



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

December 5, 2014

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeir, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
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 Crisis Receiving Centers – Licensing Standards.

The Department published a Notice of Intent on this proposed Rule in the October 20, 2014 issue of the *Louisiana Register* (Volume 40, Number 10). A public hearing was held on November 26, 2014 at which only Department of Health and Hospitals staff were present. No oral testimony was given, nor written correspondence received, regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the January 20, 2015 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.

KHK/WJR/KAH

Attachments (3)

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing**

**Crisis Receiving Centers
Licensing Standards
(LAC 48:I.Chapters 53 and 54)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 48:I.Chapters 53 and 54 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 28:2180.14. 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 an Emergency Rule which adopted provisions to establish licensing standards for Level III crisis receiving centers (CRCs) in order to provide intervention and crisis stabilization services for individuals who are experiencing a behavioral health crisis (*Louisiana Register*, Volume 39, Number 4).

The department promulgated an Emergency Rule which amended the provisions of the April 20, 2013 Emergency Rule in order to clarify the provisions governing the licensing standards for free-standing CRCs (*Louisiana Register*, Volume 40, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 20, 2014 Emergency Rule.

Title 48

PUBLIC HEALTH-GENERAL

Part 1. General Administration

Subpart 3. Licensing and Certification

Chapter 53. Level III Crisis Receiving Centers

Subchapter A. General Provisions

§5301. Introduction

A. The purpose of this Chapter is to:

1. provide for the development, establishment, and enforcement of statewide licensing standards for the care of patients and clients in Level III crisis receiving centers (CRCs);
2. ensure the maintenance of these standards; and
3. regulate conditions in these facilities through a program of licensure which shall promote safe and adequate treatment of clients of behavioral health facilities.

B. The purpose of a CRC is to provide intervention and stabilization services in order for the client to achieve stabilization and be discharged and referred to the lowest appropriate level of care that meets the client's needs. The estimated length of stay in a CRC is 3-7 days.

C. In addition to the requirements stated herein, all licensed CRCs shall comply with applicable local, state, and federal laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5303. Definitions

Active Client-a client of the CRC who is currently receiving services from the CRC.

Administrative Procedure Act-R.S. 49:950 et seq.

Administrative Review-Health Standards Section's review of documentation submitted by the center in lieu of an on-site survey.

Adult-a person that is at least 18 years of age.

Authorized Licensed Prescriber-a physician or nurse practitioner licensed in the state of Louisiana and with full prescriptive authority authorized by the CRC to prescribe treatment to clients of the specific CRC at which he/she practices.

Building and Construction Guidelines-structural and design requirements applicable to a CRC; does not include occupancy requirements.

Coroner's Emergency Certificate (CEC)-a certificate issued by the coroner pursuant to R.S. 28:53.3.

Change of Ownership (CHOW)-the sale or transfer, whether by purchase, lease, gift or otherwise, of a CRC by a

person/corporation of controlling interest that results in a change of ownership or control of 30 percent or greater of either the voting rights or assets of a CRC or that results in the acquiring person/corporation holding a 50 percent or greater interest in the ownership or control of the CRC.

CLIA-Clinical Laboratory Improvement Amendment.

Client Record-a single complete record kept by the CRC which documents all treatment provided to the client. The record may be electronic, paper, magnetic material, film or other media.

Construction Documents-building plans and specifications.

Contraband-any object or property that is against the CRC's policies and procedures to possess.

Level III Crisis Receiving Center (or Center or CRC)-an agency, business, institution, society, corporation, person or persons, or any other group, licensed by the Department of Health and Hospitals to provide crisis identification, intervention and stabilization services for people in behavioral crisis. A CRC shall be no more than 24 beds.

Crisis Receiving Services-services related to the treatment of people in behavioral crisis, including crisis identification, intervention and stabilization.

Department- the Louisiana Department of Health and Hospitals.

Direct Care Staff-any member of the staff, including an employee or contractor, that provides the services delineated in the comprehensive treatment plan. Food services, maintenance and clerical staff and volunteers are not considered as direct care staff.

Disaster or Emergency-a local, community-wide, regional or statewide event that may include, but is not limited to:

1. tornados;
2. fires;
3. floods;
4. hurricanes;
5. power outages;
6. chemical spills;
7. biohazards;
8. train wrecks; or
9. declared health crisis.

Division of Administrative Law (DAL)-The Louisiana Department of State Civil Service, Division of Administrative Law or its successor entity.

Grievance-a formal or informal written or verbal complaint that is made to the CRC by a client or the client's family or representative regarding the client's care, abuse or neglect when the complaint is not resolved at the time of the complaint by staff present.

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

Human Services Field-an academic program with a curriculum content in which at least 70 percent of the required courses for the major field of study are based upon the core mental health disciplines.

Licensed Mental Health Professional (LMHP)-an individual who is licensed in the State of Louisiana to diagnose and treat mental illness or substance abuse, acting within the scope of all applicable State laws and their professional license. A LMHP must be one of the following individuals licensed to practice independently:

1. a physician/psychiatrist;
2. a medical psychologist;
3. a licensed psychologist;
4. a licensed clinical social worker (LCSW);
5. a licensed professional counselor (LPC);
6. a licensed marriage and family therapist (LMFT);
7. a licensed addiction counselor (LAC);
8. an advanced practice registered nurse or APRN
(must be a nurse practitioner specialist in adult psychiatric and mental health or family psychiatric and mental health);

9. a certified nurse specialist in one of the following:

- a. psychosocial, gerontological psychiatric mental health;
- b. adult psychiatric and mental health; or
- c. child-adolescent mental health.

LSBME-Louisiana State Board of Medical Examiners.

MHERE-Mental Health Emergency Room Extension operating as a unit of a currently-licensed hospital.

Minor-a person under the age of 18.

OBH-the Department of Health and Hospitals, Office of Behavioral Health.

On duty-scheduled, present, and awake at the site to perform job duties.

On call-immediately available for telephone consultation and less than one hour from ability to be on duty.

OHSEP-Office of Homeland Security and Emergency Preparedness.

OPC-Order for Protective Custody issued pursuant to R.S. 28:53.2.

OSFM-the Louisiana Department of Public Safety and Corrections, Office of State Fire Marshal.

PEC-an emergency certificate executed by a physician, psychiatric mental health nurse practitioner, or psychologist pursuant to R.S. 28:53.

Physician-an individual who holds a medical doctorate or a doctor of osteopathy from a medical college in good standing with the LSBME and a license, permit, certification, or registration issued by the LSBME to engage in the practice of medicine in the state of Louisiana.

Qualifying Experience-experience used to qualify for any position that is counted by using one year equals 12 months of full-time work.

Seclusion Room-a room that may be secured in which one client may be placed for a short period of time due to the client's increased need for security and protection.

Shelter in place-when a center elects to stay in place rather than evacuate when located in the projected path of an approaching storm equal to or greater than tropical storm strength.

Sleeping Area-a single constructed room or area that contains a minimum of three individual beds.

Tropical Storm Strength-a tropical cyclone in which the maximum sustained surface wind speed (using the U.S. 1 minute average standard) ranges from 34 kt (39 mph 17.5 m/s) to 63 kt (73 mph 32.5 mps).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter B. Licensing

§5309. General Licensing Provisions

A. All entities providing crisis receiving services shall be licensed by the Department of Health and Hospitals (DHH). It shall be unlawful to operate as a CRC without a license issued by the department. DHH is the only licensing authority for CRCs in Louisiana.

B. A CRC license authorizes the center to provide crisis receiving services.

C. The following entities are exempt from licensure under this Chapter:

1. community mental health centers;
2. hospitals;
3. nursing homes;
4. psychiatric rehabilitative treatment facilities;
5. school-based health centers;
6. therapeutic group homes;
7. HCBS agencies;
8. substance abuse/addictive disorder facilities;
9. mental health clinics;

10. center-based respites;
11. MHEREs;
12. individuals certified by OBH to provide crisis intervention services; and
13. federally-owned facilities.

D. A CRC license is not required for individual or group practice of LMHPs providing services under the auspices of their individual professional license(s).

E. A CRC license shall:

1. be issued only to the person or entity named in the license application;
2. be valid only for the CRC to which it is issued and only for the geographic address of that CRC approved by DHH;
3. be valid for up to 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 expiration date listed on the license, unless timely renewed by the CRC;
5. be invalid if sold, assigned, donated or transferred, whether voluntary or involuntary; and
6. be posted in a conspicuous place on the licensed premises at all times.

F. In order for the CRC to be considered operational and retain licensed status, the following applicable operational requirements shall be met. The CRC shall:

1. be open and operating 24 hours per day, 7 days per week;
2. have the required staff on duty at all times to meet the needs of the clients; and
3. be able to screen and either admit or refer all potential clients at all times.

G. The licensed CRC shall abide by any state and federal law, rule, policy, procedure, manual or memorandum pertaining to crisis receiving centers.

H. The CRC shall permit designated representatives of the department, in the performance of their duties, to:

1. inspect all areas of the center's operations; and
2. conduct interviews with any staff member, client, or other person as necessary.

I. CRC Names

1. A CRC is prohibited from using:
 - a. the same name as another CRC;
 - b. a name that resembles the name of another center;
 - c. a name that may mislead the client or public into believing it is owned, endorsed, or operated by the state

of Louisiana when it is not owned, endorsed, or operated by the state of Louisiana.

J. Plan Review

1. Any entity that intends to operate as a CRC, except one that is converting from a MHERE or an existing CRC, shall complete the plan review process and obtain approval for its construction documents for the following types of projects:

- a. new construction;
- b. any entity that intends to operate and be licensed as a CRC in a physical environment that is not currently licensed as a CRC; or

c. major alterations.

2. The CRC shall submit one complete set of construction documents with an application and review fee to the OSFM for review. Plan review submittal to the OSFM shall be in accordance with R.S. 40:1574, and the current *Louisiana Administrative Code (LAC)* provisions governing fire protection for buildings (LAC 55:V.Chapter 3 as of this promulgation), and the following criteria:

a. any change in the type of license shall require review for requirements applicable at the time of licensing change;

b. requirements applicable to occupancies, as defined by the most recently state-adopted edition of *National*

Fire Protection Association (NFPA) 101, where services or treatment for four or more patients are provided;

c. requirements applicable to construction of business occupancies, as defined by the most recently state-adopted edition of NFPA 101; and

d. the specific requirements outlined in the Physical Environment requirements of this Chapter.

3. Construction Document Preparation

a. The CRC's construction documents shall be prepared by a Louisiana licensed architect or licensed engineer as governed by the licensing laws of the state for the type of work to be performed.

b. The CRC's construction documents shall be of an architectural or engineering nature and thoroughly illustrate an accurately drawn and dimensioned project that contains noted plans, details, schedules and specifications.

c. The CRC shall submit at least the following in the plan review process:

i. site plans;

ii. floor plan(s). These shall include architectural, mechanical, plumbing, electrical, fire protection, and if required by code, sprinkler and fire alarm plans;

iii. building elevations;

iv. room finish, door, and window schedules;

v. details pertaining to Americans with Disabilities Act (ADA) requirements; and

vi. specifications for materials.

4. Upon OSFM approval, the CRC shall submit the following to DHH:

a. the final construction documents approved by OSFM; and

b. OSFM's approval letter.

K. Waivers

1. The secretary of DHH may, within his/her sole discretion, grant waivers to building and construction guidelines which are not part of or otherwise required under the provisions of the State Sanitary Code.

2. In order to request a waiver, the CRC shall submit a written request to HSS that demonstrates:

a. how patient safety and quality of care offered is not comprised by the waiver;

b. the undue hardship imposed on the center if the waiver is not granted; and

c. the center's ability to completely fulfill all other requirements of service.

3. DHH will make a written determination of each waiver request.

4. Waivers are not transferable in an ownership change or geographic change of location, and are subject to review or revocation upon any change in circumstances related to the waiver.

5. DHH prohibits waivers for new construction.

L. A person or entity convicted of a felony or that has entered a guilty plea or a plea of nolo contendere to a felony is prohibited from being the CRC or owner, clinical supervisor or any managing employee of a CRC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5311. Initial Licensure Application Process

A. Any entity, organization or person interested in operating a crisis receiving center must submit a completed initial license application packet to the department for approval. Initial CRC licensure application packets are available from HSS.

B. A person/entity/organization applying for an initial license must submit a completed initial licensing application packet which shall include:

1. a completed CRC licensure application;

2. the non-refundable licensing fee as established by statute;

3. the approval letter of the architectural center plans for the CRC from OSFM, if the center must go through plan review;

4. the on-site inspection report with approval for occupancy by the OSFM, if applicable;

5. the health inspection report from the Office of Public Health (OPH);

6. a statewide criminal background check, including sex offender registry status, on all owners and managing employees;

7. except for governmental entities or organizations, 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 \$100,000;

b. general and professional liability insurance of at least \$500,000; and

c. worker's compensation insurance;

8. an organizational chart and names, including position titles, of key administrative personnel and the governing body;

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

10. a letter of intent indicating whether the center will serve minors or adults and the center's maximum number of beds;

11. if operated by a corporate entity, such as a corporation or an limited liability corporation (LLC), current proof of registration and status with the Louisiana Secretary of State's Office;

12. a letter of recommendation from the OBH regional office or its designee; and

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

C. If the initial licensing packet is incomplete, the applicant shall:

1. be notified of the missing information; and

2. be given 90 days from receipt of the notification to submit the additional requested information or the application will be closed.

D. Once the initial licensing application is approved by DHH, notification of such approval shall be forwarded to the applicant.

E. The applicant shall notify DHH of initial licensing survey readiness within the required 90 days of receipt of

application approval. If an applicant fails to notify DHH of initial licensing survey readiness within 90 days, the application will be closed.

F. If an initial licensing application is closed, an applicant who is still interested in operating a CRC must submit a:

1. new initial licensing packet; and
2. non-refundable licensing fee.

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

H. An entity that intends to become a CRC is prohibited from providing crisis receiving services to clients during the initial application process and prior to obtaining a license, unless it qualifies as one of the following facilities:

1. a hospital-based CRC;
2. an MHERE;
3. an MHERE that has communicated its intent to become licensed as a CRC in collaboration with the department prior to February 28, 2013; or
4. a center-based respite.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5313. Initial Licensing Surveys

A. Prior to the initial license being issued, an initial licensing survey shall be conducted on-site to ensure compliance with the licensing laws and standards.

B. If the initial licensing survey finds that the center 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 center.

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

D. In the event that the initial licensing survey finds that the center is noncompliant with any licensing laws or regulations, or any other required rules or regulations, and the department determines that the noncompliance does not present a threat to the health, safety or welfare of the clients, the department:

1. may issue a provisional initial license for a period not to exceed six months; and

2. shall require the center to submit an acceptable plan of correction.

a. The department may conduct a follow-up survey following the initial licensing survey after receipt of an acceptable plan of correction to ensure correction of the deficiencies. If all deficiencies are corrected on the follow-up survey, a full license will be issued.

b. If the center fails to correct the deficiencies, the initial license may be denied.

E. The initial licensing survey of a CRC shall be an announced survey. Follow-up surveys to the initial licensing surveys are unannounced surveys.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5315. Types of Licenses

A. The department has the authority to issue the following types of licenses:

1. Initial License

a. The department shall issue a full license to the CRC when the initial licensing survey indicates the center is compliant with:

- i. all licensing laws and regulations;
- ii. all other required statutes, laws, ordinances, rules, regulations; and
- iii. fees.

b. 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

a. The department may issue a provisional initial license to the CRC when the initial licensing survey finds that the CRC 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 clients.

i. The center shall submit a plan of correction to the department for approval, and the center shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license.

ii. If all such noncompliance or deficiencies are corrected on the follow-up survey, a full license will be issued.

iii. If all such noncompliance or deficiencies are not corrected on the follow-up survey, or new

deficiencies affecting the health, safety or welfare of a client are cited, the provisional license will expire and the center shall be required to begin the initial licensing process again by submitting a new initial license application packet and the appropriate licensing fee.

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

4. Provisional License. The department may issue a provisional license to a licensed CRC for a period not to exceed six months.

a. A provisional license may be issued for the following reasons:

i. more than five deficiencies cited during any one survey;

ii. four or more validated complaints in a consecutive 12-month period;

iii. a deficiency resulting from placing a client at risk for serious harm or death;

iv. failure to correct deficiencies within 60 days of notification of such deficiencies, or at the time of a follow-up survey; or

v. failure to be in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules regulations and fees at the time of renewal of the license.

b. The department may extend the provisional license for an additional period not to exceed 90 days in order for the center to correct the deficiencies.

c. The center shall submit an acceptable plan of correction to DHH and correct all noncompliance or deficiencies prior to the expiration of the provisional license.

d. The department shall conduct a follow-up survey of the CRC, either on-site or by administrative review, prior to the expiration of the provisional license.

e. If the follow-up survey determines that the CRC has corrected the deficiencies and has maintained compliance during the period of the provisional license, the department may issue a license that will expire on the expiration date of the most recent renewal or initial license.

f. The provisional license shall expire if:

i. the center fails to correct the deficiencies by the follow-up survey; or

ii. the center is cited with new deficiencies at the follow-up survey indicating a risk to the health, safety, or welfare of a client.

g. If the provisional license expires, the center shall be required to begin the initial licensing process by submitting a:

i. new initial license application packet;
and

ii. non-refundable fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5317. Changes in Licensee Information or Personnel

A. Within five days of the occurrence, the CRC shall report in writing to HSS the following changes to the:

1. CRC's entity name;
2. business name;
3. mailing address; or
4. telephone number;

B. Any change to the CRC's name or "doing business as" name requires a \$25 nonrefundable fee for the issuance of an amended license with the new name.

