29, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1 Comette Scott	Louisiana Dept. of Health 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	Medicaid Policy & Compliance
2.			
3.			
4.			
5.			
6.			

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Office of the Secretary

December 5, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Home and Community-Based Services Waivers – Adult Day Health Care Waiver – Electronic Visit Verification.

The Department published a Notice of Intent on this proposed Rule in the October 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 10). A public hearing was held on November 29, 2016 at which only Louisiana Department of Health staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the January 20, 2017 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

REG/WJR/YME

Attachments (3)

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services

Home and Community-Based Services Waivers
Adult Day Health Care Waiver
Electronic Visit Verification
(LAC 50:XXI.2705)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to adopt LAC 50:XXI.2705 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. 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 and the Office of Aging and Adult Services, through collaborative efforts, provide enhanced long-term services and supports to individuals with physical, mental or functional impairments through the Adult Day Health Care (ADHC) Waiver program.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule which amended the provisions governing the ADHC Waiver in order to adopt requirements which mandate that providers of personal assistant services must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking and billing for

certain home and community-based services (*Louisiana Register*, Volume 41, Number 10). This proposed Rule is being promulgated to continue the provisions of the November 1, 2015 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services Waivers
Subpart 3. Adult Day Health Care

Chapter 27. Provider Responsibilities

§2705. Electronic Visit Verification

A. Effective for dates of service on or after November 1, 2015, Adult Day Health Care Waiver providers shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking and billing for certain home and community-based services.

B. Reimbursement shall only be made to providers with documented use of the EVV system. The services that require use of the EVV system will be published in the ADHC Waiver provider manual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is

determined that submission to CMS for review and approval is required.

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 assuring that ADHC waiver participants receive the services they are in need of in an efficient and cost-effective manner.

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 a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by allowing working family members to maintain stable employment due to the improved delivery of ADHC waiver services which may reduce the financial burden on families.

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.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821–9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
November 29, 2016
9:30 a.m.

RE: Home and Community-Based Services Waivers
Adult Day Health Care Waiver
Electronic Visit Verification
Docket # 11292016-3
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on November 29, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

Medicaid Policy and Compliance Section

11/29/16
Date

DHH/BHSF PUBLIC HEARING

Topic – Home and Community-Based Services Waivers Adult Day Health Care Waiver Electronic Visit Verification

Date – November 29, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	Louisiana Dept. of Health 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	Medicaid Policy & Compliance
2. Melanie Richard	LDH-OAAS Bienville	225-342-8487	OAAS
3. Kirsten Clebert	LDH - OAAS	225.219.1149	LDH-OAAS
4.			
5.			
6.			

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Office of the Secretary

December 5, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Hospital Licensing Standards.

The Department published a Notice of Intent on this proposed Rule in the October 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 10). A public hearing was held on November 29, 2016 at which only Louisiana Department of Health staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the January 20, 2017 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

REG/WJR/YME

Attachments (3)

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Hospital Licensing Standards
(LAC 48:I.9319,9381 and 9405)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.9319, §9381 and §9405 as authorized by R.S. 40:2100-2115. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing hospital licensing standards in order to address changes that had occurred within the hospital industry (*Louisiana Register*, Volume 29, Number 11).

Act 351 of the 2016 Regular Session of the Louisiana Legislature established the *Louisiana Family Caregiver Act* which requires that hospitals provide each patient or legal guardian with an opportunity to designate a caregiver following inpatient admission into a hospital and upon discharge planning, provides for notice and hospital instructions to the designated caregiver and patient record documentation. Act 415 of the 2016 Regular Session of the Louisiana Legislature authorizes a licensed dietitian or nutritionist employed by a healthcare facility licensed by the Department of Health to directly order the

dietary plan and appropriate laboratory tests to monitor the effectiveness of the dietary plan. The department now proposes to amend the provisions governing hospital licensing standards in order to comply with Acts 351 and 415.

Title 48
PUBLIC HEALTH-GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification

Chapter 93. Hospitals

Subchapter B. Hospital Organization and Services

§9319. Patient Rights and Privacy

A. - A.21. ...

22. except in emergencies, the patient may be transferred to another facility only with a full explanation of the reason for transfer, provisions for continuing care and acceptance by the receiving institution; and

23. the right for each inpatient or, if applicable, the patient's legal guardian, to have one opportunity to designate an uncompensated caregiver following the patient's inpatient admission into a hospital and prior to the patient's discharge, for provision of the patient's post hospital aftercare at the patient's residence.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2405 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter G. Food and Dietetic Services

§9381. Menus and Therapeutic Diets

A. ...

B. Therapeutic diets shall be prescribed by the licensed practitioner(s) responsible for the care of the patient. Therapeutic diets, and laboratory tests to monitor the effectiveness of the dietary plan, may be prescribed by a licensed dietitian/nutritionist subject to the approval of, and authorization by, the facility's medical staff or bylaws and in accordance with state law. Each patient's nutritional intake shall be documented in the patient's medical record. Nutritional intake includes both enteral and parenteral nutrition.

C. There shall be a procedure for the accurate transmittal of dietary orders to the dietary service and for informing the dietary service when the patient does not receive the ordered diet, or is unable to consume the prescribed diet.

D. There shall be a current therapeutic diet manual, which shall be the guide used for ordering and serving diets and other nutritional intake. The manual shall be approved by the dietitian and medical staff and be readily available to all medical, nursing and food service personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2414 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 94. Hospitals

Subchapter I. Quality Assessment and Improvement

§9405. Patient Care Services

A. - B. ...

1. If a patient has designated an uncompensated caregiver for aftercare, a hospital shall make a good faith attempt to notify the patient's designated caregiver of the patient's discharge to the patient's residence as soon as possible prior to the patient's discharge. If the hospital is unable to contact the designated caregiver, the lack of contact may not interfere with, delay or otherwise affect the medical

care provided to the patient, or an appropriate discharge of the patient.

a. For purposes of §9405.B.1-3, a residence does not include any rehabilitation facility, hospital, nursing home, assisted living facility or group home.

2. As soon as practicable prior to the patient's discharge, the hospital shall make a reasonable effort to consult with the designated caregiver along with the patient, taking into account the capabilities and limitations of the caregiver, to accomplish the aftercare tasks that may be included in a discharge care plan that describes the patient's aftercare needs at his residence.

3. The hospital shall educate and instruct the caregiver concerning the aftercare needs of the patient in a manner that is consistent with the discharge plan and is based on the learning needs of the caregiver. In addition, the hospital shall also provide an opportunity for the caregiver and patient to ask questions and receive explanations about the aftercare tasks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2417

(November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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 or autonomy as described in R.S. 49:972 by increasing their healthcare options with a designated caregiver.

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.

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, but may increase direct or indirect cost to the provider to provide the same level of service. This proposed Rule will not impact the provider's ability to provide the same level of service as described in HCR 170.

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
November 29, 2016
9:30 a.m.

RE: Hospital Licensing Standards
Docket # 11292016-4
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on November 29, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

Medicaid Policy and Compliance Section

11/29/16
Date

DHH/BHSF PUBLIC HEARING

Topic – Hospital Licensing Standards

Date – November 29, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	Louisiana Dept. of Health 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	Medicaid Policy & Compliance
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State of Louisiana

Department of Health
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December 5, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Hospital Licensing Standards - Obstetrical and Newborn Services.

The Department published a Notice of Intent on this proposed Rule in the March 20, 2016 issue of the *Louisiana Register* (Volume 41, Number 12). A public hearing was held on April 28, 2016 at which those listed on the attached attendance roster were present. Oral testimony and written correspondence was received regarding this proposed Rule.

Based upon comments received and further discussion with stakeholders, the Department determined that further revisions to these provisions were necessary which resulted in non-technical, substantive changes to the March 20th Notice of Intent. The Department subsequently published a Substantive Changes and Public Hearing Notification Potpourri containing the non-technical, substantive changes in the August 20, 2016 issue of the *Louisiana Register*. A public hearing on the substantive revisions was held on September 29, 2016 at which those listed on the attached attendance roster were present. No oral testimony was given. Written correspondence was received regarding these substantive changes.

The Department anticipates adopting a revised Notice of Intent, which incorporates the non-technical, substantive revisions, as a final Rule in the January 20, 2017 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the April 28, 2016 public hearing certification;
3. the April 28, 2016 public hearing roster;
4. a copy of the Substantive Changes and Public Hearing Notification Potpourri;
5. the September 29, 2016 substantive changes public hearing certification;
6. the September 29, 2016 substantive changes public hearing attendance roster;
7. summary of all oral comments presented at public hearings;
8. summary of all written comments received by the agency;
9. the agency's response to comments from Aimee Badeaux;
10. the agency's response to comments from Cheri Johnson;
11. the agency's response to comments from Dr. David De Iulio (2);
12. the agency's response to comments from Dr. Steven B. Spedale;
13. the agency's response to comments from Jennifer Wright;
14. the agency's response to comments from Kenneth Alexander;
15. the agency's response to comments from Laura Poole and Kelli Redmond;
16. the agency's response to comments from Laura Poole;
17. the agency's response to comments from Mary Noel;
18. the agency's response to comments from Michelle Sutton;
19. the agency's response to comments from Paul Salles;
20. the agency's response to comments from Alfred Robichaux and Scott Bx;
21. the agency's response to comments from Staci Sullivan;
22. the agency's response to comments from Sylvia Martin;
23. the agency's response to comments from Aimee Badeaux and Tracy Young;
24. the agency's response to comments from Cheryl L. Nimmo and Anna Polyak;
25. the agency's response to comments from Gary Pedersen;
26. the agency's response to comments from Jeff LeBlanc; and
27. the agency's response to comments from John Sikes.

REG/WJR/RKA

Attachments (27)

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Hospital Licensing Standards
Obstetrical and Newborn Services
(LAC 48:I.9505-9515)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.9505-9515 as authorized by R.S. 40:2100-2115. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the licensing of hospitals in order to clarify those provisions and to align the requirements for obstetrical and newborn services with recommendations from the *National Guidelines for Perinatal Care* (*Louisiana Register*, Volume 33, Number 2).

The department has determined it is necessary to amend the provisions governing the hospital licensing standards in order to align these provisions with current standards of practice and staffing guidelines.

Title 48
PUBLIC HEALTH-GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification

Chapter 95. Hospitals

Subchapter S. Obstetrical and Newborn Services (Optional)

§9505. General Provisions

A. This Subchapter S requires that the level of care on the obstetrical unit and the neonatal intensive care unit shall be at the identical level except for free standing children's hospitals. All hospitals with existing obstetrical and neonatal services shall be in compliance with this Subchapter S within one year of the promulgation date of this Rule. All new providers of obstetrical and neonatal services shall be required to be in compliance with this Subchapter S immediately upon promulgation.

Note: For facilities that change the level of care and services of the facility's NICU unit, either decreasing or increasing the level provided, the facility shall submit an attestation of this change to the department's Health Standards Section (HSS)in writing and on the appropriate state neonatal services Medicaid attestation form. Such notice shall be submitted to HSS within 90 days of the facility's change in NICU level provided. For facilities that change the level of care and services of the facility's obstetric unit, by either decreasing or increasing the level provided, the facility shall submit written notice of this change to HSS within 90 days of such change.

B. For purposes of this Subchapter, hospital privileges are such privileges that are unrestricted and approved by the medical staff committee and the governing body that allows the practitioner

to perform all duties within their scope of practice and certification(s) at the hospital in which the privileges are granted and such duties are performed.

1. The requirements for privileges, such as active privileges, inpatient privileges or full privileges, shall be defined in hospital policy and approved by each hospital's governing body.

C. In accordance with R.S. 40:2109, a hospital located in a parish with a population of 250,000 people or less shall not be required to maintain personnel in-house with credentials to administer obstetric anesthesia on a 24-hour basis in order to qualify for Medicaid reimbursement for level III, neonatal or obstetric medical services, or as a prerequisite for licensure to provide such services. Personnel with such credentials may be required to be on staff and readily available on a 24-hour on-call basis and demonstrate ability to provide anesthesia services within 20 minutes.

Note: The provisions of §9505.C shall not apply to any hospital with level IIIS, IIIR or IV obstetrical and neonatal services.

D. For purposes of this Subchapter, the requirements for hospital staff and/or equipment as being immediately or readily available shall be defined by hospital policy and approved by each hospital's governing body.

E. Any transfer agreements shall be in writing and approved by the hospital medical staff and by each hospital's governing body. Transfer agreements shall be reviewed at least annually and revised as needed.

F. For those hospitals providing transports, the qualifications of the transport team shall be in writing, defined by hospital policy and approved by each hospital's governing body. Such qualifications shall be reviewed at least annually and revised as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended LR 33:284 (February 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§9507. Obstetrical Units

A. …

B. Levels of Care Units. There are five established obstetrical levels of care units:

1. obstetrical level I unit;

2. obstetrical level II unit;

3. obstetrical level III unit;

4. obstetrical level III regional unit; and

5. obstetrical level IV.

C. Obstetrical services shall be provided in accordance with acceptable standards of practice as delineated in the 2014 *AAP/ACOG Guidelines for Perinatal Care*. Each advanced level of care unit shall provide all services and meet the personnel requirements of the lower designated units, as applicable, i.e., a level IV unit must meet the requirements of a level I, II, III and III regional unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended LR 33:284 (February 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§9509. Obstetrical Unit Functions

A. - A.1.a. …

b. There shall be a triage system present in policies and procedures for identification, stabilization and referral of high risk maternal and fetal conditions beyond the scope of care of a level I unit.

c. There shall be protocols and capabilities for massive transfusion, emergency release of blood products, and management of multiple component therapy available on-site.

d. Postpartum care facilities shall be available on-site.

e. There shall be capability to provide for resuscitation and stabilization of inborn neonates.

f. The hospital shall have a policy for infant security and an organized program to prevent infant abductions.

g. The hospital shall have a data collection and retrieval system and shall report the required data to the appropriate departmental agency or section.

h. The hospital shall have a program in place to address the needs of the family, including parent-sibling-neonate visitation.

i. The hospital shall have a written transfer agreement with another hospital that has an approved appropriate higher level of care.

j. - l. Repealed.

2. Personnel Requirements

a. Obstetrical services shall be under the medical direction of a qualified physician who is a member of the medical staff with obstetric privileges. The physician shall be board certified or board eligible in obstetrics/gynecology or family practice medicine. The physician has the responsibility of coordinating perinatal services with the pediatric chief of service.

b. The nursing staff shall be adequately trained and staffed to provide patient care at the appropriate level of service. Registered nurse to patient ratios may vary in accordance with patient needs.

c. …

d. Anesthesia, radiology, ultrasound, electronic fetal monitoring (along with personnel skilled in the use of these) and laboratory services shall be available on a 24-hour basis. Anesthesia services shall be available to ensure performance of a Cesarean delivery within 30 minutes as specified in Subparagraph c above.

e. At least one credentialed physician or certified registered nurse midwife shall attend all deliveries, and at least one individual who is American Academy of Pediatrics (AAP) certified in neonatal resuscitation and capable of neonatal resuscitation shall attend all deliveries.

f. …

g. A facility shall have at least one individual with additional education in breastfeeding who is available for support, counseling and assessment of breastfeeding mothers.

h. A facility shall have ability to initiate education and quality improvement programs to maximize patient safety, and/or collaborate with higher-level facilities to do so.

3. - 3.d. …

e. For any new construction or major alteration of the obstetrical unit/suite, the hospital shall ensure that the OB unit has a Cesarean delivery room (surgical operative room) to perform Cesarean deliveries at all times.

B. - B.1.a. …

b. Women with conditions that would result in the delivery of an infant weighing less than 1,500 grams or less than 32 weeks gestation shall be referred to an approved level III or above unit unless the attending physician has documented that the patient is unstable to transport safely. Written transfer agreements with approved obstetrical level III and above units for transfer of these patients shall exist for all obstetrical level II units.

c. Ultrasound equipment shall be on site, in the hospital, and available to labor and delivery 24 hours a day.

d. - e. Repealed.

2. Personnel Requirements

a. The chief of obstetric services shall be a board-certified obstetrician or a board eligible candidate for certification in obstetrics. This obstetrician has the responsibility of coordinating perinatal services with the neonatologist or pediatrician in charge of the neonatal intensive care unit (NICU).

b. …

c. There shall be a continuous availability of qualified RNs with the ability to stabilize and transfer high-risk women.

d. A board-certified or board eligible OB-GYN physician shall be available 24 hours a day.

e. A licensed physician board-certified in maternal fetal medicine (MFM) shall be available 24 hours a day for consultation onsite, by telephone, or by telemedicine, as needed.

f. Anesthesia services shall be available 24 hours a day to provide labor analgesia and surgical anesthesia.

g. A board-certified anesthesiologist with specialized training or experience in obstetric anesthesia shall be available 24 hours a day for consultation.

h. Medical and surgical consultants shall be available 24 hours a day to stabilize obstetric patients who have been admitted to the facility or transferred from other facilities.

C. - C.1. …

a. Women with conditions requiring a medical team approach not available to the perinatologist in an obstetrical level III unit shall be transported to a higher-level unit.

b. The unit shall have written cooperative transfer agreements with approved higher level units for the transport of mothers and fetuses requiring care unavailable in an obstetrical

level III unit or that are better coordinated at a higher level unit.

c. The hospital shall have advanced imaging services available 24 hours a day which will include magnetic resonance imaging (MRI) and computed topography (CT).

d. The hospital shall have medical and surgical ICUs to accept pregnant women and have qualified critical care providers available as needed to actively collaborate with MFM physicians 24 hours a day.

e. Participation is required in a statewide quality collaborative and database selected by the Medicaid Quality Committee, Maternity subcommittee, with a focus on quality of maternity care. Proof of such participation will be available from the Louisiana DHH website.

f. Equipment and qualified personnel, adequate in number, shall be available onsite to ventilate and monitor women in labor and delivery until they can be safely transferred to the ICU.

g. This unit shall accept maternal transfers as deemed appropriate by the medical staff and governing body.

2. Personnel Requirements

a. The delivery of safe and effective perinatal nursing care requires appropriately qualified registered nurses in adequate numbers to meet the nursing needs of each patient. The hospital shall develop, maintain and adhere to an acuity-based

classification system based on nationally recognized staffing guidelines and shall have documentation of such.

i. - iii. Repealed.

b. A board-certified or board-eligible MFM physician with inpatient privileges shall be available 24 hours a day, either onsite, by telephone, or by telemedicine.

c. The director of MFM services shall be a board-certified or board eligible MFM physician.

d. The director of obstetric service shall be a board-certified OB-GYN with active staff privileges in obstetrical care.

e. Anesthesia services shall be available 24 hours a day onsite.

f. A board-certified anesthesiologist with specialized training or experience in obstetric anesthesia shall be in charge of obstetric anesthesia services and shall be available onsite as needed.

g. A full complement of subspecialists, including subspecialists in critical care, general surgery, infectious disease, urology, hematology, cardiology, nephrology, neurology, neonatology and pulmonology shall be available for inpatient consultations.

h. A lactation consultant shall be on staff to assist breastfeeding mothers as needed.

i. A nutritionist and a social worker shall be on staff and available for the care of these patients as needed.

D. - D.1. …

a. This unit shall provide care for the most challenging of perinatal conditions. Women with such conditions requiring a medical team approach not available to the MFM physician in an obstetrical level III Regional unit shall be transported to a level IV unit.

b. This unit shall have written cooperative transfer agreements with a level IV unit for the transport of mothers and fetuses requiring care that is unavailable in the level III regional unit or that is better coordinated at a level IV.

c. This unit shall accept maternal transfers as deemed appropriate by the medical staff and hospital governing body.

2. …

a. This unit shall have a board-certified or board-eligible OB/GYN available onsite 24 hours a day.

b. The director of MFM services for this unit shall be board-certified in MFM.

i. - iv. Repealed.

c. This unit shall have an anesthesiologist qualified in the delivery of obstetric anesthesia services available to be onsite 24 hours a day.

c.i. - g. Repealed.

E. Obstetrical Level IV Unit

1. General Provisions

a. This unit shall provide onsite medical and surgical care of the most complex maternal conditions and critically ill pregnant women and fetuses throughout antepartum, intrapartum, and postpartum care.

2. Unit Requirements

a. This unit shall have perinatal system leadership, including facilitation of maternal referral and transport, outreach education for facilities and health care providers in the region and analysis and evaluation of regional data, including perinatal complications and outcomes and quality improvement.

b. The hospital shall have a data collection and retrieval system and shall report the required data to the appropriate departmental agency or section.

c. Participation is required in the department's designated statewide quality collaborative program.

Note: The hospital shall acquire and maintain documented proof of participation.

3. Personnel

a. This unit shall have a MFM care team with the expertise to assume responsibility for pregnant women and women in

the postpartum period who are in critical condition or have complex medical conditions. This includes co-management of ICU-admitted obstetric patients. The MFM team members shall have full privileges and shall be available 24 hours per day for onsite consultation and management. This team shall be led by a board-certified MFM physician.

b. The director of obstetric services for this unit shall be a board-certified MFM physician.

c. This unit shall have qualified subspecialists on staff to provide consultation in the care of critically ill pregnant women in the following areas:

i. cardiothoracic surgery;

ii. neurosurgery;

iii. endocrinology; and

iv. gastroenterology.

d. Obstetrical Medical Subspecialties

Table 1 - Obstetrical Medical Subspecialties				
Each higher level Obstetrical unit shall meet the requirements of each lower level Obstetrical unit.				
Level I	Level II	Level III	Level III Regional	Level IV
Board Certified or Eligible OB/GYN or Family Practice Physician	Board Certified/Eligible OB/GYN	Board Certified Anesthesiologist	Board Certified Anesthesiologist	Board Certified Anesthesiologist
	Anesthesiologist*	Board Certified OB/GYN	Board Certified OB/GYN	Board Certified OB/GYN
	Clinical Pathologist[1]	Board Certified/Board Eligible MFM[1]**	Board Certified/Board Eligible MFM**	Board Certified MFM**
	Clinical Radiologist	Clinical Pathologist[1]	Clinical Pathologist[1]	Clinical Pathologist[1]
	MFM[1]**	Clinical Radiologist[1]	Clinical Radiologist[1]	Clinical Radiologist[1]
	Lactation Consultant[1]	Critical Care[1]	Critical Care[1]	Critical Care[1]

		General Surgery[1]	General Surgery[1]	General Surgery[1]
		Infectious Disease[1]	Infectious Disease[1]	Infectious Disease[1]
		Urology[1]	Urology[1]	Urology[1]
		Hematology[1]	Hematology[1]	Hematology[1]
		Cardiology[1]	Cardiology[1]	Cardiology[1]
		Nephrology[1]	Nephrology[1]	Nephrology[1]
		Neurology[1]	Neurology[1]	Neurology[1]
		Neonatology[1]	Neonatology[1]	Neonatology[1]
		Pulmonology[1]	Pulmonology[1]	Pulmonology[1]
		Lactation Consultant[1]	Lactation Consultant[1]	Lactation Consultant[1]
		Nutritionist[1]	Nutritionist[1]	Nutritionist[1]
		Social Worker[1]	Social Worker[1]	Social Worker[1]
				Cardiothoracic Surgery[1]
				Gastroenterology[1]
				Endocrinology[1]
[1] physician shall be available in person on site as needed by the facility.				Neurosurgery[1]
*Anesthesia services shall be available 24 hours a day to provide labor analgesia and surgical anesthesia.				
**Licensed MFM shall be available for consultation onsite, by telephone, or by telemedicine, as needed.				

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended LR 33:284 (February 2007, amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§9511. Neonatal Intensive Care

A. …

B. Levels of Care. There are five established neonatal levels

of care units:

1. neonatal level I unit;

2. neonatal level II unit;

3. level III NICU unit;

4. level III surgical NICU; and

5. level IV NICU unit.

C. Each advanced level of care unit shall provide all services and meet the personnel requirements of the lower designated units, as applicable, i.e., a level III surgical unit must meet the requirements of the level I, II, and III units.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2428 (November 2003), amended LR 33:286 (February 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§9513. Neonatal Unit Functions

A. Level I Neonatal Unit (Well Newborn Nursery)

1. …

a. This unit shall have the capability for resuscitation and stabilization of all inborn neonates in accordance with Neonatal Resuscitation Program (NRP) guidelines. The unit shall

stabilize unexpectedly small or sick neonates before transfer to the appropriate advanced level of care.

b. The unit shall stabilize and provide care for infants born at 35 weeks or greater gestation and who remain physiologically stable. The requirements for maternal transport at lesser gestations for transfer to a higher level of care shall be determined by the medical staff and approved by the hospital governing body.

c. This unit shall have the capability to stabilize newborns born at less than 35 weeks gestational age for transfer to higher level of care.

d. This unit shall maintain consultation and written transfer agreements with an approved Level II or III as appropriate.

e. This unit shall have a defined, secured nursery area with limited public access and/or secured rooming-in facilities with supervision of access.

f. Parent and/or sibling visitation/interaction with the neonate shall be provided.

g. The hospital shall have a data collection and retrieval system and shall report the required data to the appropriate departmental agency or section.

A.2. - A.2.b. …

c. Registered nurse to patient ratios may vary in

accordance with patient needs. If couplet care or rooming-in is used, a registered nurse who is responsible for the mother shall coordinate and administer neonatal care. If direct assignment of the nurse is also made to the nursery to cover the newborn's care, there shall be double assignment (one nurse for the mother-neonate couplet and one for just the neonate if returned to the nursery). A registered nurse shall be available 24 hours a day, but only one may be necessary as most neonates will not be physically present in the nursery. Direct care of neonates in the nursery may be provided by ancillary personnel under the registered nurse's direct supervision. Adequate staff is needed to respond to acute and emergency situations.