C. A CRC shall report any change in the CRC's key administrative personnel within five days of the change.

1. Key administrative personnel include the:

- a. CRC manager;
- b. clinical director; and
- c. nurse manager.

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

- a. name;
- b. date of appointment to the position; and
- c. qualifications.

D. Change of Ownership (CHOW)

1. A CRC shall report a CHOW in writing to the department at least five days prior to the change. Within five days following the change, the new owner shall submit;

- a. the legal CHOW document;
- b. all documents required for a new license;

and

- c. the applicable nonrefundable licensing fee.

2. A CRC that is under license revocation, provisional licensure, or denial of license renewal may not undergo a CHOW.

3. Once all application requirements are completed and approved by the department, a new license shall be issued to the new owner.

E. Change in Physical Address

1. A CRC that intends to change the physical address of its geographic location shall submit:

- a. a written notice to HSS of its intent to relocate;
- b. a plan review request;
- c. a new license application;
- d. a nonrefundable license fee; and
- e. any other information satisfying applicable licensing requirements.

2. In order to receive approval for the change of physical address, the CRC must:

- a. have a plan review approval;
- b. have approval from OSFM and OPH recommendation for license;
- c. have an approved license application packet;
- d. be in compliance with other applicable licensing requirements; and
- e. have an on-site licensing survey prior to relocation of the center.

3. Upon approval of the requirements for a change in physical address, the department shall issue a new license to the CRC.

F. Any request for a duplicate license shall be accompanied by a \$25 fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5319. Renewal of License

A. A CRC license expires on the expiration date listed on the license, unless timely renewed by the CRC.

B. To renew a license, the CRC shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet includes:

1. the license renewal application;
2. a current State Fire Marshal report;
3. a current OPH inspection report;
4. the non-refundable license renewal fee;
5. any other documentation required by the department; and

6. except for governmental entities or organizations, 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 \$100,000;

b. general and professional liability insurance of at least \$500,000; and

c. worker's compensation insurance.

C. The department may perform an on-site survey and inspection of the center upon renewal.

D. 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 CRC license upon the license's expiration.

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

F. If a licensed CRC has been issued a notice of license revocation or suspension, and the center's license is due for annual renewal, the department shall deny the license renewal application and shall not issue a renewal license.

G. Voluntary Non-Renewal of a License

1. If a center fails to timely renew its license, the license:

a. expires on the license's expiration date; and

b. is considered a non-renewal and voluntarily surrendered.

2. There is no right to an administrative reconsideration or appeal from a voluntary surrender or non-renewal of the license.

3. If a center fails to timely renew its license, the center shall immediately cease providing services, unless the center is actively treating clients, in which case the center shall:

a. within two days of the untimely renewal, provide written notice to HSS of the number of clients receiving treatment at the center;

b. within two days of the untimely renewal, provide written notice to each active client's prescribing physician and to every client, or, if applicable, the client's parent or legal guardian, of the following:

- i. voluntary non-renewal of license;
- ii. date of closure; and
- iii. plans for the transition of the client;

c. discharge and transition each client in accordance with this Chapter within 15 days of the license's expiration date; and

d. within 30 days of the license's expiration date, notify HSS of the location where records will be stored in compliance with federal and state laws and the name, address, and phone number of the person responsible for the records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5321. Licensing Surveys

A. The department may conduct periodic licensing surveys and other surveys as deemed necessary to ensure compliance with all laws, rules and regulations governing crisis receiving centers and to ensure client health, safety and welfare. These surveys may be conducted on-site or by administrative review and shall be unannounced.

B. If deficiencies are cited, the department may require the center to submit an acceptable plan of correction.

C. The department may conduct a follow-up survey following any survey in which deficiencies were cited to ensure correction of the deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254

and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5323. Complaint Surveys

A. Pursuant to R.S. 40:2009.13 et seq., the department has the authority to conduct unannounced complaint surveys on crisis receiving centers.

B. The department shall issue a statement of deficiency to the center if it finds a deficiency during the complaint survey.

C. Plan of Correction

1. Once the department issues a statement of deficiencies, the department may require the center to submit an acceptable plan of correction.

2. If the department determines that other action, such as license revocation, is appropriate, the center:

a. may not be required to submit a plan of correction, and

b. will be notified of such action.

D. Follow up surveys

1. The department may conduct a follow-up survey following a complaint survey in which deficiencies were cited to ensure correction of the deficient practices.

2. If the department determines that other action, such as license revocation, is appropriate:

- a. a follow-up survey is not necessary; and
- b. the center will be notified of such action.

E. Informal Reconsiderations of Complaint Surveys

1. A center that is cited with deficiencies found during a complaint survey has the right to request an informal reconsideration of the deficiencies. The center's written request for an informal reconsideration must be received by HSS within 10 calendar days of the center's receipt of the statement of deficiencies.

2. An informal reconsideration for a complaint survey or investigation shall be conducted by the department as a desk review.

3. Correction of the violation or deficiency shall not be the basis for the reconsideration.

4. The center shall be notified in writing of the results of the informal reconsideration.

5. Except for the right to an administrative appeal provided in R.S. 40:2009.16, the informal reconsideration shall constitute final action by the department regarding the complaint survey, and there shall be no further right to an administrative appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254

and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5325. Statement of Deficiencies

A. The CRC shall make any statement of deficiencies available to the public upon request after the center submits a plan of correction that is accepted by the department or 90 days after the statement of deficiencies is issued to the center, whichever occurs first.

B. Informal Reconsiderations.

1. Unless otherwise provided in statute or in this Chapter, a CRC has the right to an informal reconsideration of any deficiencies cited as a result of a survey.

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

3. The center's written request for informal reconsideration must be received by HSS within 10 calendar days of the center's receipt of the statement of deficiencies.

4. If a timely request for an informal reconsideration is received, the department shall schedule and conduct the informal reconsideration.

5. HSS shall notify the center in writing of the results of the informal reconsideration.

6. Except as provided pursuant to R.S. 40:2009.13 et seq., and as provided in this Chapter:

a. the informal reconsideration decision is the final administrative decision regarding the deficiencies; and

b. there is no right to an administrative appeal of such deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5327. Cessation of Business

A. Except as provided in Section §5407 of these licensing regulations, a license shall be immediately null and void if a provider ceases to operate.

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

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

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

E. A CRC that intends to cease operations shall:

1. provide 30 days advance written notice to

HSS and the active client, or if applicable, the client's parent(s), legal guardian, or designated representative; and

2. discharge and transition all clients in accordance with this Chapter.

F. The provider shall notify the department in writing 30 days prior to the effective date of the closure or cessation. In addition to the notice, the provider 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 provider'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;

4. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the

closing provider, at least 15 days prior to the effective date of closure.

G. If a CRC fails to follow these procedures, the department may prohibit the owners, managers, officers, directors, and/or administrators from opening, managing, directing, operating, or owning a CRC for a period of two years.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5329. Sanctions

A. The department may issue sanctions for deficiencies and violations of law, rules and regulations that may include, but are not limited to:

1. civil fines;
2. directed plans of correction;
3. provisional licensure; and/or
4. license revocation or denial of license renewal.

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

C. The department may deny an initial license, revoke a license or deny a license renewal for any of the following reasons, including but not limited to:

1. failure to be in compliance with the CRC licensing laws, rules and regulations;
2. failure to be in compliance with other required statutes, laws, ordinances, rules or regulations;
3. failure to comply with the terms and provisions of a settlement agreement or education letter;
4. cruelty or indifference to the welfare of the clients;
5. misappropriation or conversion of the property of the clients;
6. permitting, aiding or abetting the unlawful, illicit or unauthorized use of drugs or alcohol within the center of a program;
7. documented information of past or present conduct or practices of an employee or other staff which are detrimental to the welfare of the clients, including but not limited to:
 - a. illegal activities; or
 - b. coercion or falsification of records;
8. 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;

9. failure to notify the proper authorities, as required by federal or state law or regulations, of all suspected cases of the acts outlined in subsection D.8 above;

10. 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 center 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;

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

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

13. the CRC, an owner, officer, member, manager, administrator, Medical Director, managing employee, or clinical supervisor has pled guilty or nolo contendere to a felony, or is convicted of a felony, as documented by a certified copy of the record of the court;

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

15. failure to allow or refusal to allow the department to conduct an investigation or survey or to interview center staff or clients;

16. interference with the survey process, including but not limited to, harassment, intimidation, or threats against the survey staff;

17. failure to allow or refusal to allow access to center or client records by authorized departmental personnel;

18. bribery, harassment, intimidation or solicitation of any client designed to cause that client to use or retain the services of any particular CRC;

19. failure to repay an identified overpayment to the department or failure to enter into a payment agreement to repay such overpayment;

20. failure to timely pay outstanding fees, fines, sanctions or other debts owed to the department; or

21. failure to uphold client rights that may have resulted or may result in harm, injury or death of a client.

D. If the department determines that the health and safety of a client or the community may be at risk, 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 department will provide written notification to the center if the imposition of the action will be immediate.

E. Any owner, officer, member, manager, director or administrator of such CRC is prohibited from owning, managing, directing or operating another CRC for a period of two years from the date of the final disposition of any of the following:

1. license revocation;
2. denial of license renewal; or
3. the license is surrendered in lieu of adverse action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5331. Notice and Appeal of License Denial, License Revocation and Denial of License Renewal

A. The department shall provide written notice to the CRC of the following:

1. license denial;
2. license revocation; or
3. denial of license renewal.

B. The CRC has the right to an administrative reconsideration of the license denial, license revocation or denial of license renewal.

1. If the CRC chooses to request an administrative reconsideration, the request must:

- a. be in writing addressed to HSS;
- b. be received by HSS within 15 calendar days of the center's receipt of the notice of the license denial, license revocation or denial of license renewal; and
- c. include any documentation that demonstrates that the determination was made in error.

2. If a timely request for an administrative reconsideration is received, HSS shall provide the center with written notification of the date of the administrative reconsideration.

3. The center may appear in person at the administrative reconsideration and may be represented by counsel.

4. HSS shall not consider correction of a deficiency or violation as a basis for the reconsideration.

5. The center will be notified in writing of the results of the administrative reconsideration.

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

D. The CRC has a right to an administrative appeal of the license denial, license revocation or denial of license renewal.

1. If the CRC chooses to request an administrative appeal, the request must:

- a. be received by the DAL within 30 days of:
 - i. the receipt of the results of the administrative reconsideration, or
 - ii. the receipt of the notice of the license denial, revocation or denial of license renewal, if the CRC chose to forego its rights to an administrative reconsideration;
- b. be in writing;
- c. include any documentation that demonstrates that the determination was made in error; and

d. include the basis and specific reasons for the appeal.

2. The DAL shall not consider correction of a violation or a deficiency as a basis for the administrative appeal.

E. Administrative Appeals of License Revocations and Denial of License Renewals

1. If a timely request for an administrative appeal is received by the DAL, the center will be allowed to continue to operate and provide services until the DAL issues a final administrative decision.

F. Administrative Appeals of Immediate License Revocations or Denial of License Renewals

1. If DHH imposes an immediate license revocation or denial of license renewal, DHH may enforce the revocation or denial of license renewal during the appeal process.

2. If DHH chooses to enforce the revocation or denial of license renewal during the appeal process, the center will not be allowed to operate and/or provide services during the appeal process.

G. If a licensed CRC has a pending license revocation, and the center's license is due for annual renewal, the department shall deny the license renewal application. The

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

H. Administrative Hearings of License Denials, Denial of License Renewals and License Revocations

1. If a timely administrative appeal is submitted by the center, the DAL shall conduct the hearing in accordance with the Administrative Procedure Act.

2. If the final DAL decision is to reverse the license denial, denial of license renewal or license revocation, the center's license will be re-instated upon the payment of any outstanding fees or sanctions fees due to the department.

3. If the final DAL decision is to affirm the denial of license renewal or license revocation, the center shall:

a. discharge and transition any and all clients receiving services according to the provisions of this Chapter;

b. comply with the requirements governing cessation of business in this Chapter; and

c. notify HSS within 10 days of closure of the location where the records will be stored and the name, address and phone number of the person responsible for the records.

I. There is no right to an administrative reconsideration or an administrative appeal of the issuance of a provisional initial license to a new CRC, or the issuance of a provisional license to a licensed CRC.

J. Administrative Reconsiderations and Administrative Appeals of the Expiration of a Provisional Initial License or Provisional License

1. A CRC with a provisional initial license, or a provisional license that expires due to deficiencies cited at the follow-up survey, has the right to request an administrative reconsideration and/or an administrative appeal of the deficiencies cited at the follow-up survey.

2. The center's request for an administrative reconsideration must:

- a. be in writing;
- b. be received by the HSS within five calendar days of receipt of the notice of the results of the follow-up survey from the department; and
- c. include the basis and specific reasons for the administrative reconsideration.

3. Correction of a violation or deficiency after the follow-up survey will not be considered as the basis for the administrative reconsideration or for the administrative appeal.

4. The issue to be decided in the administrative reconsideration and the administrative appeal is whether the deficiencies were properly cited at the follow-up survey.

5. The CRC's request for an administrative appeal must:

- a. be in writing;
- b. be submitted to the DAL within 15 calendar days of receipt of the notice of the results of the follow-up survey from the department; and
- c. include the basis and specific reasons for the appeal.

6. A center with a provisional initial license or a provisional license that expires under the provisions of this Chapter shall cease providing services and discharge or transition clients unless the DAL or successor entity issues a stay of the expiration.

a. To request a stay, the center must submit its written application to the DAL at the time the administrative appeal is filed.

b. The DAL shall hold a contradictory hearing on the stay application. If the center shows that there is no potential harm to the center's clients, then the DAL shall grant the stay.

7. Administrative Hearing

a. If the CRC submits a timely request for an administrative hearing, the DAL shall conduct the hearing in accordance with the Administrative Procedure Act.

b. If the final DAL decision is to remove all deficiencies, the department will reinstate the center's license

upon the payment of any outstanding fees and settlement of any outstanding sanctions due to the department.

c. If the final DAL decision is to uphold the deficiencies, thereby affirming the expiration of the provisional license, the center shall discharge any and all clients receiving services in accordance with the provisions of this chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter C. Organization and Administration

§5337. General Provisions

A. Purpose and Organizational Structure. The CRC shall develop and implement a statement maintained by the center that clearly defines the purpose of the CRC. The statement shall include:

1. the program philosophy;
2. the program goals and objectives;
3. the ages, sex and characteristics of clients accepted for care;
4. the geographical area served;
5. the types of services provided;
6. the admission criteria;

7. the needs, problems, situations or patterns addressed by the provider's program; and

8. an organizational chart of the provider which clearly delineates the lines of authority.

B. The CRC shall provide supervision and services that:

1. conform to the department's rules and regulations;
2. meet the needs of the client as identified and addressed in the client's treatment plan;
3. protect each client's rights; and
4. promote the social, physical and mental well-being of clients.

C. The CRC shall maintain any information or documentation related to compliance with this Chapter and shall make such information or documentation available to the department.

D. Required Reporting. The center shall report the following incidents in writing to HSS within 24 hours of discovery:

1. any disaster or emergency or other unexpected event that causes significant disruption to program operations;
2. any death or serious injury of a client:
 - a. that may potentially be related to program activities; or

b. who at the time of his/her death or serious injury was an active client of the center; and

3. allegations of client abuse, neglect, exploitation and misappropriation of client funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5339. Governing Body

A. A crisis receiving center shall have the following:

1. an identifiable governing body with responsibility for and authority over the policies and operations of the center;
2. documents identifying the governing body's:
 - a. members;
 - b. contact information for each member;
 - c. terms of membership;
 - d. officers; and
 - e. terms of office for each officer.

B. The governing body of a CRC shall:

1. be comprised of one or more persons;
2. hold formal meetings at least twice a year;
3. maintain written minutes of all formal meetings of the governing body; and

4. maintain by-laws specifying frequency of meetings and quorum requirements.

C. The responsibilities of a CRC's governing body include, but are not limited to:

1. ensuring the center's compliance with all federal, state, local and municipal laws and regulations as applicable;

2. maintaining funding and fiscal resources to ensure the provision of services and compliance with this Chapter;

3. reviewing and approving the center's annual budget;

4. designating qualified persons to act as CRC manager, clinical director and nurse manager, and delegating these persons the authority to manage the center;

5. at least once a year, formulating and reviewing, in consultation with the CRC manager, clinical director and nurse manager, written policies concerning:

- a. the provider's philosophy and goals;
- b. current services;
- c. personnel practices and job descriptions;

and

- d. fiscal management;

6. evaluating the performances of the CRC manager, clinical director and nurse manager at least once a year;

7. meeting with designated representatives of the department whenever required to do so;

8. informing the department, or its designee, prior to initiating any substantial changes in the services provided by the center; and

9. ensuring statewide criminal background checks are conducted as required in this Chapter and state law.

D. A governing body shall ensure that the CRC maintains the following documents:

1. minutes of formal meetings and by-laws of the governing body;

2. documentation of the center's authority to operate under state law;

3. all leases, contracts and purchases-of-service agreements to which the center is a party;

4. insurance policies;

5. annual operating budgets;

6. a master list of all the community resources used by the center;

7. documentation of ownership of the center;

8. documentation of all accidents, incidents, abuse/neglect allegations; and

9. a daily census log of clients receiving services.

E. The governing body of a CRC shall ensure the following with regards to contract agreements to provide services for the center.