B. Neonatal Level II Unit (Special Care Nursery)

1. …

a. This unit shall provide care for infants born at more than 32 weeks gestation and weighing more than 1,500 grams.

i. infants who have medical problems that are expected to resolve rapidly and are not anticipated to need emergent subspecialty services from a higher level NICU as determined by the attending medical staff.

b. This unit shall have the capability to provide mechanical ventilation and/or CPAP for a brief duration (less than 24 hours) for infants born at more than 32 weeks and weighing more than

1,500 grams.

c. Neonates requiring greater than 24 hours of continuous ventilator support shall be transferred to a higher-level neonatal intensive care facility.

d. This unit shall have the ability to stabilize infants born before 32 weeks gestation and/or weighing less than 1,500 grams until transfer to a higher level neonatal intensive care facility.

e. Neonates requiring transfer to a higher-level neonatal intensive care facility may be returned to a level II unit for convalescence.

2. Personnel Requirements

a. A board-certified neonatologist shall be the chief of service.

Note: This unit shall have continuously available medical staff defined as available 24 hours per day/7 days per week/365 days per year on call for consultation as defined by medical staff bylaws.

b. Registered nurse to patient ratios may vary in accordance with patient needs.

c. This unit shall have at least one full-time social worker to be available as needed to assist with the socioeconomic and psychosocial problems of high-risk mothers, sick

neonates, and their families.

d. This unit shall have at least one occupational or physical therapist to be available as needed to assist with the care of the newborn.

e. This unit shall have at least one registered dietitian/nutritionist to be available as needed who can plan diets as required to meet the special needs of mothers and high-risk neonates.

f. This unit shall have staff available 24 hours per day who have the demonstrated knowledge, skills, abilities and training to provide the care and services to infants in this unit, such as but not limited to:

i. nurses;

ii. respiratory therapists;

iii. radiology technicians; and

iv. laboratory technicians.

3. Equipment Requirements

a. This unit shall have hospital based equipment to provide care to infants available 24 hours per day, such as but not limited to:

i. portable x-ray machine;

ii. blood gas analyzer.

C. - C.1. …

a. There shall be a written neonatal transport agreement with an approved level III surgical unit or level IV unit.

b. This unit shall have either a neonatologist or a neonatal nurse practitioner or a neonatology fellow in-house 24 hours per day.

c. The staffing of this unit shall be based on patient acuity and consistent with the recommended staffing guidelines of the 2014 edition of the *AAP Guidelines for Perinatal Care*. For medical sub-specialty requirements, refer to Table 1 - Neonatal Medical Subspecialties and Transport Requirements.

Note: All provisions of level III NICUs are required of level IIIS and IV NICUs.

2. …

a. The chief of service of a level III NICU shall be a board-certified neonatologist.

i. - ii. Repealed.

Exception: In 1995, those physicians in existing units who were designated as the chief of service of the unit and who were not neonatal or perinatal board-certified, were granted a waiver by written application to the Office of the Secretary, Department of Health and Hospitals. This waiver shall be maintained as it applies only to the hospital where that chief of service's position is held. The physician cannot relocate to

another hospital nor can the hospital replace the chief of service for whom the exception was granted and retain the exception.

b. This unit shall have at least one full-time social worker available as needed who has experience with the socioeconomic and psychosocial problems of high-risk mothers and fetuses, sick neonates, and their families. For units with greater than thirty patients, the social worker staffing ratios shall be at least one social worker to thirty patients (additional social workers may be required in accordance with hospital staffing guidelines.

c. This unit shall have at least one occupational or physical therapist available as needed with neonatal expertise and at least one individual skilled in evaluation and management of neonatal feeding and swallowing disorders (e.g., speech-language pathologist).

d. This unit shall have at least one registered dietitian/nutritionist available as needed who has training or experience in perinatal nutrition and can plan diets that meet the special needs of high-risk mothers and neonates.

e. Delivery of safe and effective perinatal nursing care requires this unit to have qualified registered nurses in adequate numbers to meet the nursing needs of each patient. To meet the nursing needs of this unit, hospitals shall develop and adhere to an acuity based classification system based on nationally recognized

staffing guidelines and have documentation available on such guidelines.

f. This unit shall have the following support personnel immediately available as needed to be on-site in the hospital, including but not limited to,

i. licensed respiratory therapists or registered nurses with specialized training who can supervise the assisted ventilation of neonates with cardiopulmonary disease.

3. Equipment Requirements

a. This unit shall have the following support equipment, in sufficient number, immediately available as needed in the hospital that includes but is not limited to,

i. advanced imaging with interpretation on an urgent basis (computed tomography, ultrasound, MRI and echocardiography); and

ii. a full range of respiratory support that includes conventional and/or high frequency ventilation and inhaled nitric oxide.

4. Transport

a. It is optional for level III NICUs to provide transports. If the unit performs transports, the unit shall have a qualified transport team and provide for and coordinate neonatal transport with level I and level II units throughout the state.

b. Transport shall be in accordance with national standards as published by the American Academy of Pediatrics' section on neonatal and pediatric transport and in accordance with applicable Louisiana statutes.

5. Quality Improvement Collaborative

a. Facilities with level III NICUs and above shall participate in a quality improvement collaborative and a database selected by the Medicaid Quality Committee, Neonatology sub-committee.

b. Proof of current participation by the facility will be available from the Louisiana DHH Website.

D. Level III Surgical NICU

1. General Provisions

a. This unit shall have a transport team and provide for and coordinate neonatal transport with level I, level II units and level III NICUs throughout the state as requested. Transportshall be in accordance with national standards as published by the American Academy of Pediatrics' Section on neonatal and pediatric transportand in accordance with applicable Louisiana statutes.

b. - c. Repealed.

Note: All provisions of level III NICUs are required of level IIIS and IV NICUs.

2. …

a. For medical sub-specialty requirements refer to Table 1 - Neonatal Medical Subspecialties and Transport Requirements.

2.b. - 2.d.xii. Repealed.

E. Level IV NICU

1. General Provisions

a. This unit shall be located within an institution with the capability to provide surgical repair of complex conditions (e.g. congenital cardiac malformations that require cardiopulmonary bypass with or without extracorporeal membrane oxygenation).

2. Personnel Requirements

a. for medical sub-specialty requirements, refer to Table 1 - Neonatal Medical Subspecialties and Transport Requirements.

Note: All provisions of level IIIS NICUs are required of level IV NICUs.

b. Neonatal Medical Subspecialties and Transport Requirements

Table 1 - Neonatal Medical Subspecialties and Transport Requirements

Text denoted with asterisks (*) indicates physician shall be available in person on site as needed by the facility. Each higher level NICU unit shall meet the requirements of each lower level NICU unit.

Level I (Well Nursery)	Level II	Level III	Level IIIS	Level IV
Board Certified/Eligible Pediatric or Family Practice Physician	Board Certified/Eligible Pediatric or Family Practice Physician	Pediatric Cardiology[1]	Pediatric Surgery[4]	Pediatric Surgery[4]
	Board Certified Neonatologist	Ophthalmology[2]	Pediatric Anesthesiology[5]	Pediatric Anesthesiology[5]
	Social Worker	Pediatric Neurology[3]	Neonatal Transport	Neonatal Transport
	Occupational Therapist	Social Worker Ratio 1:30	Ophthalmology[2*]	Ophthalmology[2*]
	Physical Therapist	OT or PT/neonatal expertise	Pediatric Cardiology*	Pediatric Cardiology*

	Respiratory Therapists	RD/training in perinatal nutrition	Pediatric Gastroenterology *	Pediatric Cardiothoracic Surgery*
	Registered dietician/nutritionist	RT/training in neonate ventilation	Pediatric Infectious Disease*	Pediatric Endocrinology*
	Laboratory Technicians	Neonatal feeding/swallowing - SLP/ST	Pediatric Nephrology*	Pediatric Gastroenterology *
	Radiology Technicians		Pediatric Neurology[3]*	Pediatric Genetics*
			Pediatric Neurosurgery*	Pediatric Hematology-Oncology*
			Pediatric Orthopedic Surgery*	Pediatric Infectious Disease*
			Pediatric Otolaryngology[6]*	Pediatric Nephrology*
			Pediatric Pulmonology*	Pediatric Neurology[3]*
				Pediatric Neurosurgery
				Pediatric Orthopedic Surgery
				Pediatric Otolaryngology[7]*
				Pediatric Pulmonology*
				Pediatric Radiology*
				Pediatric Urologic Surgery*
			Transport note:	
[1]There shall be at least one board certified or board eligible pediatric cardiologist as a member of medical staff. For Level III facilities, staff using telemedicine shall be continuously available.			Transport shall be in accordance with national standards as published by the American Academy of Pediatrics' Section on neonatal and pediatric transport and in accordance with applicable Louisiana statutes.	
[2]There shall be at least one board certified or board eligible ophthalmologist with sufficient knowledge and experience in retinopathy or prematurity as a member of the medical staff. An organized program for monitoring retinotherapy of prematurity shall be readily available in Level III and for treatment and follow-up of these patients in Level IIIS and IV facilities.				

[3]Level III facilities shall be able to perform electroencephalogram and cranial ultrasounds and have the ability to have them interpreted by someone with experience in neonatal electroencephalograms and neonatal cranial ultrasounds. There shall be at least one board certified or board eligible pediatric neurologist as a member of medical staff.				
[4]For pediatric surgery, the expectation is that there is a board certified or eligible pediatric surgeon who is continuously available to operate at that facility.				
[5]There shall be at least one board certified or board eligible pediatric anesthesiologist as a member of the medical staff.				
[6]Board eligible or certified in Otolaryngology; special interest in Pediatric Otolaryngology or completion of Pediatric Otolaryngology Fellowship.				
[7]Board eligible or certified in Otolaryngology; completion of Pediatric Otolaryngology Fellowship.				
For specialties listed above staff shall be board eligible or board certified in their respective fields with the exception of otolaryngology as this field has not yet pursued certification.				

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2429 (November 2003), amended LR 33:286 (February 2007), amended by the Department of Health and Hospitals, Bureau of

Health Services Financing, LR 42:

§9515. Additional Support Requirements

A. A bioethics committee shall be available for consultation with care providers at all times.

B. - Table 2.1. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2429 (November 2003), amended LR 33:288 (February 2007, amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

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 or autonomy as described in R.S. 49:972 by ensuring the safe operation of hospitals that provide obstetrical and newborn services as a means of reducing infant mortalities.

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.

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 may have an adverse impact on the staffing level requirements or qualifications required to provide the same level of service and may increase direct or indirect cost to the provider to provide the same level of service. This proposed Rule may negatively impact the provider's ability to provide the same level of service as described in HCR 170.

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, April 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
April 28, 2016
9:30 a.m.

RE: Hospital Licensing Standards
Obstetrical and Newborn Services
Docket # 04282016-8
Department of Health and Hospitals
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on April 28, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

Cedric E. Clark
Medicaid Policy and
Compliance Section

04/28/16
Date

DHH/BHSF PUBLIC HEARING

Topic – Hospital Licensing Standards – Obstetrical and Newborn Services

Date – April 28, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Aimee Badeaux	13628 Baywater Drive Baton Rouge, LA 70810	(225) 223-6531	Louisiana Association of Nurse Anesthetists
2. Kenneth Alexander	6521 Brookline Ave B.R. LA 70809	225-928-0026	LHH
3. Frank Blanchard	DHH-NSS	342-2471	
4. Staci Sullivan	6300 Main St Zachary La 70791	658-4507	Lane
5. Lori Carruth	6300 Main St. Zachary, LA. 70791	658-4590	Lane
6. Sylvia Martin	6300 Main Zachary LA 70791	658-6612	LANE

DHH/BHSF PUBLIC HEARING

Topic – Hospital Licensing Standards – Obstetrical and Newborn Services

Date – April 28, 2016

Name	Address	Telephone Number	AGENCY or GROUP you represent
7. Cornette Scott	State of Louisiana Dept. of Health & Hospitals 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	Medicaid Policy & Compliance
8.			
9.			
10.			
11.			
12.			

POTPOURRI

Department of Health
Bureau of Health Services Financing

Substantive Changes and Public Hearing Notification
Hospital Licensing Standards
Obstetrical and Newborn Services
(LAC 48:I.9505, 9509 and 9513)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Bureau of Health Services Financing published a Notice of Intent in the March 20, 2016 edition of the *Louisiana Register* (LR 42:473-480) to amend LAC 48:I.9505-9515. This Notice of Intent proposed to amend the provisions governing the hospital licensing standards in order to align these provisions with current standards of practice and staffing guidelines.