1. The agreement for services is in writing.

2. Every written agreement is reviewed at least once a year.

3. The deliverables are being provided as per the agreement.

4. The center retains full responsibility for all services provided by the agreement.

5. All services provided by the agreement shall:

a. meet the requirements of all laws, rules and regulations applicable to a CRC; and

b. be provided only by qualified providers and personnel in accordance with this Chapter.

6. If the agreement is for the provision of direct care services, the written agreement specifies the party responsible for screening, orientation, ongoing training and development of and supervision of the personnel providing services pursuant to the agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health

and Hospitals, Bureau of Health Services Financing, LR 41:

§5341. Policies and Procedures

A. Each CRC shall develop, implement and comply with center-specific written policies and procedures governing all requirements of this chapter, including, but not limited to the following areas:

1. protection of the health, safety, and wellbeing of each client;
2. providing treatment in order for clients to achieve optimal stabilization;
3. access to care that is medically necessary;
4. uniform screening for patient placement and quality assessment, diagnosis, evaluation, and referral to appropriate level of care;
5. operational capability and compliance;
6. delivery of services that are cost-effective and in conformity with current standards of practice;
7. confidentiality and security of all client information, records and files;
8. prohibition of illegal or coercive inducement, solicitation and kickbacks;
9. client rights;
10. grievance process;
11. emergency preparedness;

12. abuse and neglect;
13. incidents and accidents, including medical emergencies;
14. universal precautions;
15. documentation of services;
16. admission, including descriptions of screening and assessment procedures;
17. transfer and discharge procedures;
18. behavior management;
19. infection control;
20. transportation;
21. quality assurance;
22. medical and nursing services;
23. emergency care;
24. photography and video of clients; and
25. contraband.

B. A center shall develop, implement and comply with written personnel policies in the following areas:

1. recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of staff including volunteers;
2. written job descriptions for each staff position, including volunteers;

3. conducting staff health assessments that are consistent with OPH guidelines and indicate whether, when and how staff have a health assessment;
4. an employee grievance procedure;
5. abuse reporting procedures that require:
 - a. staff to report any allegations of abuse or mistreatment of clients pursuant to state and federal law; and
 - b. staff to report any allegations of abuse, neglect, exploitation or misappropriation of a client to DHH;
6. a non-discrimination policy;
7. a policy that requires all employees to report any signs or symptoms of a communicable disease or personal illness to their supervisor, CRC manager or clinical director as soon as possible to prevent the spread of disease or illness to other individuals;
8. procedures to ensure that only qualified personnel are providing care within the scope of the center's services;
9. policies governing staff conduct and procedures for reporting violations of laws, rules, and professional and ethical codes of conduct;
10. policies governing staff organization that pertain to the center's purpose, setting and location;

11. procedures to ensure that the staff's credentials are verified, legal and from accredited institutions; and

12. obtaining criminal background checks.

C. A CRC shall comply with all federal and state laws, rules and regulations in the implementation of its policies and procedures.

D. Center Rules

1. A CRC shall:

a. have a clearly written list of rules governing client conduct in the center;

b. provide a copy of the center's rules to all clients and, where appropriate, the client's parent(s) or legal guardian(s) upon admission; and

c. post the rules in an accessible location in the center.

E. The facility shall develop, implement and comply with policies and procedures that:

1. give consideration to the client's chronological and developmental age, diagnosis, and severity of illness when assigning a sleeping area or bedroom;

2. ensure that each client has his/her own bed; and

3. prohibit mobile homes from being used as client sleeping areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254

and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter D. Provider Operations

§5347. Client Records

A. The CRC shall ensure:

1. a single client record is maintained for each client according to current professional standards;
2. policies and procedures regarding confidentiality of records, maintenance, safeguarding and storage of records are developed, implemented and followed;
3. safeguards are in place to prevent unauthorized access, loss, and destruction of client records;
4. when electronic health records are used, the most up to date technologies and practices are used to prevent unauthorized access;
5. records are kept confidential according to federal and state laws and regulations;
6. records are maintained at the center where the client is currently active and for six months after discharge;
7. six months post-discharge, records may be transferred to a centralized location for maintenance;
8. client records are directly and readily accessible to the clinical staff caring for the client;

9. a system of identification and filing is maintained to facilitate the prompt location of the client's record;

10. all record entries are dated, legible and authenticated by the staff person providing the treatment, as appropriate to the media;

11. records are disposed of in a manner that protects client confidentiality;

12. a procedure for modifying a client record in accordance with accepted standards of practice is developed, implemented and followed;

13. an employee is designated as responsible for the client records;

14. disclosures are made in accordance with applicable state and federal laws and regulations; and

15. client records are maintained at least 6 years from discharge.

B. Record Contents. The center shall ensure that client records, at a minimum, contain the following:

1. the treatment provided to the client;
2. the client's response to the treatment;
3. other information, including:
 - a. all screenings and assessments;
 - b. provisional diagnoses;

- c. referral information;
 - d. client information/data such as name, race, sex, birth date, address, telephone number, social security number, school/employer, and next of kin/emergency contact;
 - e. documentation of incidents that occurred;
 - f. attendance/participation in services/activities;
 - g. treatment plan that includes the initial treatment plan plus any updates or revisions;
 - h. lab work (diagnostic laboratory and other pertinent information, when indicated);
 - i. documentation of the services received prior to admission to the CRC as available;
 - j. consent forms;
 - k. physicians' orders;
 - l. records of all medicines administered, including medication types, dosages, frequency of administration, the individual who administered each dose and response to medication given on an as needed basis;
 - m. discharge summary;
 - n. other pertinent information related to client as appropriate; and
4. legible progress notes that are documented in accordance with professional standards of practice and:

- a. document implementation of the treatment plan and results;
- b. document the client's level of participation; and
- c. are completed upon delivery of services by the direct care staff to document progress toward stated treatment plan goals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5349. Client Funds and Possessions

- A. The CRC shall:
 1. maintain and safeguard all possessions, including money, brought to the center by clients;
 2. maintain an inventory of each client's possessions from the date of admission; and
 3. return all possessions to the client upon the client's discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5351. Quality Improvement Plan

- A. A CRC shall have a quality improvement (QI) plan that:
1. assures that the overall function of the center is in compliance with federal, state, and local laws;
 2. is meeting the needs of the citizens of the area;
 3. is attaining the goals and objectives established in the center's mission statement;
 4. maintains systems to effectively identify issues that require quality monitoring, remediation and improvement activities;
 5. improves individual outcomes and individual satisfaction;
 6. includes plans of action to correct identified issues that:
 - a. monitor the effects of implemented changes;and
 - b. result in revisions to the action plan.
 7. is updated on an ongoing basis to reflect changes, corrections and other modifications.
- B. The QI plan shall include:
1. a sample review of client case records on a quarterly basis to ensure that:
 - a. individual treatment plans are up to date;
 - b. records are accurate, complete and current;and

c. the treatment plans have been developed and implemented as ordered.

2. a process for identifying on a quarterly basis the risk factors that affect or may affect the health, safety and/or welfare of the clients that includes, but is not limited to:

- a. review and resolution of grievances;
- b. incidents resulting in harm to client or elopement;
- c. allegations of abuse, neglect and exploitation; and
- d. seclusion and restraint.

3. a process to correct problems identified and track improvements; and

4. a process of improvement to identify or trigger further opportunities for improvement.

C. The QI plan shall establish and implement an internal evaluation procedure to:

- 1. collect necessary data to formulate a plan; and
- 2. hold quarterly staff committee meetings comprised of at least three staff members, one of whom is the CRC manager, nurse manager or clinical director, who evaluate the QI process and activities on an ongoing basis.

D. The CRC shall maintain documentation of the most recent 12 months of the QI activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter E. Personnel

§5357. General Requirements

A. The CRC shall maintain an organized professional staff who is accountable to the governing body for the overall responsibility of:

1. the quality of all clinical care provided to clients;
2. the ethical conduct and professional practices of its members;
3. compliance with policies and procedures approved by the governing body; and
4. the documented staff organization that pertains to the center's setting and location.

B. The direct care staff of a CRC shall:

1. have the appropriate qualifications to provide the services required by its clients' treatment plans; and
2. not practice beyond the scope of his/her license, certification or training.

C. The CRC shall ensure that:

1. qualified direct care staff members are present with the clients as necessary to ensure the health, safety and well-being of clients;
2. staff coverage is maintained in consideration of:
 - a. acuity of the clients being serviced;
 - b. the time of day;
 - c. the size, location, physical environment and nature of the center;
 - d. the ages and needs of the clients; and
 - e. ensuring the continual safety, protection, direct care and supervision of clients;
3. all direct care staff have current certification in cardiopulmonary resuscitation; and
4. applicable staffing requirements in this Chapter are maintained.

D. Criminal Background Checks

1. For any CRC that is treating minors, the center shall obtain a criminal background check on all staff. The background check must be conducted within 90 days prior to hire or employment in the manner required by RS 15:587.1.
2. For any CRC that is treating adults, the center shall obtain a statewide criminal background check on all unlicensed direct care staff by an agency authorized by the

Office of State Police to conduct criminal background checks. The background check must be conducted within 90 days prior to hire or employment.

3. A CRC that hires a contractor to perform work which does not involve any contact with clients is not required to conduct a criminal background check on the contractor if accompanied at all times by a staff person when clients are present in the center.

E. The CRC shall review the Louisiana State Nurse Aide Registry and the Louisiana Direct Service Worker Registry to ensure that each unlicensed direct care staff member prior to hire or employment and at least annually thereafter, does not have a negative finding on either registry.

F. Prohibitions

1. The center providing services to minors is prohibited from knowingly employing or contracting with, or retaining the employment of or contract with, a person who supervises minors or provides direct care to minors who:

a. has entered a plea of guilty or nolo contendere, no contest, or has been convicted of a felony involving:

i. violence, abuse or neglect against a person;

ii. possession, sale, or distribution of illegal drugs;

iii. sexual misconduct and/or any crimes that requires the person to register pursuant to the Sex Offenders Registration Act;

iv. misappropriation of property belonging to another person; or

v. a crime of violence.

b. has a finding placed on the Louisiana State Nurse Aide Registry or the Louisiana Direct Service Worker Registry.

2. The center providing services to adults is prohibited from knowingly employing or contracting with, or retaining the employment of or contract with, a member of the direct care staff who:

a. has entered a plea of guilty or nolo contendere, no contest, or has been convicted of a felony involving:

i. abuse or neglect of a person;

ii. possession, sale, or distribution of a controlled dangerous substance

(a). within the last five years, or

(b). when the employee/contractor is under the supervision of the Louisiana Department of Public

Safety and Corrections, the U.S. Department of Probation and Parole or the U.S. Department of Justice;

iii. sexual misconduct and/or any crimes that requires the person to register pursuant to the Sex Offenders Registration Act;

iv. misappropriation of property belonging to another person;

(a). within the last five years; or

(b). when the employee is under the supervision of the Louisiana Department of Public Safety and Corrections, the U.S. Department of Probation and Parole or the U.S. Department of Justice; or

v. a crime of violence.

b. has a finding placed on the Louisiana State Nurse Aide Registry or the Louisiana Direct Service Worker Registry.

G. Orientation and In-Service Training

1. All staff shall receive orientation prior to providing services and/or working in the center.

2. All direct care staff shall receive orientation, at least 40 hours of which is in crisis services and intervention training.

3. All direct care staff and other appropriate personnel shall receive in-service training at least once a

year, at least twelve hours of which is in crisis services and intervention training.

4. All staff shall receive in-service training according to center policy at least once a year and as deemed necessary depending on the needs of the clients.

5. The content of the orientation and in-service training shall include the following:

- a. confidentiality;
- b. grievance process;
- c. fire and disaster plans;
- d. emergency medical procedures;
- e. organizational structure and reporting relationships;
- f. program philosophy;
- g. personnel policies and procedures;
- h. detecting and mandatory reporting of client abuse, neglect or misappropriation;
- i. an overview of mental health and substance abuse, including an overview of behavioral health settings and levels of care;
- j. detecting signs of illness or dysfunction that warrant medical or nursing intervention;
- k. side effects and adverse reactions commonly caused by psychotropic medications;

- l. basic skills required to meet the health needs and challenges of the client;
- m. components of a crisis cycle;
- n. recognizing the signs of anxiety and escalating behavior;
- o. crisis intervention and the use of non-physical intervention skills, such as de-escalation, mediation conflict resolution, active listening and verbal and observational methods to prevent emergency safety situations;
- p. therapeutic communication;
- q. client's rights;
- r. duties and responsibilities of each employee;
- s. standards of conduct required by the center including professional boundaries;
- t. information on the disease process and expected behaviors of clients;
- u. levels of observation;
- v. maintaining a clean, healthy and safe environment and a safe and therapeutic milieu;
- w. infectious diseases and universal precautions;
- x. overview of the Louisiana licensing standards for crisis receiving centers;

y. basic emergency care for accidents and emergencies until emergency medical personnel can arrive at center; and

z. regulations, standards and policies related to seclusion and restraint, including the safe application of physical and mechanical restraints and physical assessment of the restrained client.

6. The in-services shall serve as a refresher for subjects covered in orientation.

7. The orientation and in-service training shall:

a. be provided only by staff who are qualified by education, training, and experience;

b. include training exercises in which direct care staff members successfully demonstrate in practice the techniques they have learned for managing the delivery of patient care services; and

c. require the direct care staff member to demonstrate competency before providing services to clients.

I. Staff Evaluation

1. The center shall complete an annual performance evaluation of all employees.

2. The center's performance evaluation procedures for employees who provide direct care to clients shall address

the quality and nature of the employee's relationships with clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5359. Personnel Qualifications and Responsibilities

- A. A CRC shall have the following minimum staff:
 - 1. a CRC manager who:
 - a. has a minimum of a master's degree in a human services field or is a licensed registered nurse;
 - b. has at least one year of qualifying experience in the field of behavioral health;
 - c. is a full time employee; and
 - d. has the following assigned responsibilities:
 - i. supervise and manage the day to day operation of the CRC;
 - ii. review reports of all accidents/incidents occurring on the premises and identify hazards to the clinical director;
 - iii. participate in the development of new programs and modifications;

iv. perform programmatic duties and/or make clinical decisions only within the scope of his/her licensure; and

v. shall not have other job responsibilities that impede the ability to maintain the administration and operation of the CRC.

2. a clinical director who is:

a. a physician licensed in the state of Louisiana with expertise in managing psychiatric and medical conditions in accordance with the LSBME; or

b. a psychiatric and mental health nurse practitioner who has an unrestricted APRN license with prescriptive authority, and who is in collaborative practice with a Louisiana licensed physician for consultation in accordance with the Louisiana State Board of Nursing (LSBN) requirements;

c. responsible for developing and implementing policies and procedures and oversees clinical services and treatment;

d. on duty as needed and on call and available at all times;

3. a nurse manager who:

a. holds a current unrestricted license as a registered nurse (RN) in the state of Louisiana;

- b. shall be a full time employee;
 - c. has been a RN for a minimum of five years;
 - d. has three years of qualifying experience providing direct care to patients with behavioral health diagnoses and at least one year qualifying experience providing direct care to medical/surgical inpatients;
 - e. has the following responsibilities:
 - i. develop and ensure implementation of nursing policies and procedures;
 - ii. provide oversight of nursing staff and the services they provide;
 - iii. ensure that any other job responsibilities will not impede the ability to provide oversight of nursing services.
4. authorized licensed prescriber who:
- a. shall be either:
 - i. a physician licensed in the state of Louisiana with expertise in managing psychiatric and medical conditions in accordance with the LSBME; or
 - ii. a psychiatric and mental health nurse practitioner who has an unrestricted license and prescriptive authority and a licensed physician on call at all times to be available for consultation;
 - b. is on call at all times;

c. is responsible for managing the psychiatric and medical care of the clients;

5. licensed mental health professionals (LMHPs):

a. the center shall maintain a sufficient number of LMHPs to meet the needs of its clients.

b. there shall be at least one LMHP on duty during hours of operation.

c. the LMHP shall have one year of qualifying experience in direct care to clients with behavioral health diagnoses and shall have the following responsibilities:

i. provide direct care to clients and may serve as primary counselor to specified caseload;

ii. serve as a resource person for other professionals and unlicensed personnel in their specific area of expertise;

iii. attend and participate in individual care conferences, treatment planning activities, and discharge planning; and

iv. function as the client's advocate in all treatment decisions.

6. nurses:

a. the center shall maintain licensed nursing staff to meet the needs of its clients.

b. all nurses shall have:

i. a current nursing license from the state of Louisiana;

ii. at least one year qualifying experience in providing direct care to clients with a behavioral health diagnosis; and

iii. at least one year qualifying experience providing direct care to medical/surgical inpatients.

c. the nursing staff has the following responsibilities:

i. provide nursing services in accordance with accepted standards of practice, the CRC policies and the individual treatment plans of the clients;

ii. supervise non-licensed clinical personnel;

iii. each CRC shall have at least one RN on duty at the CRC during hours of operation; and

iv. as part of orientation, all nurses shall receive 24 hours of education focusing on psychotropic medications, their side effects and possible adverse reactions. All nurses shall receive training in psychopharmacology for at least four hours per year.

B. Optional Staff

1. The CRC shall maintain non-licensed clinical staff as needed who shall:

- a. be at least 18 years of age;
- b. have a high school diploma or GED;
- c. provide services in accordance with CRC policies, documented education, training and experience, and the individual treatment plans of the clients; and
- d. be supervised by the nursing staff.