The department conducted a public hearing on this Notice of Intent on April 28, 2016 to solicit comments and testimony on the proposed Rule. As a result of the comments received, the department proposes to amend the provisions in §9505, §9509, and §9513 of the proposed Rule.

Taken together, all of these revisions will closely align the proposed Rule with the department's original intent and the concerns brought forth during the comment period for the Notice of Intent as originally published. No fiscal or economic impact will result from the amendments proposed in this notice.

Title 48
PUBLIC HEALTH–GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification

Chapter 95. Hospitals

Subchapter S. Obstetrical and Newborn Services (Optional)

§9505. General Provisions

A. This Subchapter S requires that the level of care on the neonatal intensive care unit shall match or exceed the level of obstetrical care for each level of obstetric service, except for free standing children's hospitals. All hospitals with existing obstetrical and neonatal services shall be in compliance with this Subchapter S within one year of the promulgation date of this Rule. All new providers of obstetrical and neonatal services shall be required to be in compliance with this Subchapter S immediately upon promulgation.

Note: For facilities that change the level of care and services of the facility's NICU unit, either decreasing or increasing the level provided, the facility shall submit an attestation of this change to the department's Health Standards Section (HSS) in writing and on the appropriate state neonatal services Medicaid attestation form. Such notice shall be submitted to HSS within 90 days of the facility's change in NICU level provided. For facilities that change the level of care and services of the facility's obstetric unit, by either decreasing or increasing

the level provided, the facility shall submit written notice of this change to HSS within 90 days of such change.

B. - F. ...

G. The hospital shall have data collection and retrieval capabilities in use, and shall cooperate and report the requested data to the appropriate supervisory agencies to review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended LR 33:284 (February 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

§9509. Obstetrical Unit Functions

A. - A.1.f. ...

g. The hospital shall have a program in place to address the needs of the family, including parent-sibling-neonate visitation.

h. The hospital shall have a written transfer agreement with another hospital that has an approved appropriate higher level of care.

i. - l. Repealed.

A.2. - B.1.e ...

2. Personnel Requirements

a. The chief of obstetric services shall be a board-certified obstetrician or a board eligible candidate for certification in obstetrics. This obstetrician has the responsibility of coordinating perinatal services with the neonatologist in charge of the neonatal intensive care unit (NICU).

b. - c. ...

d. A board-certified or board eligible OB-GYN physician shall be available 24 hours a day.

Exception: For those hospitals whose staff OB-GYN physician(s) do not meet the provisions of §9509.B(2)d, such physician(s) may be grandfathered as satisfying the requirement of §9509.B(2)d when the hospital has documented evidence that the OB-GYN physician(s) was granted clinical staff privileges by the hospital prior to the effective date of this Rule. This exception applies only to the physician at the licensed hospital location and is not transferrable.

B.2.e. - C.1.d. ...

e. Participation is required in a statewide quality collaborative and database selected by the Medicaid Quality Committee, Maternity subcommittee, with a focus on quality of maternity care. Proof of such participation will be available from the LDH website.

C.1.f. - C.2.g. ...

h. A lactation consultant or counselor shall be on staff to assist breastfeeding mothers as needed.

i. The lactation consultant or counselor shall be certified by a nationally recognized board on breastfeeding.

i. A nutritionist and a social worker shall be on staff and available for the care of these patients as needed.

D. - E.2.a. ...

b. Participation is required in the department's designated statewide quality collaborative program.

Note: The hospital shall acquire and maintain documented proof of participation.

c. Repealed.

Note: Repealed.

E.3. - E.3.c.iv. ...

d. Obstetrical Medical Subspecialties

Table 1 - Obstetrical Medical Subspecialties				
Each higher level Obstetrical unit shall meet the requirements of each lower level Obstetrical unit.				
Level I	Level II	Level III	Level III Regional	Level IV
Board Certified or Eligible OB/GYN or Family Practice Physician	Board Certified/Eligible OB/GYN §9509.B(2)d -See Exception	Board Certified/Eligible Anesthesiologist	Board Certified/Eligible Anesthesiologist	Board Certified/Eligible Anesthesiologist
Anesthesia services	Anesthesia services*	Board Certified OB/GYN	Board Certified OB/GYN	Board Certified OB/GYN
Radiology services	Clinical Pathologist[1]	Board Certified/Board Eligible MFM[1]**	Board Certified/Board Eligible MFM**	Board Certified MFM**
Ultrasonography	Clinical Radiologist	Clinical Pathologist[1]	Clinical Pathologist[1]	Clinical Pathologist[1]
Laboratory services	MFM[1]**	Clinical Radiologist[1]	Clinical Radiologist[1]	Clinical Radiologist[1]

Electronic fetal monitoring	Lactation Consultant/Counselor See §9509.B(h.i)	Critical Care[1]	Critical Care[1]	Critical Care[1]
		General Surgery[1]	General Surgery[1]	General Surgery[1]
		Infectious Disease[1]	Infectious Disease[1]	Infectious Disease[1]
		Urology[1]	Urology[1]	Urology[1]
		Hematology[1]	Hematology[1]	Hematology[1]
		Cardiology[1]	Cardiology[1]	Cardiology[1]
		Nephrology[1]	Nephrology[1]	Nephrology[1]
		Neurology[1]	Neurology[1]	Neurology[1]
		Neonatology[1]	Neonatology[1]	Neonatology[1]
		Pulmonology[1]	Pulmonology[1]	Pulmonology[1]
		Lactation Consultant/Counselor	Lactation Consultant/Counselor	Lactation Consultant/Counselor
		Nutritionist	Nutritionist	Nutritionist
		Social Worker	Social Worker	Social Worker
				Cardiothoracic Surgery[1]
				Gastroenterology[1]
				Endocrinology[1]
[1] physician shall be available in person on site as needed by the facility.				Neurosurgery[1]
*Anesthesia services shall be available 24 hours a day to provide labor analgesia and surgical anesthesia. A board-certified/eligible anesthesiologist with specialized training or experience in obstetric anesthesia shall be available 24 hours a day for consultation.				
**Licensed MFM shall be available for consultation onsite, by telephone, or by telemedicine, as needed.				

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended LR 33:284 (February 2007, amended by the Department of Health, Bureau of Health Services Financing, LR 42:

§9513. Neonatal Unit Functions

A. - A.1.f. ...

g. Repealed.

A.2. - C.2.f.i. ...

3. Equipment Requirements

a. This unit shall have the following support equipment, in sufficient number, immediately available as needed in the hospital that includes but is not limited to,

i. advanced imaging with interpretation on an urgent basis (computed tomography, ultrasound (including cranial ultrasound), MRI, echocardiography and electroencephalography);

Note: Level III facilities shall have an arrangement to have such testing interpreted by someone qualified in neonatal diagnostic testing; and

C.3.a.ii. - D.2. ...

a. For medical sub-specialty requirements refer to Table 1 - Neonatal Medical Subspecialties and Transport Requirements.

Exception: Those hospitals which do not have a member of the medical staff who is a board certified/eligible pediatric anesthesiologist but whose anesthesiologist has been granted staff privileges to perform pediatric anesthesiology, such physician(s) may be grandfathered as satisfying the requirement of §9513(2)a when the hospital has documented evidence that the anesthesiologist was granted clinical staff privileges by the

hospital prior to the effective date of this Rule. This exception applies only to such physician at the licensed hospital location and is not transferrable.

D.2.b. - E.2.a. ...

b. Neonatal Medical Subspecialties and Transport Requirements

Table 1 - Neonatal Medical Subspecialties and Transport Requirements

Text denoted with asterisks (*) indicates physician shall be available in person on site as needed by the facility. Each higher level NICU unit shall meet the requirements of each lower level NICU unit.

Level I (Well Nursery)	Level II	Level III	Level IIIS	Level IV
Board Certified/Eligible Pediatric or Family Practice Physician	Board Certified/Eligible Pediatric or Family Practice Physician	Pediatric Cardiology[1]	Pediatric Surgery[4]	Pediatric Surgery[4]
	Board Certified Neonatologist	Ophthalmology[2]	Pediatric Anesthesiology[5] §9513(2)a- See Exception	Pediatric Anesthesiology[5]
	Social Worker		Neonatal Transport	Neonatal Transport
	Occupational Therapist	Social Worker Ratio 1:30	Ophthalmology[2*]	Ophthalmology[2*]
	Physical Therapist	OT or PT/neonatal expertise	Pediatric Cardiology*	Pediatric Cardiology*
	Respiratory Therapists	RD/training in perinatal nutrition	Pediatric Gastroenterology *	Pediatric Cardiothoracic Surgery*
	Registered dietician/nutritionist	RT/training in neonate ventilation	Pediatric Infectious Disease*	Pediatric Endocrinology*
	Laboratory Technicians	Neonatal feeding/swallowing - SLP/ST	Pediatric Nephrology*	Pediatric Gastroenterology *
	Radiology Technicians		Pediatric Neurology[3*]	Pediatric Genetics*
			Pediatric Neurosurgery*	Pediatric Hematology-Oncology*
			Pediatric Orthopedic Surgery*	Pediatric Infectious Disease*
			Pediatric Otolaryngology[6*]	Pediatric Nephrology*
			Pediatric Pulmonology*	Pediatric Neurology[3*]
				Pediatric Neurosurgery
				Pediatric Orthopedic Surgery
				Pediatric Otolaryngology[7*]
				Pediatric Pulmonology*
				Pediatric Radiology*
				Pediatric Urologic Surgery*

			Transport note:	
[1]There shall be at least one board certified or board eligible pediatric cardiologist as a member of medical staff. For Level III facilities, staff using telemedicine shall be continuously available.			Transport shall be in accordance with national standards as published by the American Academy of Pediatrics' Section on neonatal and pediatric transport and in accordance with applicable Louisiana statutes.	
[2]There shall be at least one board certified or board eligible ophthalmologist with sufficient knowledge and experience in retinopathy or prematurity as a member of the medical staff. An organized program for monitoring retinotherapy of prematurity shall be readily available in Level III and for treatment and follow-up of these patients in Level IIIS and IV facilities.				
[3]There shall be at least one board certified or board eligible pediatric neurologist as a member of medical staff.				
[4]For pediatric surgery, the expectation is that there is a board certified or eligible pediatric surgeon who is continuously available to operate at that facility.				
[5]There shall be at least one board certified or board eligible pediatric anesthesiologist as a member of the medical staff.				
[6]Board eligible or certified in Otolaryngology; special interest in Pediatric Otolaryngology or completion of Pediatric Otolaryngology Fellowship.				

[7]Board eligible or certified in Otolaryngology; completion of Pediatric Otolaryngology Fellowship.				
For specialties listed above staff shall be board eligible or board certified in their respective fields with the exception of otolaryngology as this field has not yet pursued certification.				

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2429 (November 2003), amended LR 33:286 (February 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding these substantive amendments to the proposed Rule. A public hearing on these substantive changes to the proposed Rule is scheduled for Thursday, September 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following

the public hearing.

Rebekah E. Gee MD, MPH

Secretary

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
September 29, 2016
9:30 a.m.

RE: Substantive Changes to Proposed Rule
Hospital Licensing Standards
Obstetrical and Newborn Services
Docket # 09292016-06
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on September 29, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

Medicaid Policy and Compliance
Section

09/29/16
Date

Bienville Building ▪ 628 N. Fourth St. ▪ P.O. Box 629 ▪ Baton Rouge, Louisiana 70821-0629
Phone: (225) 342-9500 ▪ Fax: (225) 342-5568 ▪ www.dhh.la.gov

LDH/BHSF PUBLIC HEARING

Topic – Substantive Changes to Proposed Rule Hospital Licensing Standards Obstetrical and Newborn Services

Date – September 29, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Comette Scott	Louisiana Department of Health 628 N 4th Street Baton Rouge, LA 70802	225-342-3881	LDH - Medicaid Policy & Compliance
2. Kerrie Redmond	Terrebonne General M.C. 8166 Main St Houma, LA 70360	985-858-7160	Terrebonne General Medical Center
3.			
4.			
5.			
6.			

SUMMARY OF PUBLIC HEARING TESTIMONY

Proposed Rule: Hospital Licensing Standards
Obstetrical and Newborn Services
Public Hearing Date: April 29, 2016
September 29, 2016 (Substantive Changes Public Hearing)
Docket No. : 04282016-08 (April 2016)
09292016-06 (September 2015)
Conducted By: Department of Health, Bureau of Health Services Financing Staff

Oral Testimony Given By	Organization Represented	Summary of Comments (March 20, 2016 Notice of Intent)
Aimee Badeaux	Louisiana Association of Nurse Anesthetists	Opposed personnel requirements for anesthesiologists Level II units, believes CRNAs should be allowed same functions as anesthesiologists as their scope of practice includes OB anesthesia care. Believes anesthesiologists only will increase costs and access to services, especially in rural areas where there are no anesthesiologists.
Staci Sullivan	Lane Medical Center	Believes requirements for Lactation Consultant is too narrow, Lactation Councilors should also be included as their certifications are similar and Councilors are currently practicing in some hospitals.