2. Volunteers

- a. The CRC that utilizes volunteers shall ensure that each volunteer:
 - i. meets the requirements of non-licensed clinical staff;
 - ii. is screened and supervised to protect clients and staff;
 - iii. is oriented to facility, job duties, and other pertinent information;
 - iv. is trained to meet requirements of duties assigned;
 - v. is given a written job description or written agreement;
 - vi. is identified as a volunteer;
 - vii. is trained in privacy measures; and
 - viii. is required to sign a written confidentiality agreement.

b. The facility shall designate a volunteer coordinator who:

- i. has the experience and training to supervise the volunteers and their activities; and
- ii. is responsible for selecting, evaluating and supervising the volunteers and their activities.

3. If a CRC utilizes student interns, it shall ensure that each student intern:

- a. has current registration with the appropriate Louisiana board when required or educational institution, and is in good standing at all times;
- b. provides direct client care utilizing the standards developed by the professional board;
- c. provides care only under the direct supervision of an individual authorized in accordance with acceptable standards of practice; and
- d. provides only those services for which the student has been properly trained and deemed competent to perform.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5361. Personnel Records

A. A CRC shall maintain a personnel file for each employee and direct care staff member in the center. Each record shall contain:

1. the application for employment and/or resume, including contact information and employment history for the preceding five years, if applicable;
2. reference letters from former employer(s) and personal references or written documentation based on telephone contact with such references;
3. any required medical examinations or health screens;
4. evidence of current applicable professional credentials/certifications according to state law or regulations;
5. annual performance evaluations to include evidence of competency in performing assigned tasks;
6. personnel actions, other appropriate materials, reports and notes relating to the individual's employment;
7. the staff member's starting and termination dates;
8. proof of orientation, training and in-services;
9. results of criminal background checks, if required;
10. job descriptions and performance expectations;

11. a signed attestation annually by each member of the direct care staff indicating that he/she has not been convicted of or pled guilty or nolo contendere to a crime, other than traffic violations; and

12. written confidentiality agreement signed by the personnel every twelve months.

B. A CRC shall retain personnel files for at least three years following termination of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter F. Admission, Transfer and Discharge

§5367. Admission Requirements

A. A CRC shall not refuse admission to any individual on the grounds of race, national origin, ethnicity or disability.

B. A CRC shall admit only those individuals whose needs, pursuant to the screening, can be fully met by the center.

C. A CRC shall expect to receive individuals who present voluntarily to the unit and/or individuals who are brought to the unit under an OPC, CEC, or PEC.

D. The CRC shall develop and implement policies and procedures for diverting individuals when the CRC is at capacity, that shall include:

1. notifying emergency medical services (EMS), police and the OBH or its designee in the service area;
2. conducting a screening on each individual that presents to the center; and
3. safely transferring the presenting individual to an appropriate provider;

E. Pre-Admission Requirements

1. Prior to admission, the center shall attempt to obtain documentation from the referring emergency room, agency, facility or other source, if available, that reflects the client's condition.

2. The CRC shall conduct a screening on each individual that presents for treatment that:

- a. is performed by a RN who may be assisted by other personnel;
- b. is conducted within 15 minutes of entering the center;
- c. determines eligibility and appropriateness for admission;
- d. assesses whether the client is an imminent danger to self or others; and
- e. includes the following:
 - i. taking vital signs;
 - ii. breath analysis and urine drug screen

- iii. brief medical history including assessment of risk for imminent withdrawal; and
- iv. clinical assessment of current condition to determine primary medical problem(s) and appropriateness of admission to CRC or transfer to other medical provider;

F. Admission Requirements

1. The CRC shall establish the CRC's admission requirements that include:
 - a. availability of appropriate physical accommodations;
 - b. legal authority or voluntary admission; and
 - c. written documentation that client and/or family if applicable, consents to treatment.
2. The CRC shall develop, implement and comply with admission criteria that, at a minimum, include the following inclusionary and exclusionary requirements:
 - a. Inclusionary: the client is experiencing a seriously acute psychological/emotional change which results in a marked increase in personal distress and exceeds the abilities and resources of those involved to effectively resolve it;
 - b. Exclusionary: the client is experiencing an exacerbation of a chronic condition that does not meet the inclusionary criteria listed in §5367.F.2.a.

3. If the client qualifies for admission into the CRC, the center shall ensure that a behavioral health assessment is conducted:

- a. by a LMHP;
- b. within 4 hours of being received in the unit unless extenuating or emergency circumstances preclude the delivery of this service within this time frame; and
- c. includes the following:
 - i. a history of previous emotional, behavioral and substance use problems and treatment;
 - ii. a social assessment to include a determination of the need for participation of family members or significant others in the individual's treatment; the social, peer-group, and environmental setting from which the person comes; family circumstances; current living situation; employment history; social, ethnic, cultural factors; and childhood history; current or pending legal issues including charges, pending trial, etc.;
 - iii. an assessment of the individual's ability and willingness to cooperate with treatment;
 - iv. an assessment for any possible abuse or neglect; and

v. review of any laboratory results, results of breath analysis and urine drug screens on patients and the need for further medical testing.

4. The CRC shall ensure that a nursing assessment is conducted that is:

a. begun at time of admission and completed within 24 hours; and

b. conducted by a RN with the assistance of other personnel.

5. The center shall ensure that a physical assessment is conducted by an authorized licensed prescriber within 12 hours of admission that includes:

a. a complete medical history;

b. direct physical examination; and

c. documentation of medical problems.

6. The authorized license prescriber, LMHP and/or RN shall conduct a review of the medical and psychiatric records of current and past diagnoses, laboratory results, treatments, medications and dose response, side-effects and compliance with:

a. the review of data reported to clinical director;

b. synthesis of data received is incorporated into treatment plan by clinical director;

G. Client/Family Orientation. Upon admission or as soon as possible, each facility shall ensure that a confidential and efficient orientation is provided to the client and the client's designated representative, if applicable, concerning:

1. visitation;
2. physical layout of the center;
3. safety;
4. center rules; and
5. all other pertinent information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5369. Discharge, Transfer and Referral Requirements

A. The CRC shall develop, implement and comply with policies and procedures that address when and how clients will be discharged and referred or transferred to other providers in accordance with applicable state and federal laws and regulations.

B. Discharge planning shall begin upon admission.

C. The CRC shall ensure that a client is discharged:

1. when the client's treatment goals are achieved, as documented in the client's treatment plan;

2. when the client's issues or treatment needs are not consistent with the services the center is authorized or able to provide; or

3. according to the center's established written discharge criteria.

D. Discharge Plan. Each CRC client shall have a written discharge plan to provide continuity of services that includes:

1. the client's transfer or referral to outside resources, continuing care appointments, and crisis intervention assistance;

2. documented attempts to involve the client and the family or an alternate support system in the discharge planning process;

3. the client's goals or activities to sustain recovery;

4. signature of the client or, if applicable, the client's parent or guardian, with a copy provided to the individual who signed the plan;

5. name, dosage and frequency of client's medications ordered at the time of discharge;

6. prescriptions for medications ordered at time of discharge; and

7. the disposition of the client's possessions, funds and/or medications, if applicable.

E. The discharge summary shall be completed within 30 days and include:

1. the client's presenting needs and issues identified at the time of admission;
2. the services provided to the client;
3. the center's assessment of the client's progress towards goals;
4. the circumstances of discharge; and
5. the continuity of care recommended following discharge, supporting documentation and referral information.

F. Transfer Process. The CRC responsible for the discharge and transfer of the client shall:

1. request and receive approval from the receiving facility prior to transfer;
2. notify the receiving facility prior to the arrival of the client of any significant medical/psychiatric conditions/complications or any other pertinent information that will be needed to care for the client prior to arrival; and
3. transfer all requested client information and documents upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter G. Program Operations

§5375. Treatment Services

A. A CRC shall:

1. operate 24 hours per day seven days a week;
2. operate up to 24 licensed beds;
3. provide services to either adults or minors but not both;
4. provide services that include, but are not limited to:

- a. emergency screening;
- b. assessment;
- c. crisis intervention and stabilization;
- d. 24 hour observation;
- e. medication administration; and
- f. referral to the most appropriate and least restrictive setting available consistent with the client's needs.

B. A CRC shall admit clients for an estimated length of stay of 3-7 days. If a greater length of stay is needed, the CRC shall maintain documentation of clinical justification for the extended stay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health

and Hospitals, Bureau of Health Services Financing, LR 41:

§5377. Laboratory Services

A. The CRC shall have laboratory services available to meet the needs of its clients, including the ability to:

1. obtain STAT laboratory results as needed at all times;
2. conduct a dipstick urine drug screen; and
3. conduct a breath analysis for immediate determination of blood alcohol level.

B. The CRC shall maintain a CLIA certificate for the laboratory services provided on-site.

C. The CRC shall ensure that all contracted laboratory services are provided by a CLIA clinical laboratory improvement amendment (CLIA) certified laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5379. Pharmaceutical Services and Medication Administration

A. The CRC may provide pharmaceutical services on-site at the center or off-site pursuant to a written agreement with a pharmaceutical provider.

B. All compounding, packaging, and dispensing of medications shall be accomplished in accordance with Louisiana

laws and Board of Pharmacy regulations and be performed by or under the direct supervision of a registered pharmacist currently licensed to practice in Louisiana.

C. The CRC shall ensure that a mechanism exists to:

1. provide pharmaceutical services 24 hours per day; and
2. obtain STAT medications, as needed, within an acceptable time frame, at all times.

D. CRCs that utilize off-site pharmaceutical providers pursuant to a written agreement shall have:

1. a physician who assumes the responsibility of procurement and possession of medications; and
2. an area for the secure storage of medication and medication preparation in accordance with Louisiana Board of Pharmacy rules and regulations.

E. A CRC shall maintain:

1. a site-specific Louisiana controlled substance license in accordance with the Louisiana Uniform Controlled Dangerous Substance Act; and
2. a United States Drug Enforcement Administration controlled substance registration for the facility in accordance with Title 21 of the United States Code.

F. The CRC shall develop, implement and comply with written policies and procedures in accordance with applicable federal, state and local laws and ordinances that govern:

1. the safe administration and handling of all prescription and non-prescription medications;
2. the storage, recording and control of all medications;
3. the disposal of all discontinued and/or expired medications and containers with worn, illegible or missing labels;
4. the use of prescription medications including:
 - a. when medication is administered, medical monitoring occurs to identify specific target symptoms;
 - b. a procedure to inform clients, staff, and where appropriate, client's parent(s), legal guardian(s) or designated representatives, of each medication's anticipated results, the potential benefits and side-effects as well as the potential adverse reaction that could result from not taking the medication as prescribed;
 - c. involving clients and, where appropriate, their parent(s) or legal guardian(s), and designated representatives in decisions concerning medication; and
 - d. staff training to ensure the recognition of the potential side effects of the medication.

5. the list of abbreviations and symbols approved for use in the facility;

6. recording of medication errors and adverse drug reactions and reporting them to the client's physician or authorized prescriber, and the nurse manager;

7. the reporting of and steps to be taken to resolve discrepancies in inventory, misuse and abuse of controlled substances in accordance with federal and state law;

8. provision for emergency pharmaceutical services;

9. a unit dose system; and

10. procuring and the acceptable timeframes for procuring STAT medications when the medication needed is not available on-site.

C. The CRC shall ensure that:

1. medications are administered by licensed health care personnel whose scope of practice includes administration of medications;

2. any medication is administered according to the order of an authorized licensed prescriber;

3. it maintains a list of authorized licensed prescribers that is accessible to staff at all times.

4. all medications are kept in a locked illuminated clean cabinet, closet or room at temperature controls according

to the manufacturer's recommendations, accessible only to individuals authorized to administer medications;

5. medications are administered only upon receipt of written orders, electromechanical facsimile, or verbal orders from an authorized licensed prescriber;

6. all verbal orders are signed by the licensed prescriber within 72 hours;

7. medications that require refrigeration are stored in a refrigerator or refrigeration unit separate from the refrigerators or refrigeration units that store food, beverages, or laboratory specimens;

8. all prescription medication containers are labeled to identify:

- a. the client's full name;
- b. the name of the medication;
- c. dosage;
- d. quantity and date dispensed;
- e. directions for taking the medication;
- f. required accessory and cautionary statements;
- g. prescriber's name; and
- h. the expiration date.

9. Medication errors, adverse drug reactions, and interactions with other medications, food or beverages taken by

the client are immediately reported to the client's physician or authorized licensed prescriber, supervising pharmacist and nurse manager with an entry in the client's record.

10. All controlled substances shall be kept in a locked cabinet or compartment separate from other medications;

11. Current and accurate records are maintained on the receipt and disposition of controlled substances;

12. Controlled substances are reconciled:

a. at least twice a day by staff authorized to administer controlled substances; or

b. by an automated system that provides reconciliation;

13. Discrepancies in inventory of controlled substances are reported to the nurse manager and the supervising pharmacist in accordance with federal and state laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5381. Transportation

A. The CRC shall establish, implement and comply with policies and procedures to:

1. secure emergency transportation in the event of a client's medical emergency; and

2. provide non-emergent medical transportation to the clients as needed.

B. The facility shall have a written agreement with a transportation service in order to provide non-emergent transport services needed by its clients that shall require all vehicles used to transport CRC clients are:

1. maintained in a safe condition;
2. properly licensed and inspected in accordance with state law;
3. operated at a temperature that does not compromise the health, safety and needs of the client;
4. operated in conformity with all applicable motor vehicle laws;
5. current liability coverage for all vehicles used to transport clients;
6. all drivers of vehicles that transport CRC clients are properly licensed to operate the class of vehicle in accordance with state law; and
7. the ability to transport non-ambulatory clients in appropriate vehicles if needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5383. Food and Diet

A. The CRC shall ensure that:

1. all dietary services are provided under the direction of a Louisiana licensed and registered dietitian either directly or by written agreement;
2. menus are approved by the registered dietitian;
3. meals are of sufficient quantity and quality to meet the nutritional needs of clients, including religious and dietary restrictions;
4. meals are in accordance with Federal Drug Administration (FDA) dietary guidelines and the orders of the authorized licensed prescriber;
5. at least three meals plus an evening snack are provided daily with no more than 14 hours between any two meals;
6. meals are served in a manner that maintains the safety and security of the client and are free of identified contraband;
7. all food is stored, prepared, distributed, and served under safe and sanitary conditions in accordance with the Louisiana Sanitary Code;
8. all equipment and utensils used in the preparation and serving of food are properly cleaned, sanitized and stored in accordance with the Louisiana Sanitary Code; and

9. if meals are prepared on-site, they are prepared in an OPH approved kitchen.

B. The CRC may provide meal service and preparation pursuant to a written agreement with an outside food management company. If provided pursuant to a written agreement, the CRC shall:

1. maintain responsibility for ensuring compliance with this Chapter;

2. provide written notice to HSS and OPH within 10 calendar days of the effective date of the contract;

3. ensure that the outside food management company possesses a valid OPH retail food permit and meets all requirements for operating a retail food establishment that serves a highly susceptible population, in accordance with the special requirements for highly susceptible populations as promulgated in the Louisiana Sanitary Code provisions governing food display and service for retail food establishments (specifically LAC 51:XXIII.1911 as amended May 2007); and

4. ensure that the food management company employs or contracts with a licensed and registered dietitian who serves the center as needed to ensure that the nutritional needs of the clients are met in accordance with the authorized licensed prescriber's orders and acceptable standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254

and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter H. Client Rights

§5389. General Provisions

A. The CRC shall develop, implement and comply with policies and procedures that:

1. protect its clients' rights;
2. respond to questions and grievances pertaining to these rights;
3. ensure compliance with clients' rights enumerated in R.S. 28:171; and
4. ensure compliance with minors' rights enumerated in the Louisiana Children's Code.

B. A CRC's client and, if applicable, the client's parent(s) or legal guardian or chosen designated representative, have the following rights:

1. to be informed of the client's rights and responsibilities at the time of or shortly after admission;
2. to have a family member, chosen representative and/or his or her own physician notified of admission at the client's request to the CRC;
3. to receive treatment and medical services without discrimination based on race, age, religion, national origin,

gender, sexual orientation, disability, marital status,
diagnosis, ability to pay or source of payment;

4. to be free from abuse, neglect, exploitation and
harassment;

5. to receive care in a safe setting;

6. to receive the services of a translator or
interpreter, if applicable, to facilitate communication between
the client and the staff;

7. to be informed of the client's own health status
and to participate in the development, implementation and
updating of the client's treatment plan;

8. to make informed decisions regarding the client's
care in accordance with federal and state laws and regulations;

9. to consult freely and privately with the client's
legal counsel or to contact an attorney at any reasonable time;

10. to be informed, in writing, of the policies and
procedures for initiation, review and resolution of grievances
or client complaints;

11. to submit complaints or grievances without fear
of reprisal;

12. to have the client's information and medical
records, including all computerized medical information, kept
confidential in accordance with federal and state statutes and
rules/regulations;

13. to be provided indoor and/or outdoor recreational and leisure opportunities;

14. to be given a copy of the center's rules and regulations upon admission or shortly thereafter;

15. to receive treatment in the least restrictive environment that meets the client's needs;

16. to be subject to the use of restraint and/or seclusion only in accordance with federal and state law, rules and regulations;

17. to be informed of all estimated charges and any limitations on the length of services at the time of admission or shortly thereafter;

18. to contact DHH at any reasonable time;

19. to obtain a copy of these rights as well as the address and phone number of DHH and the Mental Health Advocacy Service at any time; and

20. to be provided with personal hygiene products, including but not limited to, shampoo, deodorant, toothbrush, toothpaste, and soap, if needed.