SUMMARY OF WRITTEN COMMENTS

Proposed Rule: Hospital Licensing Standards
Obstetrical and Newborn Services
Public Hearing Date: April 29, 2016
September 29, 2016 (Substantive Changes Public Hearing)
Docket No. : 04282016-08 (April 2016)
09292016-06 (September 2015)
Conducted By: Department of Health, Bureau of Health Services Financing Staff

Written Comments Received From	Mode of Receipt	Summary of Comments (March 20, 2016 Notice of Intent)
Aimee Badeaux	Submitted at the April 29, 2016 Public Hearing	• **§9509. Obstetrical Unit Functions** - Requests that language requiring anesthesia service be provided only by a board certified anesthesiologist for Level II NICU be removed and that Certified Registered Nurse Anesthetists also be allowed to provide anesthesia services. Presented information on CRNA scope of practice, qualifications and capabilities.
Cheri J. Johnson	Email to the Department	• Concerns about neurology coverage and pediatric anesthesia requirements.
Dr. David De Iulio	Email to the Department	• Concerned about reimbursement rate differences for levels III and III-S and that there be a "watchdog" for units claiming to meet requirements for level designation.
Dr. Steven B. Spedale	Submitted at the April 29, 2016 Public Hearing	• **§9509. Obstetrical Unit Functions** – Requests to grandfather in certain pediatric anesthesiologists who are not board certified. • **§9513. Neonatal Unit Functions** – Requests requirements that a Level III NICU must have a pediatric neurologist on staff changed to require that the Level III NICU have access to a pediatric neurologist.
Jennifer Wright	Email to the Department	• **§9509. Obstetrical Unit Functions** – Concerned that the language excludes CNRAs from providing anesthesia services. Also requests language changes to align rule with American College of Obstetricians and Gynecologists guidelines.
Kenneth Alexander	Email to the Department	• Concerns about requirement for Anesthesiologist required 24 hours, monitoring quality improvement, and reporting requirements for birth records.
Laura Poole Kelli Redmond	Email to the Department	• §9513. Neonatal Unit Functions – For Level II units requests clarification that in case an OB physician is not board certified or eligible that the physician have access to a board certified Maternal Fetal Medicine physician and/or board certified colleague for consultation. Also requests that requirements for board certified clinical pathologist and anesthesiologist changed to include board eligible since upon completing the program the physician has a time frame to rate for board certification. Concerned that language for

		women in level III unit requiring transport to a higher level unit is vague and difficult to determine who and how this decision would be made.
Laura Poole	Email to the Department	• Clarified comments in previous email (see above).
Mary Noel	Email to the Department	• Pointed out discrepancies between the published Notice of Intent and a document circulated earlier to stakeholders §9505. General Provisions A. "The language from the committee work document reads Level of the NICU shall match or exceed the level of the obstetrical unit." C. "There does not appear to be any reference to this statute in any meeting minutes. This says that someone with such credentials may be required to be on staff... Is this an exception that the committee members would still support?" §9509. Obstetrical Unit Functions A.1.g. "The language from the committee work document reads the facility shall have data collection and retrieval capabilities including current birth certificate in use, and shall cooperate and report the requested data to the appropriate supervisory agencies for review." d.2.a. "The language from the committee work document is silent at level III R on anesthesia services implying that the requirement from level II would carry through to level III and III R." E.2.b. and c. "are not in the source document and are not needed since they are a repeat of language in a lower level."
Michelle Sutton	Email to the Department	Concerns about pediatric anesthesia board certification and pediatric neurologists for Level III NICU
Paul Salles	Submitted at the April 29, 2016 Public Hearing	• **§9509. Obstetrical Unit Functions** A. The proposed language requires that the level of care on the obstetrical unit and neonatal unit be at the identical level except for free standing children's hospitals. The working Clinical Guidelines committee did not recommend that language and left intact the existing 2007 language where the level of Neonatal Intensive Care (NICU) should meet or exceed the level of obstetrical care for each level of OB. A.1.g. "Facility shall have data collection and retrieval capabilities including current birth certificate in use, and shall cooperate and report the requested data to the appropriate supervisory agencies to review." The proposed language significantly changes the intent of the original language, allowing for vague interpretation of potentially open ended data collection and reporting requirements. • **§9513. Neonatal Unit Functions** A.1.g. Neonatal Unit Functions (and by default, similar references made in all other levels), the clinical guidelines committee did not recommend any change to the 2007 existing language, which reads the same as in the Obstetrical standards: "Facility shall have data collection and retrieval capabilities including current birth certificate in use, and shall cooperate and report the requested data to the appropriate supervisory agencies to review."

		• **§9513. Neonatal Unit Functions** For Level IIIS NICU recommends grandfathering in pediatric anesthesiologists who are not board certified or eligible. For Level III NICU recommends access to pediatric neurologist instead of requiring one on staff.
Alfred Robichaux Scott Bx	Email to the Department	Recommends grandfathering in pediatric anesthesiologists who are not board certified or eligible.
Staci Sullivan	Email to the Department	• **§9509. Obstetrical Unit Functions** A.1.g. Finds the language ""the facility shall have data collection and retrieval capabilities including current birth certificate in use and shall cooperate and report requested data to the appropriate supervisory agencies for review" broad and subjective. Recommends more specific language. B.2.e. Seeking clarification on "a licensed physician board-certified in maternal fetal medicine (MFM) shall be available 24 hours a day for consultation onsite, by telephone, or by telemedicine, as needed" C.1.h. Seeking clarification on the term Lactation Consultant and recommend the language change to Lactation Consultant or Counselor.
Sylvia Martin	Email to the Department	**§9509. Obstetrical Unit Functions** - Seeking clarification on the term Lactation Consultant. **§9513. Neonatal Unit Functions** – requests clarification concerning 32 week vs 35 week infants.

Written Comments Received From	Mode of Receipt	Summary of Comments (August 20, 2016 Substantive Changes Potpourri)
Aimee Badeaux Tracy Young	Submitted at the April 29, 2016 Public Hearing	• **§9509. Obstetrical Unit Functions** - Requests that language requiring anesthesia service be provided only by a board certified anesthesiologist for Level II NICU be removed and that Certified Registered Nurse Anesthetists also be allowed to provide anesthesia services. Presented information on CRNA scope of practice, qualifications and capabilities.
Cheryl L. Nimmo Anna Polyak	Email to the Department	• Requests that language requiring anesthesia service be provided only by a board certified anesthesiologist for Level II NICU be removed and that Certified Registered Nurse Anesthetists also be allowed to provide anesthesia services. Presented information on CRNA scope of practice, qualifications and capabilities.
Dr. David De Iulio	Email to the Department	• Concerned about: 1. ill-defined non-specific regulatory requirements for pediatric sub-specialists, except for pediatric surgeons 2. ill-defined intentions regarding hospital reimbursement differentials for different level NICUs As to the first issue, the recent regulations clearly state that For pediatric surgery, the expectation is that there is a board certified or eligible pediatric surgeon who is continuously available to operate at that facility. For all the other pediatric sub-specialties this clarity disappears, because as it is stated, they shall be available in person on site as needed by the facility.
Gerry Pedersen	Email to the Department	• **§9509. Obstetrical Unit Functions** - Requests that language requiring anesthesia service be provided only by a board certified anesthesiologist for Level II NICU be removed and that Certified Registered Nurse Anesthetists also be allowed to provide anesthesia services. Presented information on CRNA scope of practice, qualifications and capabilities.
Jeff LeBlanc	Email to the Department	• **§9509. Obstetrical Unit Functions** - Requests that language requiring anesthesia service be provided only by a board certified anesthesiologist for Level II NICU be removed and that Certified Registered Nurse Anesthetists also be allowed to provide anesthesia services. Presented information on CRNA scope of practice, qualifications and capabilities.
John Sikes	Email to the Department	• **§9509. Obstetrical Unit Functions** - Requests that language requiring anesthesia service be provided only by a board certified anesthesiologist for Level II NICU be removed and that Certified Registered Nurse Anesthetists also be allowed to provide anesthesia services. Presented information on CRNA scope of practice, qualifications and capabilities.

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

August 30, 2016

Aimee Badeaux, President
Louisiana Association of Nurse Anesthetists
8550 United Plaza Boulevard, Suite 1001
Baton Rouge, LA 70809

Dear Ms. Badeaux:

RE: Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services

This letter is in response to your correspondence regarding the Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the March 20, 2016 edition of the *Louisiana Register*.

The Notice of Intent proposed to amend the provisions governing the hospital licensing standards in order to align these provisions with current standards of practice and staffing guidelines.

As a result of the comments received, the department determined that changes were needed to the proposed Rule in order to further clarify these provisions. These substantive, non-technical revisions were published in a Substantive Changes and Public Hearing Notification Potpourri in the August 20, 2016 edition of the *Louisiana Register*. A public hearing on these substantive changes to the proposed Rule is scheduled for Thursday, September 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA 70802.

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity or rulemaking activity relative to the health care licensing standards, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,

Cecile Castello
Health Standards Section Director

CC/DAB/VYD

c: Kimberly Humbles
Lou Ann Owen

From: Veronica Dent
To: "CHERI.JOHNSON@womans.org"
Subject: RE: Perinatal Guidelines
Date: Tuesday, August 30, 2016 12:22:00 PM

Good afternoon, Ms. Johnson:

I am responding on behalf of Cecile Castello, Health Standards Section Director, to your email below regarding the Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the March 20, 2016 edition of the *Louisiana Register*.

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My contact information is included in my signature below, should you have any questions or comments regarding Medicaid administrative rulemaking activity or rulemaking activity relative to the health care licensing standards.

Veronica Y. Dent
Medicaid Program Manager
Rulemaking Unit
Medicaid Policy and Compliance Section
Phone: 225-342-3238 | Fax: 225-376-4777
veronica.dent@la.gov
Mon-Fri, 7:30 a.m. – 4:00 p.m.

LOUISIANA DEPARTMENT OF HEALTH
Medicaid

-----Original Message-----
From: JOHNSON,CHERI J [mailto:CHERI.JOHNSON@womans.org]
Sent: Monday, April 18, 2016 10:21 AM
To: 'Kenneth Alexander'; Michele Sutton; SPEDALE,S.B. MD
Cc: Dee Demma; Harley Ginsberg, MD; FAAP Harley Ginsberg MD; ron.hogan@stfran.com; Lyn

Kieltyka; gwhitton@wkhs.com; PScottBx; jbossa@aol.com; Lisa Burt; Brenda Blanchard (DHH-MVA); Dora Kane; Cecile Castello; Lori Guillory; Finwall, Kelley A.; Fontana, Linda; Melissa Arthur; Julie Bruhn; Ekwutosi Okoroh; Beverly Hardy-Decuir; arobichaux@ochsner.org; rodney.wise@bcbsla.com; wdbinder@gmail.com; BINDER,DORE MD; rcmoore@ochsner.org; Hogan, Ron; Mary.Noel@HCAHealthcare.com; Rebekah Gee
Subject: RE: Perinatal Guidelines

This is what I found in the minutes about the neurology coverage in meeting minutes September 10th. I copied and pasted them here.

- The Committee referred to the pre-work Excel grid and discussed whether pediatric neurology is required as a sub-specialty for Levels III, IIIS and IV. The Committee came to a consensus on the following:

  Level III units need the capability to perform EEG and cranial ultrasound and to have the ability to have them interpreted by someone with experience in neonatal EEG and neonatal cranial ultrasounds.8 votes (Yes), 0 votes (No).

  Level IIIS units must have at least one board certified or board eligible pediatric neurologist as a member of its medical staff. The neurologist must be available in person at Level IIIS and IV facilities.9 votes (Yes), 0 votes (No).

  Level IV units must have at least one board certified or board eligible pediatric neurologist as a member of its medical staff. The neurologist must be available in person at Level IIIS and IV facilities.8 votes (Yes), 0 votes (No).

I agree with Steve's comments about pediatric anesthesiology My notes reflect 24 hour anesthesia for Level III units I think that we need to work on quality committee in terms of structure of membership and what is required by the hospitals as Ken stated.

From: Veronica Dent
To: "ddeiulio@gmail.com"
Subject: RE: OB/NICU designation proposal
Date: Tuesday, August 30, 2016 12:26:00 PM

Good afternoon, Dr. De Iulio:

I am responding on behalf of Cecile Castello, Health Standards Section Director, to your email below regarding the Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the March 20, 2016 edition of the *Louisiana Register*.

The Notice of Intent proposed to amend the provisions governing the hospital licensing standards in order to align these provisions with current standards of practice and staffing guidelines.