C. A copy of the clients' right shall be posted in the facility and accessible to all clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health

and Hospitals, Bureau of Health Services Financing, LR 41:

§5391. Grievances

A. The facility shall develop, implement and comply with a written grievance procedure for clients designed to allow clients to submit a grievance without fear of retaliation. The procedure shall include, but not be limited to:

1. process for filing a grievance;
2. a time line for responding to the grievance;
3. a method for responding to a grievance; and
4. the staff responsibilities for addressing and resolving grievances.

B. The facility shall ensure that:

1. the client and, if applicable, the client's parent(s) or legal guardian(s), is aware of and understands the grievance procedure; and
2. all grievances are addressed and resolved to the best of the center's ability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter I. Physical Environment

§5397. Interior Space

A. The CRC shall:

1. have a physical environment that protects the health, safety and security of the clients;
2. have routine maintenance and cleaning programs in all areas of the center;
3. be well-lit, clean, and ventilated;
4. conduct a risk assessment of each client and the physical environment of the facility in order to ensure the safety and well-being of all clients admitted to the facility;
5. maintain its physical environment, including, but not limited to, all equipment, fixtures, plumbing, electrical, and furnishings, in good order and safe condition in accordance with manufacturer's recommendations;
6. maintain heating, ventilation and cooling systems in good order and safe condition to ensure a comfortable environment; and
7. ensure that electric receptacles in client care areas are tamper-resistant or equipped with ground fault circuit interrupters.

B. Common Area. The CRC shall have designated space:

1. to be used for group meetings, dining, visitation, leisure and recreational activities;
2. that is at least 25 square feet per client and no less than 150 square feet exclusive of sleeping areas, bathrooms, areas restricted to staff and office areas; and

3. that contains tables for eating meals.

C. Bathrooms

1. Each bathroom to be used by clients shall contain:
 - a. a lavatory with:
 - i. paper towels or an automatic dryer;
 - ii. a soap dispenser with soap for individual use; and
 - iii. a wash basin with hot and cold running water;
 - b. tubs and/or showers that:
 - i. have hot and cold water;
 - ii. have slip proof surfaces; and
 - iii. allow for individual privacy
 - c. toilets:
 - i. an adequate supply of toilet paper;
 - ii. with seats; and
 - iii. that allow for individual privacy;
 - d. a sink, tub or shower and toilet for the number of clients and in accordance with the Louisiana Sanitary Code.
 - e. shatterproof mirrors secured to the walls at convenient heights;

f. plumbing, piping, ductwork, and that are recessed or enclosed in order to be inaccessible to clients; and

g. other furnishings necessary to meet the clients' basic hygienic needs.

2. A CRC shall have at least one separate toilet and lavatory facility for the staff.

D. Sleeping Areas and Bedroom(s)

1. A CRC that utilizes a sleeping area for multiple clients shall:

a. ensure that the sleeping area has at least 60 square feet per bed of clear floor area and does not contain or utilize bunk beds; and

b. shall maintain at least one separate bedroom.

2. Bedrooms. A CRC that utilizes individual bedrooms shall ensure that each bedroom:

a. accommodates no more than one client; and

b. has at least 80 square feet of clear floor area.

3. The CRC shall ensure that each client:

a. has sufficient separate storage space for clothing, toilet articles and other personal belongings of clients;

- b. has sheets, pillow, bedspread, towels, washcloths and blankets that are:
 - i. intact and in good repair,
 - ii. systematically removed from use when no longer usable;
 - iii. clean;
 - iv. provided as needed or when requested unless the request is unreasonable;
- c. is given a bed for individual use that:
 - i. is no less than 30 inches wide,
 - ii. is of solid construction,
 - iii. has a clean, comfortable, impermeable, nontoxic and fire retardant mattress, and
 - iv. is appropriate to the size and age of the client.

E. Administrative and Staff Areas

1. The CRC shall maintain a space that is distinct from the client common areas that serves as an office for administrative functions.

2. The CRC shall have a designated space for nurses and other staff to complete tasks, be accessible to clients and to observe and monitor client activity within the unit.

F. Counseling and Treatment Area

1. The CRC shall have a designated space to allow for private physical examination that is exclusive of sleeping areas and common spaces.

2. The CRC shall have a designated space to allow for private and small group discussions and counseling sessions between individual clients and staff that is exclusive of sleeping areas and common space.

3. The CRC may utilize the same space for the counseling area and examination area.

G. Seclusion Room

1. The CRC shall have at least one seclusion room that:

- a. is for no more than one client; and
- b. allows for continual visual observation and monitoring of the client either:
 - i. directly; or
 - ii. by a combination of video and audio;
- c. has a monolithic ceiling;
- d. is a minimum of 80 square feet; and
- e. contains a stationary restraint bed that is secure to the floor;
- f. flat walls that are free of any protrusions with angles;
- g. does not contain electrical receptacles;

H. Kitchen

1. If a CRC prepares meals on-site, the CRC shall have a full service kitchen that:

- a. includes a cooktop, oven, refrigerator, freezer, hand washing station, storage and space for meal preparation;
- b. complies with OPH regulations;
- c. has the equipment necessary for the preparation, serving, storage and clean-up of all meals regularly served to all of the clients and staff;
- d. contains trash containers covered and made of metal or United Laboratories-approved plastic; and
- e. maintains the sanitation of dishes.

2. A CRC that does not provide a full service kitchen accessible to staff 24 hours per day shall have a nourishment station or a kitchenette, restricted to staff only, in which staff may prepare nourishments for clients, that includes:

- a. a kitchen sink;
- b. a work counter;
- c. a refrigerator;
- d. storage cabinets;
- e. equipment for preparing hot and cold nourishments between scheduled meals; and

f. space for trays and dishes used for non-scheduled meal service.

3. A CRC may utilize ice making equipment if the ice maker:

a. is self-dispensing; or

b. is in an area restricted to staff only;

I. Laundry

1. The CRC shall have an automatic washer and dryer for use by staff when laundering clients' clothing.

2. The CRC shall have:

a. provisions to clean and launder soiled linen, other than client clothing, either on-site or off-site by written agreement;

b. a separate area for holding soiled linen until it is laundered; and

c. a clean linen storage area.

J. Storage

1. The CRC shall have separate and secure storage areas that are inaccessible to clients for the following:

a. client possessions that may not be accessed during their stay;

b. hazardous, flammable and/or combustible materials; and

2. records and other confidential information.

K. Furnishings

1. The CRC shall ensure that its furnishings are:
 - a. designed to suit the size, age and functional status of the clients;
 - b. in good repair;
 - c. clean;
 - d. promptly repaired or replaced if defective, run-down or broken.

L. Hardware, Fixtures and other Protrusions

1. If grab bars are used, the CRC shall ensure that the space between the bar and the wall shall be filled to prevent a cord from being tied around it.
2. All hardware as well as sprinkler heads, lighting fixtures and other protrusions shall be:
 - a. recessed or of a design to prohibit client access; and
 - b. tamper-resistant.
3. Towel bars, shower curtain rods, clothing rods and hooks are prohibited.

M. Ceilings

1. The CRC shall ensure that the ceiling is:
 - a. no less than 7.5 feet high and secured from access; or
 - b. at least 9 feet in height; and

c. all overhead plumbing, piping, duct work or other potentially hazardous elements shall be concealed above the ceiling.

N. Doors and Windows

1. All windows shall be fabricated with laminated safety glass or protected by polycarbonate, laminate or safety screens.

2. Door hinges shall be designed to minimize points for hanging.

3. Except for specifically designed anti-ligature hardware, door handles shall point downward in the latched or unlatched position.

4. All hardware shall have tamper-resistant fasteners.

5. The center shall ensure that outside doors, windows and other features of the structure necessary for safety and comfort of individuals:

- a. are secured for safety;
- b. prohibit clients from gaining unauthorized egress;
- c. prohibit an outside from gaining unauthorized ingress;
- d. if in disrepair, not accessible to clients until repaired; and

e. repaired as soon as possible.

6. The facility shall ensure that all closets, bedrooms and bathrooms for clients that are equipped with doors do not have locks and can be readily opened from both sides.

O. Smoking

1. The CRC shall prohibit smoking in the interior of the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5399. Exterior Space Requirements

A. The CRC shall maintain all exterior areas to prevent elopement, injury, suicide and the introduction of contraband, and shall maintain a perimeter security system designed to monitor and control visitor access and client egress.

B. The facility shall maintain all exterior areas and structures of the facility in good repair and free from any reasonably foreseeable hazard to health or safety.

C. The facility shall ensure the following:

1. garbage stored outside is secured in non-combustible, covered containers and are removed on a regular basis;

2. trash collection receptacles and incinerators are separate from any area accessible to clients and located as to avoid being a nuisance;

3. unsafe areas, including steep grades, open pits, swimming pools, high voltage boosters or high speed roads are fenced or have natural barriers to protect clients;

4. fences that are in place are in good repair;

5. exterior areas are well lit; and

6. the facility has appropriate signage that:

a. is visible to the public;

b. indicates the facility's legal or trade name;

c. clearly states that the CRC provides behavioral health services only; and

d. indicates the center is not a hospital or emergency room.

D. A CRC with an outdoor area to be utilized by its clients shall ensure that the area is safe and secure from access and egress.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Chapter 54. Crisis Receiving Centers

Subchapter J. Safety and Emergency Preparedness

§5401. General Safety Provisions

A. The CRC shall provide additional supervision when necessary to provide for the safety of all clients.

B. The CRC shall:

1. prohibit weapons of any kind on-site;
2. prohibit glass, hand sanitizer, plastic bags in client-care areas;
3. ensure that all poisonous, toxic and flammable materials are:
 - a. maintained in appropriate containers and labeled as to the contents;
 - b. securely stored in a locked cabinet or closet;
 - c. are used in such a manner as to ensure the safety of clients, staff and visitors; and
 - d. maintained only as necessary;
4. ensure that all equipment, furnishing and any other items that are in a state of disrepair are removed and inaccessible to clients until replaced or repaired; and
5. ensure that when potentially harmful materials such as cleaning solvents and/or detergents are used, training is provided to the staff and they are used by staff members only.

C. The CRC shall ensure that a first aid kit is available in the facility and in all vehicles used to transport clients.

D. The CRC shall simulate fire drills and other emergency drills at least once a quarter while maintaining client safety and security during the drills.

E. Required Inspections. The CRC shall pass all required inspections and keep a current file of reports and other documentation needed to demonstrate compliance with applicable laws and regulations.

F. The CRC shall have an on-going safety program to include:

1. continuous inspection of the facility for possible hazards;
2. continuous monitoring of safety equipment and maintenance or repair when needed;
3. investigation and documentation of all accidents or emergencies; and
4. fire control, evacuation planning and other emergency drills.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5403. Infection Control

A. The CRC shall provide a sanitary environment to avoid sources and transmission of infections and communicable diseases.

B. The CRC shall have an active Infection Control Program that requires:

1. reporting of infectious disease in accordance with OPH guidelines;

2. monitoring of:

a. the spread of infectious disease;

b. hand washing;

c. staff and client education; and

d. incidents of specific infections in accordance with OPH guidelines.

3. corrective actions;

4. a designated Infection Control coordinator who:

a. has education and/or experience in infection control;

b. develops and implements policies and procedures governing the infection control program;

c. takes universal precautions; and

d. strictly adheres to all sanitation requirements.

5. The CRC shall maintain a clean and sanitary environment and shall ensure that:

- a. supplies and equipment are available to staff;
- b. there is consistent and constant monitoring and cleaning of all areas of the facility;
- c. the methods used for cleaning, sanitizing, handling and storing of all supplies and equipment prevent the transmission of infection;
- d. directions are posted for sanitizing both kitchen and bathroom and laundry areas;
- e. showers and bathtubs are to be sanitized by staff between client usage;
- f. clothing belonging to clients must be washed and dried separately from the clothing belonging to other clients; and
- g. laundry facilities are used by staff only;
- h. food and waste are stored, handled, and removed in a way that will not spread disease, cause odor, or provide a breeding place for pests;

C. The CRC may enter into a written contract for housekeeping services necessary to maintain a clean and neat environment.

D. Each CRC shall have an effective pest control plan.

E. After discharge of a client, the CRC shall:

1. clean the bed, mattress, cover, bedside furniture and equipment;

2. ensure that mattresses, blankets and pillows assigned to clients are intact and in a sanitary condition; and

3. ensure that the mattress, blankets and pillows used for a client are properly sanitized before assigned to another client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5405. Emergency Preparedness

A. The CRC shall have a written emergency preparedness plan to:

1. maintain continuity of the center's operations in preparation for, during and after an emergency or disaster; and

2. manage the consequences of all disasters or emergencies that disrupt the center's ability to render care and treatment, or threaten the lives or safety of the clients.

B. The CRC shall:

1. post exit diagrams describing how to clear the building safely and in a timely manner;

2. have a clearly labeled and legible master floor plan(s) that indicates:

a. the areas in the facility that are to be used by clients as shelter or safe zones during emergencies;

b. the location of emergency power outlets and whether they are powered;

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

d. what will be powered by emergency generator(s), if applicable;

3. train its employees in emergency or disaster preparedness. Training shall include orientation, ongoing training and participation in planned drills for all personnel.

C. The CRC's emergency preparedness plan shall include the following information, at a minimum.

1. If the center evacuates, the plan shall include:

a. provisions for the evacuation of each client and delivery of essential services to each client;

b. the center's method of notifying the client's family or caregiver, if applicable, including:

i. the date and approximate time that the facility or client is evacuating;

ii. the place or location to which the client(s) is evacuating which includes the name, address and telephone number; and

iii. a telephone number that the family or responsible representative may call for information regarding the client's evacuation;

c. provisions for ensuring that supplies, medications, clothing and a copy of the treatment plan are sent with the client, if the client is evacuated;

d. the procedure or methods that will be used to ensure that identification accompanies the client including:

i. current and active diagnosis;

ii. medication, including dosage and times administered;

iii. allergies;

iv. special dietary needs or restrictions;

and

v. next of kin, including contact information if applicable.

e. transportation or arrangements for transportation for an evacuation;

2. provisions for staff to maintain continuity of care during an emergency as well as for distribution and assignment of responsibilities and functions;

3. the delivery of essential care and services to clients who are housed in the facility or by the facility at another location, during an emergency or disaster;

4. the determination as to when the facility will shelter in place and when the facility will evacuate for a disaster or emergency and the conditions that guide these determinations in accordance with local or parish OSHEP.

5. If the center shelters in place, provisions for seven days of necessary supplies to be provided by the center prior to the emergency, including drinking water or fluids and non-perishable food.

D. The center shall:

1. follow and execute its emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency;

2. if the state, parish or local OHSEP orders a mandatory evacuation of the parish or the area in which the agency is serving, shall ensure that all clients are evacuated according to the facility's emergency preparedness plan;

3. not abandon a client during a disaster or emergency;

4. review and update its emergency preparedness plan at least once a year;

5. cooperate with the department and with the local or parish OHSEP in the event of an emergency or disaster and shall provide information as requested;

6. monitor weather warnings and watches as well as evacuation order from local and state emergency preparedness officials;

7. upon request by the department, submit a copy of its emergency preparedness plan for review;

8. upon request by the department, submit a written summary attesting to how the plan was followed and executed to include, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

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

e. a list of all injuries and deaths of clients that occurred during execution of the plan, evacuation or temporary relocation including the date, time, causes and circumstances of the injuries and deaths.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§5407. Inactivation of License due to a Declared Disaster or Emergency

A. A CRC located 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 center:

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

a. the CRC 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 CRC intends to resume operation as a CRC 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. lists the clients and the location of the discharged or transferred clients;

2. resumes operating as a CRC 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. continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil fines; and

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

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

C. In order to obtain license reinstatement, a CRC with a department-issued notice of inactivation of license shall:

1. submit a written license reinstatement request to HSS 60 days prior to the anticipated date of reopening that includes:

a. the anticipated date of opening, and a request to schedule a licensing survey;

b. a completed licensing application and other required documents with licensing fees, if applicable; and

c. written approvals for occupancy from OSFM and OPH recommendation for license.

D. Upon receiving a completed written request to reinstate a CRC license and other required documentation, the department shall conduct a licensing survey.

E. If the CRC meets the requirements for licensure and the requirements under this subsection, the department shall issue a notice of reinstatement of the center's license.

F. During the period of inactivation, the department prohibits:

1. a change of ownership (CHOW) in the CRC; and
2. an increase in the licensed capacity from the CRC's licensed capacity at the time of the request to inactivate the license.

G. The provisions of this Section shall not apply to a CRC which has voluntarily surrendered its license.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 28:2180.14.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

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 allowing licensure for freestanding Crisis Receiving Centers which will provide intervention and stabilization services for behavioral health clients so they can be stabilized, discharged, and referred to the appropriate level of care.

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 as it is expected to reduce the costs associated with the treatment of behavioral health conditions which will ease 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 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 Wednesday, November 26, 2014 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.

Kathy H. Kliebert

Secretary



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
November 26, 2014
9:30 a.m.

RE: Crisis Receiving Centers
Licensing Standards
Docket # 112614-01
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 November 26, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in black ink, appearing to read "Cedric Clark", written over a horizontal line.

Cedric Clark
Medicaid Policy and
Compliance Section

11/26/2014

Date

DHH/BHSF PUBLIC HEARING

Topic – Crisis Receiving Centers – Licensing Standards

November 26, 2014

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Kayla C. Hays	628 Nth 4th St.	225-342-9319	DHH
2.			
3.			
4.			
5.			
6.			



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

December 5, 2014

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeir, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
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 - Children's Choice Waiver.

The Department published a Notice of Intent on this proposed Rule in the October 20, 2014 issue of the *Louisiana Register* (Volume 40, Number 10). A public hearing was held on November 26, 2014 at which only Department of Health and Hospitals staff were present. No oral testimony was given, nor written correspondence received, regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the January 20, 2015 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.