As a result of the comments received, the department determined that changes were needed to the proposed Rule in order to further clarify these provisions. These substantive, non-technical revisions were published in a Substantive Changes and Public Hearing Notification Potpourri in the August 20, 2016 edition of the *Louisiana Register.* A public hearing on these substantive changes to the proposed Rule is scheduled for Thursday, September 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA 70802.

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

My contact information is included in my signature below, should you have any questions or comments regarding Medicaid administrative rulemaking activity or rulemaking activity relative to the health care licensing standards.

Veronica Y. Dent
Medicaid Program Manager
Rulemaking Unit
Medicaid Policy and Compliance Section
Phone: 225-342-3238 | Fax: 225-376-4777
veronica.dent@la.gov
Mon-Fri, 7:30 a.m. – 4:00 p.m.

LOUISIANA DEPARTMENT OF HEALTH
Medicaid

From: David De Iulio [ddeiulio@gmail.com]
Sent: Monday, April 11, 2016 9:26 AM
To: Gee, Rebekah E.
Subject: OB/NICU designation proposal

EXTERNAL EMAIL: EVALUATE

Hi Rebekah:

I reviewed the proposed changes to NICU level designation that recently came out and wish to point out several things that weigh heavily on my mind.

Now that "regional" designation will no longer be used (which was abused in several deceptive ways by some NICUs), it is my hope that all level III units will be on the same playing field. With the new proposed difference between level III and level III-S, I certainly hope that if there is going to be a hospital reimbursement differential that it will only be for the surgical neonates. That is, if a level III-S unit will get reimbursed at a higher daily rate than a level III unit, it should only be for those babies who require the differential service (surgery).

With our current system, hospitals with level III-regional designation receive a higher reimbursement for all their neonates compared with level III non-regional units. This is fundamentally unfair and insulting to those of us who take just as good care (if not better) of our non-surgical level III patients than they do at level III-regional units. I can't help but remember your statement at that meeting we had those many years ago that my patients were fundamentally different than those at the other NICU in my area (who for some ill founded reason secured a "regional" designation). I believe you assumed that we had more "insured" babies, or that our patients weren't as sick, or something. But I would like to point out that we have had and continue to have over 70% medicaid patients just like most NICUs, and in fact our babies weigh less than the VON average at birth, and are a full week younger than the VON average in the overwhelming majority of years since I came here in 2006. So our medical patients are indeed "different".. but they are younger and smaller (sicker), and yet our VON performance stats fair significantly better than the VON average. (see our 6-year running performance against the VON and against the Louisiana NICU's for yourself): http://www.lafayettegeneral.com/services/womens_health_obgyn/key_performance_indicators.aspx

Moving forward, a decision to compensate a level III-S unit at a higher rate than a level III unit for a non-surgical neonate will be a continued slap in the face to all of us at level III units who take care of the same sick non-surgical neonate. Although I don't at all agree with the notion that level III-S units should get reimbursed at a higher rate for any patient (after all, in any given region, the surgical babies will all be shunted to the level III-S units who will by default benefit financially from having more patients), if they are to be reimbursed at a higher rate, it should only be for those surgical babies. With our state in the budgetary crunch it claims to be in, this would go a long way to help that problem. As is true for our federal government, our state government should not be picking winners and losers by reimbursing in a differential way for the same services provided to the same patients.

One last thing, and as I attempted to make clear at our meeting many years ago, is that there needs to be a watchdog for units claiming to meet the requirements for level designation. Availability "on site", for example, can be taken many ways in the application process, and I have seen many interesting claims regarding what sub-specialists are or are not "available" to units currently designated as "regional". These things must be carefully scrutinized because a unit in Lafayette, for example, with a pediatric neurologist "on staff", but who lives in Mandeville and who might be able to physically be present in the unit one or two days a month, is certainly different than having one

on staff who lives in Lafayette, readily available at any time on site. Clear and unequivocal definitions of the various requirements are important to have in place, and some way of making sure that application claims actually meet those defined requirements over time and not just the day the application is made is essential as well.

Thanks for your time and ear, and I hope you aren't sorry that I have your email address !!

respectfully,
David

From: Veronica Dent
To: "ddeiulio@gmail.com"
Subject: RE: Hospital Licensing Standards Obstetrical and Newborn Services
Date: Friday, December 02, 2016 10:54:00 AM

Good morning, Dr. De Iulio:

I am responding on behalf of Cecile Castello, Health Standards Section Director, to your email below regarding the Substantive Changes and Public Hearing Notification for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the August 20, 2016 edition of the Louisiana Register.

The Department would like to thank you for taking the time to provide comments regarding the non-technical, substantive revisions to the Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the March 20, 2016 edition of the Louisiana Register. This Notice of Intent proposes to amend the provisions governing the hospital licensing standards in order to align these provisions with current standards of practice and staffing guidelines.

The Department has noted your concerns and will take them under consideration as we move forward with the administrative rulemaking process to establish clear and concise provisions governing the hospital licensing standards for obstetrical and newborn services.

I would like to thank you for your continued interest in the administrative rulemaking process and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity or rulemaking activity relative to the health care licensing standards, my contact information is included in my signature below.

Veronica Y. Dent
Medicaid Program Manager
Rulemaking Unit
Medicaid Policy and Compliance Section
Phone: 225-342-3238 | Fax: 225-376-4777
veronica.dent@la.gov
Mon-Fri, 7:30 a.m. – 4:00 p.m.

LOUISIANA DEPARTMENT OF HEALTH
Medicaid

From: David De Iulio [mailto:ddeiulio@gmail.com]
Sent: Tuesday, September 20, 2016 9:45 AM

To: Medicaid Policy
Subject: Hospital Licensing Standards Obstetrical and Newborn Services

Cecile Castello:

I have attempted to address this issue in the past but have not received any response back from DHH. I am hopeful that this time will somehow be different. My concerns arise from two general areas:

1. ill-defined non-specific regulatory requirements for pediatric sub-specialists, except for pediatric surgeons
2. ill-defined intentions regarding hospital reimbursement differentials for different level NICUs

As to the first issue, the recent regulations clearly state that **For pediatric surgery, the expectation is that there is a board certified or eligible pediatric surgeon who is continuously available to operate at that facility**. For all the other pediatric sub-specialties this clarity disappears, because as it is stated, they **shall be available in person on site as needed by the facility.**

As has been shown historically, hospitals take poetic license in circumventing these regulations using the art of verbal gymnastics. Only the pediatric surgeon needs to live in the IIIS hospital's region in order to provide continuous availability to that NICU. The other sub-specialists can live at great distance and meet the *on site as needed* regulation. In short, the only real thing distinguishing a level III from a IIIS is the pediatric surgeon.

I believe all regulated sub-specialits should have the same clearly defined requirement to live in that hospital's region. Otherwise living at great distance but being "on staff" satisfies the IIIS printed regulations. And of course the hospital will never say that they needed that sub-specialist on site if and when he/she was not available because they would stand to lose their level IIIS designation. Why differentiate the availability requirements at all between the surgeon and all the other specialists the state feels is important to be there for IIIS designation?

As to the second issue, being a IIIS brings in all the surgical patients from the region to that facility. This gives that hospital more patients and therefore more revenue. I have a problem with differential reimbursements for level III versus IIIS units, especially if the various pediatric sub-specialists are not required to live in that region but only have to be "on staff" and "available as needed" there. Whatever increased cost (if any) there might be to have the pediatric surgeon at that facility is offset by the increased number of patients that unit takes care of simply because surgical patients are transferred there. If there is to be a differential reimbursement, and I don't believe there should be, it should only be for those patients who require that specific differential service.... pediatric surgical patients.

I'd like to clearly understand the state's intentions regarding both issues and would strongly urge clarification on the first issue in the printed regulations. If you can be that clear regarding pediatric surgeons, you should extend that same clarity to all the other pediatric sub-specialists that are required for the Level IIIS designation. I strongly argue against differential reimbursements, especially for non-surgical level III patients, as that is a slap in the face to those of us who provide excellent medical services to critically ill neonates, with just as good if not better outcomes (http://www.lafayettegeneral.com/services/womens_health_obgyn/key_performance_indicators.aspx), and with better resource utilization than most units.

Your kind, courteous, and immediate attention to this matter will be greatly appreciated

Sincerely,

David M. De Iulio, MD
Director of Neonatology: Lafayette General Medical Center, Lafayette, LA
President: Critical Care Newborn Services, AP

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

August 30, 2016

Steven B. Spedale, MD
President
MedicineLouisina
P.O. Box 45171
Baton Rouge, LA 70805-4171

Dear Dr. Spedale:

RE: Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services

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Sincerely,

Cecile Castello
Health Standards Section Director

CC/DAB/VYD

c: Kimberly Humbles
Lou Ann Owen

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

August 30, 2016

Jennifer Wright, APRN, FNP, BC
Director, Advanced Practice
Louisiana State Board of Nursing
17373 Perkins Road
Baton Rouge, LA 70810

Dear Ms. Wright:

RE: Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services

This letter is in response to your correspondence regarding the Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the March 20, 2016 edition of the *Louisiana Register*.

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Sincerely,

Cecile Castello
Health Standards Section Director

CC/DAB/VYD

c: Kimberly Humbles
Lou Ann Owen

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

August 30, 2016

Kenneth Alexander, MS, RRT
Vice President, Member Services & Quality Improvement
Louisiana Hospital Association
9521 Brookline Avenue
Baton Rouge, LA 70809

Dear Mr. Alexander:

RE: Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services

This letter is in response to your correspondence regarding the Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the March 20, 2016 edition of the *Louisiana Register*.

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Sincerely,

Cecile Castello
Health Standards Section Director

CC/DAB/VYD

c: Kimberly Humbles
Lou Ann Owen

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

August 30, 2016

Laura Poole, RN, MN
Kerrie Redmond, RN
Terrebonne General Medical Center
8166 Main Street
P. O. Box 6037
Houma, LA 70361

Dear Ms. Poole and Ms. Redmond:

RE: Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services

This letter is in response to your correspondence regarding the Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the March 20, 2016 edition of the *Louisiana Register*.

The Notice of Intent proposed to amend the provisions governing the hospital licensing standards in order to align these provisions with current standards of practice and staffing guidelines.

As a result of the comments received, the department determined that changes were needed to the proposed Rule in order to further clarify these provisions. These substantive, non-technical revisions were published in a Substantive Changes and Public Hearing Notification Potpourri in the August 20, 2016 edition of the *Louisiana Register*. A public hearing on these substantive changes to the proposed Rule is scheduled for Thursday, September 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA 70802.

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity or rulemaking activity relative to the health care licensing standards, you may contact Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,

Cecile Castello
Health Standards Section Director

CC/DAB/VYD

c: Kimberly Humbles
Lou Ann Owen

From: Veronica Dent
To: "Laura.Poole@tgmc.com"
Subject: RE: Proposal for DHH OB/Perinatal Services - Addendum
Date: Tuesday, August 30, 2016 12:36:00 PM
Attachments: L. Poole & K. Redmond Comments 4-28-16.pdf
L. Poole & K. Redmond Response 8-30-16.pdf
image002.png

Good afternoon, Ms. Poole:

I am responding on behalf of Cecile Castello, Health Standards Section Director, to your email below regarding the Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the March 20, 2016 edition of the *Louisiana Register*. In addition, attached is a copy of the initial comment letter received and the Department's response which was forwarded via U.S. mail this afternoon.

The Notice of Intent proposed to amend the provisions governing the hospital licensing standards in order to align these provisions with current standards of practice and staffing guidelines.

As a result of the comments received, the department determined that changes were needed to the proposed Rule in order to further clarify these provisions. These substantive, non-technical revisions were published in a Substantive Changes and Public Hearing Notification Potpourri in the August 20, 2016 edition of the *Louisiana Register.* A public hearing on these substantive changes to the proposed Rule is scheduled for Thursday, September 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA 70802.

I would like to thank you for taking the time to provide comments and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

My contact information is included in my signature below, should you have any questions or comments regarding Medicaid administrative rulemaking activity or rulemaking activity relative to the health care licensing standards.

Veronica Y. Dent
Medicaid Program Manager
Rulemaking Unit
Medicaid Policy and Compliance Section
Phone: 225-342-3238 | Fax: 225-376-4777
veronica.dent@la.gov
Mon-Fri, 7:30 a.m. – 4:00 p.m.

LOUISIANA DEPARTMENT OF HEALTH
Medicaid

From: Poole, Laura [mailto:Laura.Poole@tgmc.com]
Sent: Friday, April 29, 2016 4:11 PM
To: Medicaid Policy
Cc: Nieves-Cruz, Bedford; drgent@bellsouth.net; kalexander@lhaonline.org; Steve.spedale@infamedics.com; Redmond, Kerrie
Subject: Proposal for DHH OB/Perinatal Services - Addendum

Good afternoon Mr. Castillo,

Our NICU Medical Director, Dr. Bedford Nieves Cruz submitted the following addendum regarding TGMC's comments related to the Proposal for DHH OB/Perinatal Services.