KHK/WJR/KAH

Attachments (3)

NOTICE OF INTENT

**Department of Health and Hospitals
Bureau of Health Services Financing and
Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers

Children's Choice Waiver

**(LAC 50:XXI.11107, 11303, 11527, 11529, 11703, 11901, 11905,
and 12101)**

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.11107, §11303, §§11527-11529, §11703 and Chapters 119-121 under 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 and the Office for Citizens with Developmental Disabilities amended the provisions governing the Children Choice Waiver to extend the time period for the allocation of waiver opportunities in the Money Follows the Person Rebalancing Demonstration Program (*Louisiana Register*, Volume 40, Number 3), and to revise the provisions governing the allocation of waiver opportunities (*Louisiana Register*, Volume 40, Number 3).

The department now proposes to amend the Children's Choice Waiver to clarify the provisions of the waiver in order to ensure compliance with federal regulations, and to remove Applied Behavior Analysis (ABA) as a covered service because ABA services are now covered under the Medicaid State Plan.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services Waivers

Subpart 9. Children's Choice

Chapter 111. General Provisions

§11107. Allocation of Waiver Opportunities

A. The order of entry in the Children's Choice Waiver is first come, first served from a statewide list arranged by date of application for the developmental disabilities request for services registry for the New Opportunities Waiver (NOW). Families shall be given a choice of accepting an opportunity in the children's choice waiver or remaining on the DDRFSR for the NOW.

1. - B.1.b. ...

C. Four hundred twenty-five opportunities shall be designated for qualifying children with developmental disabilities that have been identified by the local governing entity (LGE) as needing more family support services than what

is currently available through state funded family support services.

1. To qualify for these waiver opportunities, children must:

a. ...

b. be designated by the LGE as meeting priority level 1 or 2 criteria;

c. - e. ...

2. Each LGE shall be responsible for the prioritization of these opportunities. Priority levels shall be defined according to the following criteria.

a. Priority Level 1. Without the requested supports, there is an immediate or potential threat of out-of-home placement or homelessness due to:

i. - iii. ...

iv. death or inability of the caregiver to continue care due to his/her own age or health; or

v. ...

b. Priority Level 2. Supports are needed to prevent the individual's health from deteriorating or the individual from losing any of his/her independence or productivity.

3. ...

4. Each LGE shall have a specific number of these opportunities designated to them for allocation to waiver participants.

5. In the event one of these opportunities is vacated, the opportunity shall be returned to the allocated pool for that particular LGE for another opportunity to be offered.

6. ...

D. The Office for Citizens with Developmental Disabilities (OCDD) has the responsibility to monitor the utilization of Children's Choice waiver opportunities. At the discretion of the OCDD, specifically allocated waiver opportunities may be reallocated to better meet the needs of individuals with developmental disabilities.

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 and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended LR 40:539, 540 (March 2014), LR 41:

§11303. Service Definitions

A. - E.1. ...

2. Family training must be prior approved by the LGE

and incorporated into the approved plan of care.

3. - 4. ...

F. Family support services are services that enable a family to keep their child or family member at home, thereby enhancing family functioning. Services may be provided in the home or outside of the home in settings such as after school programs, summer camps, or other places as specified in the approved plan of care.

1. Family support includes:

a. assistance and prompting with eating, bathing, dressing, personal hygiene, and essential housekeeping incidental to the care of the child, rather than the child's family. The preparation of meals is included, but not the cost of the meals themselves; and

b. assistance with participating in the community, including activities to maintain and strengthen existing informal networks and natural supports. Providing transportation to these activities is also included.

2. Family members who provide family support services must meet the same standards of service, training requirements and documentation requirements as caregivers who are unrelated to the participant. Services cannot be provided by the following individuals:

a. legally responsible relatives (spouses, parents or step-parents, foster parents, or legal guardians); or

b. any other individuals who live in the same household with the waiver participant.

3. - 3.b. Repealed.

G. - G.7.j. ...

H. Aquatic Therapy

1. Aquatic therapy uses the resistance of water to rehabilitate a participant with a chronic illness, poor or lack of muscle tone or a physical injury/disability.

2. Aquatic therapy is not for participants who have fever, infections and are bowel/ bladder incontinent.

3. Repealed.

I. Art Therapy

1. Art therapy is used to increase awareness of self and others; cope with symptoms, stress and traumatic experiences; enhance cognitive abilities; and as a mode of communication and enjoyment of the life-affirming pleasure of making art.

2. Art therapy is the therapeutic use of art by people who experience illness, trauma, emotional/behavioral or mental health problems; by those who have learning or physical disabilities, life-limiting conditions, brain injuries or

neurological conditions and/or challenges in living; and by people who strive to improve personal development.

J. Music Therapy

1. Music therapy services help participants improve their cognitive functioning, motor skills, emotional and affective development, behavior and social skills and quality of life.

2. Repealed.

K. Sensory Integration 1. Sensory integration is used to improve the way the brain processes and adapts to sensory information, as opposed to teaching specific skills. Sensory integration involves activities that provide vestibular, proprioceptive and tactile stimuli which are selected to match specific sensory processing deficits of the child.

L. Hippotherapy/Therapeutic Horseback Riding

1. Hippotherapy/therapeutic horseback riding are services used to promote the use of the movement of the horse as a treatment strategy in physical, occupational and speech-language therapy sessions for people living with disabilities.

2. Hippotherapy improves muscle tone, balance, posture, coordination, motor development as well as motor planning that can be used to improve sensory integration skills and attention skills.

a. Specially trained therapy professionals evaluate each potential participant on an individual basis to determine the appropriateness of including hippotherapy as a treatment strategy.

b. Hippotherapy requires therapy sessions that are one-on-one with a licensed physical therapist, speech therapist or occupational therapist who works closely with the horse professional in developing treatment strategies. The licensed therapist must be present during the hippotherapy sessions.

c. Hippotherapy must be ordered by a physician with implementation of service, treatment strategies and goals developed by a licensed therapist. Services must be included in the participant's plan of care.

3. Therapeutic horseback riding teaches riding skills and improves neurological function and sensory processing.

a. Therapeutic horseback riding must be ordered by a physician with implementation of service, treatment strategies and goals developed by a licensed therapist. Services must be included in the participant's plan of care.

M. Housing Stabilization Transition Services

1. Housing stabilization transition services enable

participants who are transitioning into a permanent supportive housing unit, including those transitioning from institutions, to secure their own housing. The service is provided while the participant is in an institution and preparing to exit the institution using the waiver.

2. Housing stabilization transition services include the following components:

a. conducting a housing assessment to identify the participant's preferences related to housing (i.e., type, location, living alone or with someone else, accommodations needed, and other important preferences), and his/her needs for support to maintain housing, including:

- i. access to housing;
- ii. meeting the terms of a lease;
- iii. eviction prevention;
- iv. budgeting for housing/living expenses;
- v. obtaining/accessing sources of income necessary for rent;
- vi. home management;
- vii. establishing credit; and
- viii. understanding and meeting the obligations of tenancy as defined in the lease terms;

b. assisting the participant to view and secure

housing as needed, which may include arranging for and providing transportation;

c. assisting the participant to secure supporting documents/records, completing/submitting applications, securing deposits, and locating furnishings;

d. developing an individualized housing support plan based upon the housing assessment that:

i. includes short and long term measurable goals for each issue;

ii. establishes the participant's approach to meeting the goal; and

iii. identifies where other provider(s) or services may be required to meet the goal;

e. participating in the development of the plan of care and incorporating elements of the housing support plan; and

f. exploring alternatives to housing if permanent supportive housing is unavailable to support completion of the transition.

3. Housing stabilization transition services are only available upon referral from the support coordinator. This service is not duplicative of other waiver services, including support coordination. This service is only available to persons

who are residing in a state of Louisiana permanent supportive housing unit, or who are linked for the state of Louisiana permanent supportive housing selection process.

3.a. Repealed.

4. Participants may not exceed 165 combined units of this service and housing stabilization services.

a. Exceptions to exceed the 165 unit limit may be made only with written approval from the Office for Citizens with Developmental Disabilities.

N. Housing Stabilization Services

1. Housing stabilization services enable waiver participants to maintain their own housing as set forth in the participant's approved plan of care. Services must be provided in the home or a community setting.

2. Housing stabilization services include the following components:

a. conducting a housing assessment to identify the participant's preferences related to housing (i.e., type, location, living alone or with someone else, accommodations needed, and other important preferences), and his/her needs for support to maintain housing, including: i. - vii. ...

b. participating in the development of the plan of care and incorporating elements of the housing support plan;

c. developing an individualized housing stabilization service provider plan based upon the housing assessment that includes short and long term measurable goals for each issue, establishes the participant's approach to meeting the goal, and identifies where other provider(s) or services may be required to meet the goal;

d. providing supports and interventions according to the individualized housing support plan; (If additional supports or services are identified as needed outside the scope of housing stabilization service, the needs must be communicated to the support coordinator.)

2.d.i. - 2.d.iii. Repealed.

e. providing ongoing communication with the landlord or property manager regarding the participant's disability, accommodations needed, and components of emergency procedures involving the landlord or property manager; f.

updating the housing support plan annually or as needed due to changes in the participant's situation or status; and

g. providing supports to retain housing or locate and secure housing to continue community-based supports if the participant's housing is placed at risk (e.g., eviction, loss of roommate or income); This includes locating new housing, sources of income, etc.

3. Housing stabilization services are only available upon referral from the support coordinator. This service is not duplicative of other waiver services, including support coordination. This service is only available to persons who are residing in a state of Louisiana permanent supportive housing unit.

4. Participants may not exceed 165 combined units of this service and housing stabilization transition services.

4.a. ...

O. - O.4.a. Repealed.

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, Office for Citizens with Developmental Disabilities, LR 33:1871 (September 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, amended LR 36:324 (February 2010), LR 39:2498 (September 2013), LR 40:67 (January 2014), LR 41:

§11527. Direct Service Providers

A. - 1.d. ...

e. All services must be performed and completed

during the current approved plan of care year. Services that are not completed by the end of the current approved plan of care year will be voided and deemed as non-billable. Services cannot carry over into the next plan of care year.

4. - 7. ...

8. The agency shall document that its employees and the employees of subcontractors do not have a criminal record as defined in 42 CFR 441.404(b). Providers of community supported living arrangement services must:

a. not use individuals who have been convicted of child abuse, neglect, or mistreatment, or of a felony involving physical harm to an individual; and

8.b. - 12. ...

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 for Citizens with Developmental Disabilities, Bureau of Health Services Financing, LR 28:1985 (September 2002), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with

Developmental Disabilities, LR 39:2501 (September 2013), LR 41:

§11529. Professional Services Providers

A. Professional services are direct services to participants, based on need, that may be utilized to increase the participant's independence, participation and productivity in the home and community. Service intensity, frequency and duration will be determined by individual need. Professional services include the following:

1. aquatic therapy;
2. art therapy;
3. music therapy;
4. sensory integration; and
5. hippotherapy/therapeutic horseback riding.

A.6. Repealed.

B. - F. ...

G. All services must be documented in service notes which describe the services rendered and progress towards the participant's personal outcomes and his/her plan of care.

H. ...

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 and the

Office for Citizens with Developmental Disabilities, LR 39:2501
(September 2013), LR 41:

§11703. Crisis Designation Criteria

A. - A.2. ...

3. the child is committed to the custody of the
Department of Health and Hospitals (DHH) by the court; or

A.4. - 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, Office for Citizens with Developmental
Disabilities, Bureau of Health Services Financing, LR 28:1986
(September 2002), amended LR 29:704 (May 2003), amended by the
Department of Health and Hospitals, Bureau of Health Services
Financing and the Office for Citizens with Developmental
Disabilities, LR 39:2503 (September 2013), LR 41:

Chapter 119. Noncrisis Provisions

§11901. General Provisions

A. Restoring the participant to the DDRFSR under
noncrisis provisions will allow that individual to be placed in
the next available waiver opportunity (slot) that will provide
the appropriate services, provided the participant is still

eligible when a slot becomes available. The fact that the participant is being restored to the DDRFSR does not require that the department immediately offer him/her a waiver slot if all slots are filled or to make a slot available to this participant for which another participant is being evaluated, even though that other participant was originally placed on the DDRFSR on a later date. Waiver services will not be terminated as a result of a participant's name being restored to the registry.

B. ...

C. In the event that the waiver eligibility, other than for the developmental disabilities waiver, of a person who elected or whose legal representative elected that he/she receive services under the Children's Choice waiver is terminated based on inability to assure health and welfare of the waiver participant, the department will restore him/her to the DDRFSR for the developmental disabilities waiver in the date order of the original request.

D. ...

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 for Citizens with Developmental Disabilities,

Bureau of Health Services Financing, LR 28:1986 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2503 (September 2013), LR 41:

§11905. Determination Responsibilities and Appeals

A. The LGE shall have the responsibility for making the determinations as to the matters set forth in this Chapter 119. Persons who have elected or whose legal representatives have elected that they receive services under the Children's Choice waiver have the right to appeal any determination of the department as to matters set forth in this Chapter 119, under the regulations and procedures applicable to Medicaid fair hearings.

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 for Citizens with Developmental Disabilities, Bureau of Health Services Financing, LR 28:1987 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2504 (September 2013), LR 41:

Chapter 121. Reimbursement

§12101. Reimbursement Methodology

A. - B. ...

1. Family support, crisis support, center-based respite, aquatic therapy, art therapy, music therapy, sensory integration, and hippotherapy/therapeutic horseback riding services shall be reimbursed at a flat rate per 15-minute unit of service, which covers both service provision and administrative costs.

B.2. - B.4. ...

a. Effective February 9, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide Family Support services to Children's Choice participants.

b. Effective May 20, 2007, an hourly wage enhancement payment in the amount of \$2 will be reimbursed to providers for full-time equivalent (FTE) direct support professionals who provide Center-Based Respite services to children's choice participants.

B.4.c. - D.1.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, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010), LR 36:2280 (October 2010), LR 37:2157 (July 2011), LR 39:2504 (September 2013), LR 40:68 (January 2014), LR 41:

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 (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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, November 26, 2014 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.

Kathy H. Kliebert

Secretary



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
November 26, 2014
9:30 a.m.

RE: Home and Community-Based
Service Waivers
Children's Choice Waiver
Docket # 112614-02
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 November 26, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in black ink, appearing to read "Cedric Clark", written over a horizontal line.

Cedric Clark
Medicaid Policy and
Compliance Section

11/26/2014
Date

DHH/BHSF PUBLIC HEARING

Topic - Home and Community-Based Services Waivers – Children's Choice Waiver

November 26, 2014

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. T. Denise Boyd	Bennville Bldg. DHH	225-342-0095	OC DID-Children's Choice Waver
2. Chrishy Johnson	Brennle Building DHH	225-342-0045	Program Manager OCAD
3. Just Bittner	_____	_____	_____
4. Kaylin Haynes	628 Nth 9th	225-342-9319	DHH
5. _____	_____	_____	_____
6. _____	_____	_____	_____



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

December 5, 2014

M E M O R A N D U M

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeir, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
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 Hospice Services.

The Department published a Notice of Intent on this proposed Rule in the October 20, 2014 issue of the *Louisiana Register* (Volume 40, Number 10). A public hearing was held on November 26, 2014 at which only Department of Health and Hospitals staff were present. No oral testimony was given, nor written correspondence received, regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the January 20, 2015 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.

KHK/WJR/KAH

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Hospice Services (LAC 50:XV.Chapters 33-43)

The Department of Health and Hospitals, Bureau of Health Services Financing, proposes to amend LAC 50:XV.Chapters 33-43 under 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 promulgated an Emergency Rule which amended the provisions governing hospice services in order to bring these provisions into compliance with the requirements of the Patient Protection and Affordable Care Act (PPACA) and also amended the provisions governing prior authorization for hospice services in order to control the escalating costs associated with the Hospice Program (*Louisiana Register*, Volume 38, Number 3). The department promulgated a Notice of Intent which further revised and clarified the provisions governing hospice services (*Louisiana Register*, Volume 39, Number 11). The department subsequently promulgated an Emergency Rule which amended the provisions of the May 1, 2012 Emergency Rule to incorporate the

revisions made in the Notice of Intent and to revise the formatting of these provisions in order to ensure that the provisions are promulgated in a clear and concise manner (*Louisiana Register*, Volume 39, Number 11). As a result of comments received, the department abandoned the Notice of Intent published in the November 20, 2013 edition of the *Louisiana Register*.

The department promulgated an Emergency Rule which amended the November 20, 2013 Emergency Rule to further clarify the provisions governing prior authorization for hospice services (*Louisiana Register*, Volume 40, Number 3). The department subsequently promulgated an Emergency Rule which amended the March 20, 2014 Emergency Rule to revise the provisions governing prior authorization for hospice services to incorporate language approved in the corresponding State Plan Amendment in order to ensure compliance with federal regulations (*Louisiana Register*, Volume 40, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 20, 2014 Emergency Rule.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 3. Hospice

Chapter 33. Provider Participation

§3301. Conditions for Participation

A. Statutory Compliance

1. Coverage of Medicaid hospice care shall be in accordance with:

- a. 42 USC 1396d(o); and
- b. the Medicare Hospice Program guidelines as set forth in 42 CFR Part 418.
- c. - 2. Repealed.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1466 (June 2002), amended LR 30:1024 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Chapter 35. Recipient Eligibility

§3501. Election of Hospice Care

A. - B. ...

1. The election must be filed by the eligible individual or by a person authorized by law (legal representative) to consent to medical treatment for such

individual.

a. A legal representative does not have the authority to elect, revoke, or appeal the denial of hospice services if the recipient is able to and wishes to convey a contrary choice.

B.2. - F. ...

G. Election Statement Requirements. The election statement must include:

1. ...

2. the individual's or his/her legal representative's acknowledgment that he or she has been given a full understanding of the palliative rather than curative nature of hospice care, as it relates to the individual's terminal illness;

3. - 4. ...

5. the signature of the individual or his/her legal representative.

H. Duration of Election. An election to receive hospice care will be considered to continue through the initial election period and through the subsequent election periods without a break in care as long as the individual:

1. remains in the care of a hospice;

2. does not revoke the election under the provisions of §3505; and

3. is not discharged from hospice in accordance with §3505.

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254.

HISTORICAL NOTE: Promulgated by the Department of Health
and Hospitals, Office of the Secretary, Bureau of Health
Services Financing, LR 19:749 (June 1993), amended LR 28:1466
(June 2002), amended by the Department of Health and Hospitals,
Bureau of Health Services Financing, LR 41:

§3503. Waiver of Payment for Other Services

A. Individuals who are 21 and over may be eligible for
additional personal care services as defined in the Medicaid
State Plan. Services furnished under the personal care services
benefit may be used to the extent that the hospice provider
would routinely use the services of the hospice patient's family
in implementing the patient's plan of care. The hospice provider
must provide services to the individual that are comparable to
the services they received through Medicaid prior to their
election of hospice. These services include, but are not limited
to:

1. pharmaceutical and biological services;
2. durable medical equipment; and
 - a. - c. Repealed.
3. any other services permitted by federal law.
4. The services listed in §3503.A.1-3 are for
illustrative purposes only. The hospice provider is not exempt
from providing care if an item or category is not listed.

B. Individuals under age 21 who are approved for hospice may continue to receive curative treatments for their terminal illness; however, the hospice provider is responsible to coordinate all curative treatments related to the terminal illness.

1. *Curative Treatments*-medical treatment and therapies provided to a patient with the intent to improve symptoms and cure the patient's medical problem. Antibiotics, chemotherapy, a cast for a broken limb are examples of curative care.

2. Curative care has as its focus the curing of an underlying disease and the provision of medical treatments to prolong or sustain life.

3. The hospice provider is responsible to provide durable medical equipment or contract for the provision of durable medical equipment. Personal care services, extended home health, and pediatric day health care must be coordinated with hospice services pursuant to §3705.C.

C. Individuals who elect hospice services may also receive Early and Periodic Screening, Diagnosis and Treatment (EPSDT) personal care services (PCS) concurrently. The hospice provider and the PCS provider must coordinate services and develop the patient's plan of care as set forth in §3705.

D. The hospice provider is responsible for making a daily visit to all clients under the age of 21 and for the coordination of care to assure there is no duplication of

services. The daily visit is not required if the person is not in the home due to hospitalization or inpatient respite or inpatient hospice stays.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1467 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§3505. Revoking the Election of Hospice Care/Discharge

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

5. Re-election of Hospice Benefits. If an election has been revoked in accordance with the provisions of this §3505, the individual or his/her representative may at any time file an election, in accordance with §3501, for any other election period that is still available to the individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1467 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Chapter 37. Provider Requirements

§3701. Requirements for Coverage

A. To be covered, a Certification of Terminal Illness must be completed as set forth in §3703, the Election of Hospice Care Form must be completed in accordance with §3501, and a plan of care must be established in accordance with §3705. A written narrative from the referring physician explaining why the patient has a prognosis of six months or less must be included in the Certificate of Terminal illness.

B. Prior authorization requirements stated in Chapter 41 of these provisions are applicable to all election periods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1467 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§3703. Certification of Terminal Illness

A. ...

1. For the first 90-day period of hospice coverage, the hospice must obtain a verbal certification no later than two calendar days after hospice care is initiated. If the verbal

certification is not obtained within two calendar days following the initiation of hospice care, a written certification must be made within 10 calendar days following the initiation of hospice care. The written certification and Notice of Election must be obtained before requesting prior authorization for hospice care. If these requirements are not met, no payment is made for the days prior to the certification. Instead, payment begins with the day certification, i.e., the date all certification forms are obtained.

a. - c. Repealed.

2. For the subsequent periods, a written certification must be included in an approved prior authorization packet before a claim may be billed.

a. - 4. Repealed.

B. Face-to-Face Encounter

1. A hospice physician or hospice nurse practitioner must have a face-to-face encounter with each hospice patient whose total stay across all hospices is anticipated to reach the third benefit period. The face-to-face encounter must occur no more than 30 calendar days prior to the third benefit period recertification, and every benefit period recertification thereafter, to gather clinical findings to determine continued eligibility for hospice care.

2. The physician or nurse practitioner who performs the face-to-face encounter with the patient must attest in writing that he or she had a face-to-face encounter with the

patient, including the date of that visit. The attestation of the nurse practitioner or a non-certifying hospice physician shall state that the clinical findings of that visit were provided to the certifying physician for use in determining continued eligibility for hospice care.

C. Content of Certifications

1. Certifications shall be based on the physician's or medical director's clinical judgment regarding the normal course of the individual's illness.

2. The certification must specify that the individual's prognosis is for a life expectancy of six months or less if the terminal illness runs its normal course.

3. Written clinical information and other documentation that support the medical prognosis must accompany the certification of terminal illness and must be based on the physician's clinical judgment regarding the normal course of the individual's illness filed in the medical record with the written certification, as set forth in §3703.C.

4. The physician must include a brief written narrative explanation of the clinical findings that support a life expectancy of six months or less as part of the certification and recertification forms, or as an addendum to the certification/recertification forms.

a. If the physician includes an addendum to the certification and recertification forms, it shall include, at a minimum:

- i. the patient's name;
- ii. physician's name;
- iii. terminal diagnosis(es);
- iv. prognosis; and
- v. the name and signature of the IDG

member making the referral;

b. The narrative must reflect the patient's individual clinical circumstances and cannot contain check boxes or standard language used for all patients.

c. The narrative associated with the third benefit period recertification and every subsequent recertification must include an explanation of why the clinical findings of the face-to-face encounter support a life expectancy of six months or less, and shall not be the same narrative as previously submitted.

d. prognosis; and

e. the name and signature of the IDG member taking the referral.

5. All certifications and recertifications must be signed and dated by the physician(s), and must include the benefit period dates to which the certification or recertification applies.

D. Sources of Certification

1. For the initial 90-day period, the hospice must obtain written certification statements as provided in §3703.A.1 from:

a. the hospice's medical director or physician member of the hospice's interdisciplinary group; and

b. the individual's referring physician.

i. The referring physician is a doctor of medicine or osteopathy and is identified by the individual, at the time he or she elects to receive hospice care, as having the most significant role in the determination and delivery of the individual's medical care.

ii. The referring physician is the physician identified within the Medicaid system as the provider to which claims have been paid for services prior to the time of the election of hospice benefits.

2. For subsequent periods, the only requirement is certification by either the medical director of the hospice or the physician member of the hospice interdisciplinary group.

E. Maintenance of Records. Hospice staff must make an appropriate entry in the patient's clinical record as soon as they receive an oral certification and file written certifications in the clinical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:749 (June 1993), amended LR 28:1468 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§3705. Plan of Care

A. - B. ...

C. When developing the plan of care (POC), the hospice provider must consult with, and collaborate with the recipient, his/her caregiver, and his/her long-term personal care services provider, and if the recipient is under age 21, his/her extended home nursing provider and/or pediatric day health care provider. If the recipient is receiving any of these services at the time of admission to hospice, the hospice provider must ensure that the POC clearly and specifically details the services and tasks, along with the frequency, to be performed by the non-hospice provider(s), as well as the services and tasks, along with the frequency, that are to be performed by the hospice provider to ensure that services are non-duplicative and that the recipient's needs are being met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1468 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Chapter 39. Covered Services

§3901. Medical and Support Services

A. - A.11.b.iv. ...

c. Inpatient Respite Care Day. An inpatient respite care day is a day on which the individual receives care in an approved facility on a short-term basis, not to exceed five days in any one election period, to relieve the family members or other persons caring for the individual at home. An approved facility is one that meets the standards as provided in 42 CFR §418.98(b). This service cannot be delivered to individuals already residing in a nursing facility.

d. General Inpatient Care Day. A general inpatient care day is a day on which an individual receives general inpatient care in an inpatient facility that meets the standards as provided in 42 CFR §418.98(a) and for the purpose of pain control or acute or chronic symptom management which cannot be managed in other settings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1468 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Chapter 41. Prior Authorization

§4101. Prior Authorization of Hospice Services

A. Prior authorization is required for all election periods as specified in §3501.C of this Subpart. The prognosis

of terminal illness will be reviewed. A patient must have a terminal prognosis and not just certification of terminal illness. Authorization will be made on the basis that a patient is terminally ill as defined in federal regulations. These regulations require certification of the patient's prognosis, rather than diagnosis. Authorization will be based on objective clinical evidence contained in the clinical record which supports the medical prognosis that the patient's life expectancy is six months or less if the illness runs its normal course and not simply on the patient's diagnosis.

1. The Medicare criteria found in *Local Coverage Determination (LCD) Hospice Determining Terminal Status (L32015)* will be used in analyzing information provided by the hospice to determine if the patient meets clinical requirements for this program.

2. Providers shall submit the appropriate forms and documentation required for prior authorization of hospice services as designated by the department in the Medicaid Program's service and provider manuals, memorandums, etc.

B. Written Notice of Denial. In the case of a denial, a written notice of denial shall be submitted to the hospice recipient, recipient's legal representative, and nursing facility, if appropriate.

C. Reconsideration. Claims will only be paid from the date of the Hospice Notice of Election if the prior authorization request is received within 10 days from the date

of election and is approved. If the prior authorization request is received 10 days or more after the date on the hospice notice of election, the approved begin date for hospice services is the date the completed prior authorization packet is received.

D. Appeals. If the recipient does not agree with the denial of a hospice prior authorization request, the recipient, the recipient's legal representative, or the hospice on behalf of the recipient, can request an appeal of the prior authorization decision. The appeal request must be filed with the Division of Administrative Law within 30 days from the date of the postmark on the denial letter. The appeal proceedings will be conducted in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1470 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Chapter 43. Reimbursement

§4303. Levels of Care for Payment

A. - B.3. ...

C. Inpatient Respite Care. The inpatient respite care rate is paid for each day the recipient is in an approved

inpatient facility and is receiving respite care (see §3901.A.11.c). Respite care may be provided only on an occasional basis and payment for respite care may be made for a maximum of five days at a time including the date of admission but not counting the date of discharge. Payment for the day of discharge in a respite setting shall be at the routine home level-of-care discharged alive rate.

1. ...

2. Respite care may not be provided when the hospice patient is a nursing home resident, regardless of the setting, i.e., long-term acute care setting.

D. General Inpatient Care. Payment at the inpatient rate is made when an individual receives general inpatient care in an inpatient facility for pain control or acute or chronic symptom management which cannot be managed in other settings. General inpatient care is a short-term level of care and is not intended to be a permanent solution to a negligent or absent caregiver. A lower level of care must be used once symptoms are under control. General inpatient care and nursing facility or intermediate care facility for persons with intellectual disabilities room and board cannot be reimbursed for the same recipient on the same covered days of service. Payment for the day of discharge in a general inpatient setting shall be at the routine home level-of-care discharged alive rate.

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.

36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1470 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4305. Hospice Payment Rates

A. - A.2. ...

a. The hospice is paid for other physicians' services, such as direct patient care services, furnished to individual patients by hospice employees and for physician services furnished under arrangements made by the hospice unless the patient care services were furnished on a volunteer basis. The physician visit for the face-to-face encounter will not be reimbursed by the Medicaid Program.

b. - d.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1470 (June 2002), LR 34:441 (March 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4307. Payment for Long Term Care Residents

A. ...

1. who is residing in a nursing facility or intermediate care facility for persons with intellectual disabilities (ICF/ID);

2. who would be eligible under the state plan for nursing facility services or ICF/ID services if he or she had not elected to receive hospice care;

3. ...

4. for whom the hospice agency and the nursing facility or ICF/ID have entered into a written agreement in accordance with the provisions set forth in the Licensing Standards for Hospice Agencies (LAC 48:I.Chapter 82), under which the hospice agency takes full responsibility for the professional management of the individual's hospice care and the facility agrees to provide room and board to the individual.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:749 (June 1993), amended LR 28:1471 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1894 (September 2009), LR 41:

§4309. Limitation on Payments for Inpatient Care

A. ...

1. During the 12-month period beginning November 1 of each year and ending October 31, the number of inpatient days for any one hospice recipient may not exceed five days per occurrence.

2. - 2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1472 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, November 26, 2014 at 9:30 a.m. in Room 173, 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.

Kathy H. Kliebert

Secretary



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
November 26, 2014
9:30 a.m.

RE: Hospice Services
Docket # 112614-03
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 November 26, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in black ink, appearing to read "Cedric Clark", written over a horizontal line.

Cedric Clark
Medicaid Policy and
Compliance Section

11/26/2014
Date

DHH/BHSF PUBLIC HEARING

Topic - Hospice Services

November 26, 2014

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Kaylin Haines	628 N. 4th St.	225-342-9319	DH H
2.			
3.			
4.			
5.			
6.			



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

December 5, 2014

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeier, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
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 Inpatient Hospital Services - Non-Rural, Non-State Hospitals - Supplemental Payments.

The Department published a Notice of Intent on this proposed Rule in the October 20, 2014 issue of the *Louisiana Register* (Volume 40, Number 10). A public hearing was held on November 25, 2014 at which only Department of Health and Hospitals staff were present. No oral testimony or written comments were received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the January 20, 2015 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.

KHK/WJR/RKA

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Supplemental Payments
(LAC 50:V.953)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:V.953 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX. 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 inpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals (*Louisiana Register*, Volume 40, Number 2).

Due to a continuing budgetary shortfall in SFY 2014, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to reduce the total supplemental payments pool for non-rural, non-state hospitals and to change the frequency of payments (*Louisiana Register*, Volume 39, Number 11). This proposed Rule is being promulgated to continue the provisions of the November 20, 2013 Emergency Rule.

Title 50
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospital Services
Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - S. ...

T. Effective for dates of service on or after November 20, 2013, supplemental payments to non-rural, non-state acute care hospitals that qualify as a high Medicaid hospital shall be annual. The amount appropriated for annual supplemental payments shall be reduced to \$1,000,000. Each qualifying hospital's annual supplemental payment shall be calculated based on the pro rata share of the reduced appropriation.

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 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), LR 35:1896 (September 2009), repromulgated LR 35:2182 (October 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 39:3095 (November 2013), LR 39:3297 (December 2013), LR 40:312 (February 2014), LR 41:

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 increase the total direct and indirect cost of the provider to provide the same level of service, and may affect the provider's ability to provide the same level of service since this proposed Rule may decrease payments to providers for the same services they

already render.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, November 26, 2014 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.

Kathy H. Kliebert

Secretary



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
November 26, 2014
9:30 a.m.

RE: Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Supplemental Payments
Docket # 112614-04
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 November 26, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in black ink, appearing to read "Cedric Clark", written over a horizontal line.

Cedric Clark
Medicaid Policy and
Compliance Section

11/26/2014
Date

DHH/BHSF PUBLIC HEARING

Topic – Inpatient Hospital Services – Non-Rural, Non-State Hospitals – Supplemental Payments

November 26, 2014

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Kaylin Hayes	628 Nth 4th	225-342-9319	DH+H
2.			
3.			
4.			
5.			
6.			



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

December 5, 2014

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeier, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
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 - Leave of Absence Days - Reimbursement Reduction.

The Department published a Notice of Intent on this proposed Rule in the October 20, 2014 issue of the *Louisiana Register* (Volume 40, Number 10). A public hearing was held on November 25, 2014 at which only Department of Health and Hospitals staff were present. No oral testimony or written comments were received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the January 20, 2015 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.

KHK/WJR/RKA

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Nursing Facilities Leave of Absence Days Reimbursement Reduction (LAC 50:II.20021)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:II.20021 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 reimbursement to nursing facilities to reduce the reimbursement paid to nursing facilities for leave of absence days (*Louisiana Register*, Volume 35, Number 9). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities to further reduce the reimbursement rates for leave of absence days (*Louisiana Register*, Volume 39, Number 7). This proposed Rule is being promulgated to continue the provisions of the July 1, 2013 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities
Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20021. Leave of Absence Days [Formerly LAC:VII.1321]

A. - E. ...

F. Effective for dates of service on or after July 1, 2013, the reimbursement paid for leave of absence days shall be 10 percent of the applicable per diem rate in addition to the provider fee amount.

1. The provider fee amount shall be excluded from the calculations when determining the leave of absence days payment amount.

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 35:1899 (September 2009), amended LR 41:

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 increase the total direct and indirect cost of the provider to provide the same level of service due to the decrease in payments. 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 reduction in payments adversely impacts the provider's financial standing.

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, November 26, 2014 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.

Kathy H. Kliebert

Secretary



State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
November 26, 2014
9:30 a.m.

RE: Nursing Facilities
Leave of Absence Days
Reimbursement Reduction
Docket # 112614-06
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 November 26, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in black ink, appearing to read "Cedric Clark", written over a horizontal line.

Cedric Clark
Medicaid Policy and
Compliance Section

11/26/2014
Date

DHH/BHSF PUBLIC HEARING

Topic – Nursing Facilities – Leave of Absence Days – Reimbursement Reduction

November 26, 2014

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Karilyn Haynes	628 Nth 4th	225-342-9319	DHIT
2.			
3.			
4.			
5.			
6.			