- Under the Level II – Personnel requirements, our comments relate to being a part of our medical staff, when we were certified as a Level III OB/NICU.
- Also, both b and g members of the medical staff would be "grandfathered" by being at this facility when accredited for the respective level of care.

If you have any questions, please do not hesitate to contact me. Thank you.

Laura Poole
Committed to our mission: "Providing exceptional healthcare with compassion"

AVP of Nursing | Administration
8166 Main Street
Houma, LA 70360
T: 985-873-4694
F: 985-858-7176
Laura.Poole@tgmc.com
www.tgmc.com

From: Veronica Dent
To: "Mary.Noel@hcahealthcare.com"
Subject: RE: Obstetric Levels of Care
Date: Tuesday, August 30, 2016 12:28:00 PM

Good afternoon, Ms. Noel:

I am responding on behalf of Cecile Castello, Health Standards Section Director, to your email below regarding the Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the March 20, 2016 edition of the *Louisiana Register*.

The Notice of Intent proposed to amend the provisions governing the hospital licensing standards in order to align these provisions with current standards of practice and staffing guidelines.

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Veronica Y. Dent
Medicaid Program Manager
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Medicaid Policy and Compliance Section
Phone: 225-342-3238 | Fax: 225-376-4777
veronica.dent@la.gov
Mon-Fri, 7:30 a.m. – 4:00 p.m.

LOUISIANA DEPARTMENT OF HEALTH
Medicaid

From: Mary.Noel@hcahealthcare.com [Mary.Noel@hcahealthcare.com]
Sent: Tuesday, April 26, 2016 9:20 AM
To: Gee, Rebekah E.
Cc: steve.spedale@infamedics.com
Subject: Obstetric Levels of Care

EXTERNAL EMAIL: EVALUATE
Rebekah,
In reviewing the documents provided by DHH Bureau of Standards related to Title 48, Obstetrical and Newborn Services proposed rule compared to the work product of our Perinatal Clinical Guidelines committee a significant variance is noted. Attached are snipimages from each document

for ease of review.

In 9505, General Provisions section A. The first sentence reads. "this subchapter requires that the level of care on the obstetrical unit and the neonatal intensive care unit shall be at the identical level except for free standing children's hospitals. The language from the committee document reads Level of the NICU shall match or exceed the level of the obstetrical unit.

This finding was discussed with Steve via a phone call this morning so I wanted to also let you know of this discrepancy. A few other areas where the proposed rule does not match our committee work product have been identified and a letter with these findings will be submitted.

I am available by phone if you would want to discuss this further.

Mary Noel
Division Director of Case Management
MidAmerica Division

Telephone: 985.845.6003
Cell: 504.452.2889
Facsimile: 866.841.2642

From: Veronica Dent
To: "SuttonM@northoaks.org"
Subject: RE: Perinatal Guidelines
Date: Tuesday, August 30, 2016 12:15:00 PM

Good afternoon, Ms. Sutton:

I am responding on behalf of Cecile Castello, Health Standards Section Director, to your email below regarding the Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the March 20, 2016 edition of the *Louisiana Register.*

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Veronica Y. Dent
Medicaid Program Manager
Rulemaking Unit
Medicaid Policy and Compliance Section
Phone: 225-342-3238 | Fax: 225-376-4777
veronica.dent@la.gov
Mon-Fri, 7:30 a.m. – 4:00 p.m.

LOUISIANA DEPARTMENT OF HEALTH
Medicaid

-----Original Message-----
From: Michele Sutton [mailto:SuttonM@northoaks.org]
Sent: Monday, April 18, 2016 9:22 AM
To: Steve Spedale

Cc: ddemma@chnola.org; Harley Ginsberg; FAAP Harley Ginsberg MD; ron.hogan@stfran.com; CHERI.JOHNSON@womans.org; Lyn Kieltyka; gwhitton@wkhs.com; PScottBx; jbossa@aol.com; Lisa Burt; Brenda Blanchard (DHH-MVA); Kenneth Alexande; Dora Kane; Cecile Castello; Lori Guillory; Finwall, Kelley A.; Fontana, Linda; Melissa L. Arthur; Julie Bruhn; Ekwutosi Okoroh; Beverly Hardy-Decuir; arobichaux@ochsner.org; rodney.wise@bcbsla.com; wdbinder@gmail.com; dore.binder@womans.org; rcmoore@ochsner.org; Hogan, Ron; Mary.Noel@HCAHealthcare.com; Rebekah Gee
Subject: Re: Perinatal Guidelines

Steve, I recall the same that we pulled it for level 3.

Michele Sutton

On Apr 17, 2016, at 10:04 PM, Steve Spedale <Steve.Spedale@infamedics.com<mailto:Steve.Spedale@infamedics.com>> wrote:

As you are aware the public hearing is this month on the 28th. A couple of things that will be submitted based on my conversations with different individuals -

* For the NICU - pediatric anesthesia board certification only was available starting in 2013 (see attached). I know I was not aware of this as I thought it had been a specialty certification for a long time. For physicians who completed a ACGME accredited pediatric anesthesiology fellowship prior to 2012, they had until September 2015 to apply for the boards. I have received comments about peds anesthesia fellowship trained MDs who did not sign up for boards as there were no requirements that they do such to continue practicing at their hospitals. I think it is reasonable to grandfather in these individuals but any new additions to medical staff would have to be board certified. This is similar to what was done with neonatologists in the first guidelines. It only applies to those specific physicians at the hospitals where they currently practice - it is not transferrable. Of note, we will have the same issue when/if Peds ENT starts having a board examination.

* Peds Neurology Level III NICU - Juan has brought up that he recalled we made the requirement for a Level III NICU to have the capability to do neonatal EEG and to have an arrangement for them to be read. The submitted guidelines have that a pediatric neurologist must be on staff. I thought we pulled this for a level III, but can't find it in my notes. Does anyone else remember differently?

Steve

Steven B. Spedale MD FAAP
President, Infamedics
PO Box 45171
Baton Rouge, LA 70895-4171
Office 225-928-2555

Cell 225-405-2265

<American Society of Anesthesiologists - ABA Pediatric Anesthesiology Cer....pdf>

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

August 30, 2016

Paul A. Salles, President & CEO
Louisiana Hospital Association
9521 Brookline Avenue
Baton Rouge, LA 70809-1431

Dear Mr. Salles:

RE: Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services

This letter is in response to your correspondence regarding the Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the March 20, 2016 edition of the *Louisiana Register*.

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Sincerely,

Cecile Castello
Health Standards Section Director

CC/DAB/VYD

c: Kimberly Humbles
Lou Ann Owen

From: Veronica Dent
To: "pscottbx@yahoo.com"; "arobichaux@ochsner.org"
Subject: RE: Perinatal Guidelines
Date: Tuesday, August 30, 2016 12:19:00 PM
Importance: High

Good afternoon,

I am responding on behalf of Cecile Castello, Health Standards Section Director, to your email below regarding the Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the March 20, 2016 edition of the *Louisiana Register*.

The Notice of Intent proposed to amend the provisions governing the hospital licensing standards in order to align these provisions with current standards of practice and staffing guidelines.

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Veronica Y. Dent
Medicaid Program Manager
Rulemaking Unit
Medicaid Policy and Compliance Section
Phone: 225-342-3238 | Fax: 225-376-4777
veronica.dent@la.gov
Mon-Fri, 7:30 a.m. – 4:00 p.m.

LOUISIANA DEPARTMENT OF HEALTH
Medicaid

From: Cecile Castello
Sent: Monday, April 18, 2016 8:04 AM
To: 'Scott Bx'; Alfred Robichaux
Cc: Steve Spedale; ddemma@chnola.org; Harley Ginsberg, M.D.; FAAP Harley Ginsberg MD; ron.hogan@stfran.com; CHERI.JOHNSON@womans.org; Lyn Kieltyka; suttonm@northoaks.org; gwhitton@wkhs.com; jbossa@aol.com; Lisa Burt; Brenda Blanchard (DHH-MVA); Kenneth Alexande; Dora Kane; Lori Guillory; Finwall, Kelley A.; Fontana, Linda; Melissa L. Arthur; Julie Bruhn; Ekwutosi Okoroh; Beverly Hardy-Decuir; rodney.wise@bcbsla.com; wdbinder@gmail.com; dore.binder@womans.org; Robert Moore, M.D.; Hogan, Ron; Mary.Noel@HCAHealthcare.com; Rebekah Gee; Cecile Castello
Subject: RE: Perinatal Guidelines

Good morning

This will be addressed with public comments that are received and handled as per usual and normal process. Thank you for this information.

Cecile

Cecile Castello, RN
Director, Health Standards Section
628 North 4th Street
Bienville Building
P. O. Box 3767

Baton Rouge, LA 70821-3767
225 342 4997
225 342 5073 fax
Cecile.castello@la.gov

From: Scott Bx [mailto:pscottbx@yahoo.com]
Sent: Monday, April 18, 2016 7:39 AM
To: Alfred Robichaux
Cc: Steve Spedale; ddemma@chnola.org; Harley Ginsberg, M.D.; FAAP Harley Ginsberg MD; ron.hogan@stfran.com; CHERI.JOHNSON@womans.org; Lyn Kieltyka; suttonm@northoaks.org; gwhitton@wkhs.com; jbossa@aol.com; Lisa Burt; Brenda Blanchard (DHH-MVA); Kenneth Alexande; Dora Kane; Cecile Castello; Lori Guillory; Finwall, Kelley A.; Fontana, Linda; Melissa L. Arthur; Julie Bruhn; Ekwutosi Okoroh; Beverly Hardy-Decuir; rodney.wise@bcbsla.com; wdbinder@gmail.com; dore.binder@womans.org; Robert Moore, M.D.; Hogan, Ron; Mary.Noel@HCAHealthcare.com; Rebekah Gee
Subject: Re: Perinatal Guidelines

Ditto & agreed

Everyone have a good week.

Sent from my iPhone

On Apr 18, 2016, at 7:20 AM, Alfred Robichaux <arobichaux@ochsner.org> wrote:

> I don't have the discussion in my notes but I agree with your edits
> Al
>
> Sent from my iPhone
>
> On Apr 17, 2016, at 10:04 PM, Steve Spedale <Steve.Spedale@infamedics.com> wrote:
>
>
>
> As you are aware the public hearing is this month on the 28th. A couple of things that will be submitted based on my conversations with different individuals –
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> Steve
>
> Steven B. Spedale MD FAAP
> President, Infamedics

PO Box 45171
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Office 225-928-2555
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<American Society of Anesthesiologists - ABA Pediatric Anesthesiology Cer....pdf>

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

August 30, 2016

Staci Sullivan, MSN, NEA-BC
Chief Nursing Officer
Lane Regional Medical Center
6300 Main Street
Zachary, LA 70791

Dear Ms. Sullivan:

RE: Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services

This letter is in response to your correspondence regarding the Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the March 20, 2016 edition of the *Louisiana Register*.

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Sincerely,

Cecile Castello
Health Standards Section Director

CC/DAB/VYD

c: Kimberly Humbles
Lou Ann Owen

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

August 30, 2016

Sylvia Martin, RNC-OB
Level II Nursery Coordinator
Lane Regional Medical Center
6300 Main Street
Zachary, LA 70791

Dear Ms. Martin:

RE: Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services

This letter is in response to your correspondence regarding the Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the March 20, 2016 edition of the *Louisiana Register*.

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Sincerely,

Cecile Castello
Health Standards Section Director

CC/DAB/VYD

c: Kimberly Humbles
Lou Ann Owen

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

December 2, 2016

Aimee Badeaux, President
Tracy Young, President-Elect
Louisiana Association of Nurse Anesthetists
8550 United Plaza Boulevard, Suite 1001
Baton Rouge, LA 70809

Dear Ms. Badeaux and Ms. Young:

RE: Substantive Changes and Public Hearing Notification
Hospital Licensing Standards – Obstetrical and Newborn Services

This letter is in response to your correspondence regarding the Substantive Changes and Public Hearing Notification for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the August 20, 2016 edition of the *Louisiana Register*.

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The Department has noted your concerns and will take them under consideration as we move forward with the administrative rulemaking process to establish clear and concise provisions governing the hospital licensing standards for obstetrical and newborn services.

I would like to thank you for your continued interest in the administrative rulemaking process and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

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Sincerely,

Cecile Castello

Cecile Castello
Health Standards Section Director

CC/DAB/VYD

c: Kimberly Humbles
Lou Ann Owen

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

December 2, 2016

Cheryl L. Nimmo, DNP, MSHSA, CRNA
Anna Polyak, RN, JD
American Association of Nurse Anesthetists
222 South Prospect Avenue
Park Ridge, IL 60068-4001

Dear Ms. Nimmo and Ms. Polyak:

RE: Substantive Changes and Public Hearing Notification
Hospital Licensing Standards – Obstetrical and Newborn Services

This letter is in response to your correspondence regarding the Substantive Changes and Public Hearing Notification for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the August 20, 2016 edition of the *Louisiana Register*.

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Sincerely,

Cecile Castello
Health Standards Section Director

CC/DAB/VYD

c: Kimberly Humbles
Lou Ann Owen

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

December 2, 2016

Gerry Pedersen CRNA, APRN
Diversified Professionals Inc.
8946 Interline Ave.
Suite C
Baton Rouge, LA 70808

Dear Mr. Pedersen:

RE: Substantive Changes and Public Hearing Notification
Hospital Licensing Standards – Obstetrical and Newborn Services

This letter is in response to your correspondence regarding the Substantive Changes and Public Hearing Notification for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the August 20, 2016 edition of the *Louisiana Register*.

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Sincerely,

Cecile Castello

Cecile Castello
Health Standards Section Director

CC/DAB/VYD

c: Kimberly Humbles
Lou Ann Owen

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

December 2, 2016

Jeff LeBlanc CRNA, APRN
Diversified Professionals Inc.
8946 Interline Ave.
Suite C
Baton Rouge, LA 70808

Dear Mr. LeBlanc:

RE: Substantive Changes and Public Hearing Notification
Hospital Licensing Standards – Obstetrical and Newborn Services

This letter is in response to your correspondence regarding the Substantive Changes and Public Hearing Notification for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the August 20, 2016 edition of the *Louisiana Register*.

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Sincerely,

Cecile Castello

Cecile Castello
Health Standards Section Director

CC/DAB/VYD

c: Kimberly Humbles
Lou Ann Owen

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

December 2, 2016

John Sikes CRNA, APRN
Diversified Professionals Inc.
8946 Interline Ave.
Suite C
Baton Rouge, LA 70808

Dear Mr. Sikes:

RE: Substantive Changes and Public Hearing Notification
Hospital Licensing Standards – Obstetrical and Newborn Services

This letter is in response to your correspondence regarding the Substantive Changes and Public Hearing Notification for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the August 20, 2016 edition of the *Louisiana Register*.

The Department would like to thank you for taking the time to provide comments regarding the non-technical, substantive revisions to the Notice of Intent for Hospital Licensing Standards – Obstetrical and Newborn Services which was published in the March 20, 2016 edition of the Louisiana Register. This Notice of Intent proposes to amend the provisions governing the hospital licensing standards in order to align these provisions with current standards of practice and staffing guidelines.

The Department has noted your concerns and will take them under consideration as we move forward with the administrative rulemaking process to establish clear and concise provisions governing the hospital licensing standards for obstetrical and newborn services.

I would like to thank you for your continued interest in the administrative rulemaking process and hope that you will continue to work with us as we strive to improve health care outcomes for Louisiana citizens.

Should you have any questions or comments regarding Medicaid administrative rulemaking activity or rulemaking activity relative to the health care licensing standards, you may contact

Veronica Dent, Medicaid Program Manager, at 225-342-3238 or by email to Veronica.Dent@la.gov.

Sincerely,

Cecile Castello
Health Standards Section Director

CC/DAB/VYD

c: Kimberly Humbles
Lou Ann Owen

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Office of the Secretary

December 5, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Nursing Facilities - Reimbursement Methodology - Pass Through Rate Increase.

The Department published a Notice of Intent on this proposed Rule in the October 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 10). A public hearing was held on November 29, 2016 at which only Louisiana Department of Health staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the January 20, 2017 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

REG/WJR/YME

Attachments (3)

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Nursing Facilities
Reimbursement Methodology
Pass Through Rate Increase
(LAC 50:II.20005)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:II.20005 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. 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 and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities in order to reduce the per diem rates paid to non-state nursing facilities (*Louisiana Register*, Volume 41, Number 5).

Act 675 of the 2016 Regular Session of the Louisiana Legislature directed the Department of Health to increase provider fees for nursing facilities. In compliance with Act 675, the department published Emergency Rules which amended the provisions governing provider fees in order to increase the provider fee for nursing facilities, and amended the provisions governing the reimbursement methodology for nursing facilities to include the provider fee increase in the nursing facility

pass through rate (*Louisiana Register*, Volume 42, Number 9). This proposed Rule is being promulgated to continue the provisions of the September 1, 2016 Emergency Rule.

Title 50

PUBLIC HEALTH–MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20005. Rate Determination

[Formerly LAC 50:VII.1305]

A. - D.4.b. ...

c. Effective September 1, 2016, the pass through rate shall be increased as a result of the provider fee increase on nursing facility days from $10.00 per day up to $12.08 per day per occupied bed.

D.5. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:325 (February 2010), repromulgated LR 36:520 (March 2010), amended LR 36:1556 (July

2010), LR 36:1782 (August 2010), LR 36:2566 (November 2010), LR 37:902 (March 2011), LR 37:1174 (April 2011), LR 37:2631 (September 2011), LR 38:1241 (May 2012), LR 39:1286 (May 2013), LR 39:3097, 3097 (November 2013), LR 41:707 (April 2015), LR 41:949 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

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.

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.

In compliance with House Concurrent Resolution 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, but may reduce the total direct and indirect cost to the provider to provide the same level of service and enhance the provider's ability to provide the same level of service since this proposed Rule increases the payment to providers for the same services they already render.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821–9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
November 29, 2016
9:30 a.m.

RE: Nursing Facilities
Reimbursement Methodology
Pass Through Rate Increase
Docket # 11292016-5
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on November 29, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

Medicaid Policy and Compliance
Section

11/29/16
Date

DHH/BHSF PUBLIC HEARING

Topic – Nursing Facilities Reimbursement Methodology Pass Through Rate Increase

Date – November 29, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	Louisiana Dept. of Health 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	Medicaid Policy & Compliance
2. Jackson Carney	LDH	225-802-8821	OBH
3.			
4.			
5.			
6.			

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Office of the Secretary

December 5, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Pediatric Day Health Care Facilities – Licensing Standards.

The Department published a Notice of Intent on this proposed Rule in the October 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 10). A public hearing was held on November 29, 2016 at which only Louisiana Department of Health staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the January 20, 2017 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

REG/WJR/CEC

Attachments (3)

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Pediatric Day Health Care Facilities
Licensing Standards
(LAC 48:I.5239)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.5239 in the Medical Assistance Program as authorized by R.S. 36:254 and 40:2193-40:2193.4. 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 and Hospitals, Bureau of Health Services Financing amended the licensing standards for pediatric day health care facilities in order to: 1) revise the provisions governing provider participation, development and educational services and transportation requirements; 2) adopt provisions for the inclusion of PDHC facilities in the Facility Need Review (FNR) Program; and 3) revise the additional grandfather provisions for the FNR process for the Pediatric Day Health Care Program (*Louisiana Register*, Volume 41, Number 1).

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the licensing standards governing PDHC facilities in order to clarify the provider participation requirements regarding plans

of care (*Louisiana Register*, Volume 42, Number 9). This proposed Rule is being promulgated to continue the provisions of the September 1, 2016 Emergency Rule.

Title 48

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

Chapter 52. Pediatric Day Health Care Facilities

Subchapter D. Participation Requirements

§5239. Plan of Care

A. - D.4. ...

E. The medical director shall review the plans of care in consultation with PDHC staff and the prescribing physician every 90 days or more frequently as the child's condition dictates. Prescribed services and therapies included in the plan of care shall be adjusted in consultation with the prescribing physician to accommodate the child's condition.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2769 (December 2009), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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.

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.

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.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is

scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
November 29, 2016
9:30 a.m.

RE: Pediatric Day Health Care Facilities
Licensing Standards
Docket # 11292016-6
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on November 29, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

Medicaid Policy and Compliance
Section

11/29/16
Date

DHH/BHSF PUBLIC HEARING

Topic – Pediatric Day Health Care Facilities Licensing Standards

Date – November 29, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	Louisiana Dept. of Health 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	Medicaid Policy & Compliance
2. Yolanda M. Ellis	"	(225) 342-5042	"
3. Brenda Blanchard	LDH - HSS	(225) 342-2471	Health Standards
4.			
5.			
6.			

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Office of the Secretary

December 5, 2016

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Pediatric Day Health Care Program.

The Department published a Notice of Intent on this proposed Rule in the October 20, 2016 issue of the *Louisiana Register* (Volume 42, Number 10). A public hearing was held on November 29, 2016 at which only Louisiana Department of Health staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the January 20, 2017 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

REG/WJR/CEC

Attachments (3)

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Pediatric Day Health Care Program
(LAC 50:XV.27501, 27503, 27901 and 28101)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.27501, §27503, §§27901 and 28101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. 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 and Hospitals, Bureau of Health Services Financing amended the provisions governing pediatric day health care (PDHC) services in order to revise the recipient criteria to better align the program's operational procedures with the approved Medicaid State Plan provisions governing these services (*Louisiana Register*, Volume 41, Number 1).

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing PDHC services in order to clarify these provisions and revise the recipient criteria and reimbursement methodology (*Louisiana Register*, Volume 42, Number 9). This proposed Rule is being promulgated to continue the provisions of the September 1, 2016 Emergency Rule.

PUBLIC HEALTH-MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 19. Pediatric Day Health Care Program

Chapter 275. General Provisions

§27501. Program Description and Purpose

A. Pediatric Day Health Care (PDHC) Services

1. An array of services that are designed to meet the medical, social and developmental needs of children up to the age of 21 who have a complex medical condition which requires skilled nursing care and therapeutic interventions on an ongoing basis in order to:

a. preserve and maintain health status;

b. prevent death;

c. treat/cure disease;

d. ameliorate disabilities or other adverse health conditions; and/or

e. prolong life.

2. PDHC services offer a community-based alternative to traditional long term care services or extended nursing services for children with medically complex conditions.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1557 (July 2010), amended by the Department of Health, Bureau of

Health Services Financing, LR 43:

§27503. Recipient Criteria

A. In order to qualify for PDHC services, a Medicaid recipient must meet the following criteria. The recipient must:

1. ...

2. have a medically complex condition which involves one or more physiological or organ systems and requires skilled nursing and therapeutic interventions performed by a knowledgeable and experienced licensed professional registered nurse (RN) or licensed practical nurse (LPN) on an ongoing basis in order to:

a. preserve and maintain health status;

b. prevent death;

c. treat/cure disease;

d. ameliorate disabilities or other adverse health conditions; and/or

e. prolong life;

3. have a signed physician's order and plan of care, not to exceed 90 days, for pediatric day health care by the recipient's physician specifying the frequency and duration of services; and

A.3.a. - A.3.e. Repealed.

4. be stable for outpatient medical services in a home or community-based setting.

A.4.a. - A.6. Repealed.

B. ...

C. Re-evaluation of PDHC services must be performed, at a minimum, every 90 days. This evaluation must include a review of the recipient's current medical plan of care and provider agency documented current assessment and progress toward goals.

D. A face-to-face evaluation shall be held every 90 days by the child's prescribing physician. Services shall be revised during evaluation periods to reflect accurate and appropriate provision of services for current medical status.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1557 (July 2010), amended LR 41:137 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 279. Provider Participation

§27901. General Provisions

A. ...

B. A parent, legal guardian or legally responsible person providing care to a medically complex child in a home or any other extended care or long-term care facility, is not considered to be a PDHC facility and shall not be enrolled in the Medicaid Program as a PDHC services provider.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 281. Reimbursement Methodology

§28101. General Provisions

A. ...

1. A full day of service is more than six hours, not to exceed a maximum of 12 hours per day.

2. A partial day of service is six hours or less per day.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010), amended LR 39:1286 (May 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services

(CMS), if it is determined that submission to CMS for review and approval is required.

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 may have a negative impact on family functioning, stability and autonomy as described in R.S. 49:972 as it may reduce access to PDHC services if provider participation declines as a result of the changes to the reimbursement methodology.

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 may have a negative impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as families may incur increased travel costs to access PDHC services due to a potential reduction in provider participation as a result of the changes to the reimbursement methodology.

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, but may increase direct or

indirect cost to the provider to provide the same level of service due to changes in the reimbursements for the service. The proposed Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the change in reimbursements adversely impacts the provider's financial standing.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary

John Bel Edwards
GOVERNOR

Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana

Louisiana Department of Health
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
November 29, 2016
9:30 a.m.

RE: Pediatric Day Health Care Program
Docket # 11292016-7
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on November 29, 2016 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

Medicaid Policy and Compliance Section

11/29/16
Date

DHH/BHSF PUBLIC HEARING

Topic – Pediatric Day Health Care Program

Date – November 29, 2016

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	Louisiana Dept. of Health 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	Medicaid Policy & Compliance
2. Brenda Sharp	"	225-342-0095	OCDD
3.			
4.			
5.			
6.			