State of Louisiana
Department of Health and Hospitals
Office of the Secretary

December 5, 2014

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Chuck Kleckley, Speaker of the House
The Honorable David Heitmeir, Chair, Senate Committee on Health and Welfare
The Honorable Scott Simon, Chair, House Committee on Health and Welfare
The Honorable Jack Donahue, Chair, Senate Finance Committee
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

FROM: Kathy H. Kliebert
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, 2014 issue of the *Louisiana Register* (Volume 40, Number 10). A public hearing was held on November 26, 2014 at which only the Department of Health and Hospitals staff were present. No oral testimony was given, nor written correspondence received, regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the January 20, 2014 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.

YHK/WJR/CEC

Attachments (3)

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Pediatric Day Health Care Program
(LAC 48:I.Chapters 52 and 125 and
LAC 50:XV.27503)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.5237, §5247, §5257, §12501-12503, adopt §12508, and amend LAC 50:XV.27503 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.

In compliance with Act 432 of the 2004 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions governing the licensing standards for pediatric day health care facilities (*Louisiana Register*, Volume 35, Number 12). The department subsequently adopted provisions to implement pediatric day health care (PDHC) services as an optional covered service under the Medicaid State Plan (*Louisiana Register*, Volume 36, Number 7).

The department promulgated an Emergency Rule which amended the licensing standards for PDHC facilities to revise the provisions governing provider participation, development and

educational services and transportation requirements, and to adopt provisions for the inclusion of PDHC facilities in the Facility Need Review (FNR) Program. This Emergency Rule also amended the provisions governing pediatric day health care services in order to revise the recipient criteria which will better align the program's operational procedures with the approved Medicaid State Plan provisions governing these services (*Louisiana Register*, Volume 40, Number 3).

The department promulgated an Emergency Rule which amended the March 1, 2014 Emergency Rule in order to revise the additional grandfather provisions for the Facility Need Review process for the Pediatric Day Health Care Program (*Louisiana Register*, Volume 40, Number 4). This proposed Rule is being promulgated to continue the provisions of the April 20, 2014 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

§5237. Acceptance Criteria

A. - D.1. ...

2. The medical director of the PDHC facility may provide the referral to the facility only if he/she is the

child's prescribing physician, and only if the medical director has no ownership interest in the PDHC facility.

3. No member of the board of directors of the PDHC facility may provide a referral to the PDHC. No member of the board of directors of the PDHC facility may sign a prescription as the prescribing physician for a child to participate in the PDHC facility services.

4. No physician with ownership interest in the PDHC may provide a referral to the PDHC. No physician with ownership interest in the PDHC may sign a prescription as the prescribing physician for a child to participate in the PDHC facility services.

5. Notwithstanding anything to the contrary, providers are expected to comply with all applicable federal and state rules and regulations including those regarding anti-referral and the Stark Law.

E. - G.2. ...

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 LR 41:

Subchapter E. Pediatric Day Health Care Services

§5247. Developmental and Educational Services

A. ...

B. For any child enrolled in the early intervention program (EarlySteps) or the local school district's program under the Individuals with Disabilities Act, the PDHC facility shall adhere to the following.

1. ...

2. The PDHC facility shall not duplicate services already provided through the early intervention program or the local school district. EarlySteps services cannot be provided in the PDHC unless specifically approved in writing by the DHH EarlySteps Program. Medicaid waiver services cannot be provided in the PDHC unless specifically approved in writing by the Medicaid waiver program. The PDHC shall maintain a copy of such written approval in the child's medical record.

B.3. - D.2. ...

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 35:2770 (December 2009), amended LR 41:

§5257. Transportation

A. The PDHC facility shall provide or arrange transportation of children to and from the facility; however, no child, regardless of his/her region of origin, may be in

transport for more than one hour on any single trip. The PDHC facility is responsible for the safety of the children during transport. The family may choose to provide their own transportation.

1. - 1.b. Repealed.

B. Whether transportation is provided by the facility on a daily basis or as needed, the general regulations under this Section shall apply.

C. If the PDHC facility provides transportation for children, the PDHC facility shall maintain in force at all times current commercial liability insurance for the operation of PDHC facility vehicles, including medical coverage for children in the event of accident or injury.

1. This policy shall extend coverage to any staff member who provides transportation for any child in the course and scope of his/her employment.

2. The PDHC facility shall maintain documentation that consists of the insurance policy or current binder that includes the name of the PDHC facility, the name of the insurance company, policy number, and period of coverage and explanation of coverage.

3. DHH Health Standards shall specifically be identified as the certificate holder on the policy and any certificate of insurance issued as proof of insurance by the

insurer or producer (agent). The policy must have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

D. If the PDHC facility arranges transportation for children through a transportation agency, the facility shall maintain a written contract which is signed by a facility representation and a representative of the transportation agency. The contract shall outline the circumstances under which transportation will be provided.

1. The written contract shall be dated and time limited and shall conform to these licensing regulations.

2. The transportation agency shall maintain in force at all times current commercial liability insurance for the operation of transportation vehicles, including medical coverage for children in the event of accident or injury. Documentation of the insurance shall consist of the:

- a. insurance policy or current binder that includes the name of the transportation agency;
- b. name of the insurance agency;
- c. policy number;
- d. period of coverage; and
- e. explanation of coverage.

3. DHH Health Standards shall specifically be identified as the certificate holder on the policy and any certificate of insurance issued as proof of insurance by the insurer or producer (agent). The policy must have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

4. - 10. Repealed

E. Transportation arrangements, whether provided by the PDHC facility directly or arranged by the PDHC facility through a written contract with a transportation agency shall meet the following requirements.

1. Transportation agreements shall conform to state laws, including laws governing the use of seat belts and child restraints. Vehicles shall be accessible for people with disabilities or so equipped to meet the needs of the children served by the PDHC facility.

2. The driver or attendant shall not leave the child unattended in the vehicle at any time.

2.a. - 6. Repealed.

F. Vehicle and Driver Requirements

1. The requirements of Paragraph F of this Section shall apply to all transportation arrangements, whether provided

by the PDHC facility directly or arranged by the PDHC facility through a written contract with a transportation agency.

2. The vehicle shall be maintained in good repair with evidence of an annual safety inspection.

3. The following actions shall be prohibited in any vehicle while transporting children:

- a. the use of tobacco in any form;
- b. the use of alcohol;
- c. the possession of illegal substances; and
- d. the possession of firearms, pellet guns, or BB guns (whether loaded or unloaded).

4. The number of persons in a vehicle used to transport children shall not exceed the manufacturer's recommended capacity.

5. The facility shall maintain a copy of a valid appropriate Louisiana driver's license for all individuals who drive vehicles used to transport children on behalf of the PDHC facility. At a minimum, a Class "D" Chauffeur's license is required for all drivers who transport children on behalf of the PDHC facility.

6. Each transportation vehicle shall have evidence of a current safety inspection.

7. There shall be first aid supplies in each facility or contracted vehicle. This shall include oxygen, pulse

oximeter, and suction equipment. Additionally, this shall include airway management equipment and supplies required to meet the needs of the children being transported.

8. Each driver or attendant shall be provided with a current master transportation list including:

- a. each child's name;
- b. pick up and drop off locations; and
- c. authorized persons to whom the child may be released.

- i. Documentation shall be maintained on file at the PDHC facility whether transportation is provided by the facility or contracted.

9. The driver or attendant shall maintain an attendance record for each trip. The record shall include:

- a. the driver's name;
- b. the date of the trip;
- c. names of all passengers (children and adults) in the vehicle; and
- d. the name of the person to whom the child was released and the time of release.

10. There shall be information in each vehicle identifying the name of the administrator and the name, telephone number, and address of the facility for emergency situations.

G. Child Safety Provisions

1. The requirements of Paragraph G of this Section shall apply to all transportation arrangements, whether provided by the PDHC facility directly or arranged by the PDHC facility through a written contract with a transportation agency.

2. The driver and one appropriately trained staff member shall be required at all times in each vehicle when transporting any child. Staff shall be appropriately trained on the needs of each child, and shall be capable and responsible for administering interventions when appropriate.

3. Each child shall be safely and properly:

- a. assisted into the vehicle;
- b. restrained in the vehicle;
- c. transported in the vehicle; and
- d. assisted out of the vehicle.

4. Only one child shall be restrained in a single safety belt or secured in any American Academy of Pediatrics recommended age appropriate safety seat.

5. The driver or appropriate staff person shall check the vehicle at the completion of each trip to ensure that no child is left in the vehicle.

a. The PDHC facility shall maintain documentation that includes the signature of the person conducting the check and the time the vehicle is checked.

Documentation shall be maintained on file at the PDHC facility whether transportation is provided by the facility or contracted.

6. During field trips, the driver or staff member shall check the vehicle and account for each child upon arrival at, and departure from, each destination to ensure that no child is left in the vehicle or at any destination.

a. The PDHC facility shall maintain documentation that includes the signature of the person conducting the check and the time the vehicle was checked for each loading and unloading of children during the field trip. Documentation shall be maintained on file at the PDHC facility whether transportation is provided by the facility or contracted.

7. Appropriate staff person(s) shall be present when each child is delivered to the facility.

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 35:2771 (December 2009), amended LR 41:

Subpart 5. Health Planning

Chapter 125. Facility Need Review

Subchapter A. General Provisions

§12501. Definitions

A. Definitions. When used in this Chapter the following terms and phrases shall have the following meanings unless the context requires otherwise.

Pediatric Day Health Care (PDHC) Providers-a facility that may operate seven days a week, not to exceed 12 hours a day, to provide care for medically fragile children under the age of 21, including technology dependent children who require close supervision. Care and services to be provided by the pediatric day health care facility shall include, but not be limited to:

- a. nursing care, including, but not limited to:
 - i. tracheotomy and suctioning care;
 - ii. medication management; and
 - iii. intravenous (IV) therapy;
- b. respiratory care;
- c. physical, speech, and occupational therapies;
- d. assistance with activities of daily living;
- e. transportation services; and
- f. education and training.

AUTHORITY NOTE: Promulgated in accordance with R.S.

40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:2611 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2437 (November 2009), amended LR 36:323 (February 2010), LR 38:1961 (August 2012), LR 41:

§12503. General Information

A. - B. ...

C. The department will also conduct a FNR for the following provider types to determine if there is a need to license additional units, providers or facilities:

1. - 3. ...

4. hospice providers or inpatient hospice facilities;

5. outpatient abortion facilities; and

6. pediatric day health care facilities.

D. - F.4. ...

G. Additional Grandfather Provision. An approval shall be deemed to have been granted under FNR without review for HCBS providers, ICFs-DD, ADHC providers, hospice providers, outpatient abortion facilities, and pediatric day health care centers that meet one of the following conditions:

1. - 3. ...

4. hospice providers that were licensed, or had a completed initial licensing application submitted to the department, by March 20, 2012;

5. outpatient abortion facilities which were licensed by the department on or before May 20, 2012; or

6. pediatric day health care providers that were licensed by the department before March 1, 2014, or an entity that meets all of the following requirements:

a. has a building site or plan review approval for a PDHC facility from the Office of State Fire Marshal by March 1, 2014;

b. has begun construction on the PDHC facility by April 30, 2014, as verified by a notarized affidavit from a licensed architect submitted to the department, or the entity had a fully executed and recorded lease for a facility for the specific use as a PDHC facility by April 30, 2014, as verified by a copy of a lease agreement submitted to the department;

c. submits a letter of intent to the department's Health Standards Section by April 30, 2014, informing the department of its intent to operate a PDHC facility; and

d. becomes licensed as a PDHC by the department no later than December 31, 2014.

H. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.
40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 28:2190 (October 2002), LR 30:1483 (July 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 34:2612 (December 2008), amended LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:1593 (July 2012), LR 38:1961 (August 2012), LR 41:

**Subchapter B. Determination of Bed, Unit, Facility or Agency
Need**

§12508. Pediatric Day Health Care Providers

A. No PDHC provider shall be licensed to operate unless the FNR Program has granted an approval for the issuance of a PDHC provider license. Once the FNR Program approval is granted, a PDHC provider is eligible to be licensed by the department, subject to meeting all of the requirements for licensure.

B. For purposes of facility need review, the service area for a proposed PDHC shall be within a 30 mile radius of the proposed physical address where the provider will be licensed.

C. Determination of Need/Approval

1. The department will review the application to determine if there is a need for an additional PDHC provider in

the geographic location and service area for which the application is submitted.

2. The department shall grant FNR approval only if the FNR application, the data contained in the application, and other evidence effectively establishes the probability of serious, adverse consequences to recipients' ability to access health care if the provider is not allowed to be licensed.

3. In reviewing the application, the department may consider, but is not limited to, evidence showing:

a. the number of other PDHC providers in the same geographic location, region, and service area servicing the same population; and

b. allegations involving issues of access to health care and services.

4. The burden is on the applicant to provide data and evidence to effectively establish the probability of serious, adverse consequences to recipients' ability to access health care if the provider is not allowed to be licensed. The department shall not grant any FNR approvals if the application fails to provide such data and evidence.

D. Applications for approvals of licensed providers submitted under these provisions are bound to the description in the application with regard to the type of services proposed as well as to the site and location as defined in the application.

FNR approval of licensed providers shall expire if these aspects of the application are altered or changed.

E. FNR approvals for licensed providers are non-transferable and are limited to the location and the name of the original licensee.

1. A PDHC provider undergoing a change of location in the same licensed service area shall submit a written attestation of the change of location and the department shall re-issue the FNR approval with the name and new location. A PDHC provider undergoing a change of location outside of the licensed service area shall submit a new FNR application and appropriate fee and undergo the FNR approval process.

2. A PDHC provider undergoing a change of ownership shall submit a new application to the department's FNR Program. FNR approval for the new owner shall be granted upon submission of the new application and proof of the change of ownership, which must show the seller's or transferor's intent to relinquish the FNR approval.

3. FNR Approval of a licensed provider shall automatically expire if the provider is moved or transferred to another party, entity or location without application to and approval by the FNR program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 19. Pediatric Day Health Care Program

Chapter 275. General Provisions

§27503. Recipient Criteria

A. In order to qualify for PDHC services, a Medicaid recipient must meet the following criteria. The recipient must:

1. ...
2. require ongoing skilled medical care or skilled nursing care by a knowledgeable and experienced licensed professional registered nurse (RN) or licensed practical nurse (LPN);
3. have a medically complex condition(s) which require frequent, specialized therapeutic interventions and close nursing supervision. Interventions are those medically necessary procedures provided to sustain and maintain health and life. Interventions required and performed by individuals other than the recipient's personal care giver would require the skilled care provided by professionals at PDHC centers. Examples of medically necessary interventions include, but are not limited to:

- a. suctioning using sterile technique;

b. provision of care to a ventilator dependent and/or oxygen dependent recipients to maintain patent airway and adequate oxygen saturation, inclusive of physician consultation as needed;

c. monitoring of blood pressure and/or pulse oximetry level in order to maintain stable health condition and provide medical provisions through physician consultation;

d. maintenance and interventions for technology dependent recipients who require life-sustaining equipment; or

e. complex medication regimen involving, and not limited to, frequent change in dose, route, and frequency of multiple medications, to maintain or improve the recipient's health status, prevent serious deterioration of health status and/or prevent medical complications that may jeopardize life, health or development;

4. have a medically fragile condition, defined as a medically complex condition characterized by multiple, significant medical problems that require extended care. Medically fragile individuals are medically complex and potentially dependent upon medical devices, experienced medical supervision, and/or medical interventions to sustain life;

a. medically complex may be considered as chronic, debilitating diseases or conditions, involving one or more physiological or organ systems, requiring skilled medical

care, professional observation or medical intervention;

b. examples of medically fragile conditions include, but are not limited to:

- i. severe lung disease requiring oxygen;
- ii. severe lung disease requiring ventilator or tracheotomy care;
- iii. complicated heart disease;
- iv. complicated neuromuscular disease; and
- v. unstable central nervous system disease;

5. have a signed physician's order, not to exceed 180 days, for pediatric day health care by the recipient's physician specifying the frequency and duration of services; and

6. be stable for outpatient medical services.

B. If the medical director of the PDHC facility is also the child's prescribing physician, the Department reserves the right to review the prescription for the recommendation of the child's participation in the PDHC Program.

1. - 1.j. Repealed.

C. Re-evaluation of PDHC services must be performed, at a minimum, every 120 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 four

months 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. Physician's orders for services are required to individually meet the needs of each recipient and shall not be in excess of the recipient's needs. Physician orders prescribing or recommending PDHC services do not, in themselves, indicate services are medically necessary or indicate a necessity for a covered service. Eligibility for participation in the PDHC Program must also include meeting the medically complex provisions of this Section.

F. When determining the necessity for PDHC services, consideration shall be given to all of the services the recipient may be receiving, including waiver services and other community supports and services. This consideration must be reflected and documented in the recipient's treatment plan.

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:

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 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, 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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030,

Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Wednesday, November 26, 2014 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.

Kathy H. Kliebert

Secretary

Bobby Jindal
GOVERNOR



Kathy H. Kliebert
SECRETARY

State of Louisiana
Department of Health and Hospitals
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
November 26, 2014
9:30 a.m.

RE: Pediatric Day Health Care Program
Docket # 112614-07
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 November 26, 2014 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in black ink, appearing to read "Cedric Clark", written over a horizontal line.

Cedric Clark
Medicaid Policy and
Compliance Section

11/26/2014
Date

DHH/BHSF PUBLIC HEARING

Topic - Pediatric Day Health Care Program

November 26, 2014

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Kaylin Haynes	628 Nth 4th	225-342-9319	DHIT
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