

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1930 (November 2016).

#### §9947. Isolation

A. When the infection control program determines that a resident needs isolation to prevent the spread of infection, the nursing facility shall isolate the resident according to the most current Centers for Disease Control's recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

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#### §9949. Housekeeping and Maintenance

A. Housekeeping and maintenance services necessary to maintain a sanitary, orderly, and safe interior shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1930 (November 2016).

#### §9951. Nursing Care Equipment

A. Bedpans, urinals, emesis basins, wash basins and other personal nursing items shall be thoroughly cleaned after each use and sanitized as necessary. Water pitchers shall be sanitized as necessary.

B. All catheters, irrigation sets, drainage tubes or other supplies or equipment for internal use, and as identified by the manufacturer as one time use only, shall be disposed of in accordance with the manufacture's recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1930 (November 2016).

#### §9953. Waste and Hazardous Materials Management

A. The nursing facility shall have a written and implemented waste management program that identifies and controls wastes and hazardous materials. The program shall comply with all applicable laws and regulations governing wastes and hazardous materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

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## Chapter 100. Nurse Aide Training and Competency Evaluation Program

### Subchapter A. General Provisions

#### §10001. Definitions

*Abuse*—

1. the willful infliction of physical or mental injury;
2. causing deterioration by means including, but not limited to:
  - a. sexual abuse;
  - b. exploitation; or
  - c. extortion of funds or other things of value to such an extent that the resident's health, moral or emotional well-being is endangered; or
3. the willful infliction of injury, unreasonable confinement, intimidation or punishment which results in or which could reasonably be expected to result in physical or mental harm, pain or mental anguish. Lack of awareness or knowledge by the victim of the act which produced or which could have reasonably been expected to produce physical or mental injury or harm shall not be a defense to the charge of abuse.

*Approved Setting*—a provider entity licensed and regulated by the department, a school serving children with special needs, or a correctional facility in which the certified nurse aide performs nursing or nursing-related duties.

*Certified Nurse Aide*—an individual who meets one of the following requirements and is listed as certified and in good standing on the Louisiana Certified Nurse Aide Registry (LCNAR):

1. has completed a nurse aide training and competency evaluation program (NATCEP) approved by the state as meeting the requirements of 42 Code of Federal Regulations (CFR) 483.151-483.154; or
2. has been determined competent as provided in 42 CFR 483.150(a) and (b); or
3. has successfully completed one semester of a registered or practical nursing program, which includes a course on foundational nursing skills, and has successfully passed an approved nurse aide competency evaluation examination.

*Department*—the Louisiana Department of Health and Hospitals.

*Misappropriation*—taking possession without the permission of the resident who owns the personal belongings, or the deliberate misplacement, exploitation or wrongful temporary or permanent use of a resident's belongings or money without the resident's consent.

*Neglect*—the failure to provide goods and services to the resident that are necessary to avoid physical harm, mental anguish or mental illness.

*Nursing Homes or Nursing Facilities*—any entity or facility serving two or more persons, who are not related to the operator by blood or marriage, that undertakes to provide maintenance, personal care or nursing for persons who are unable to properly care for themselves by reason of illness, age or physical infirmity.

*Trainee*—an individual who is at least 16 years old and is enrolled in a nurse aide training and competency evaluation program, whether at a nursing facility or educational facility, with a goal of becoming a certified nurse aide.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

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## Subchapter B. Training and Competency Requirements

### §10011. General Provisions

A. All nurse aide training and competency evaluation programs shall be approved by the department.

B. Training and competency evaluation programs may be provided by:

1. community colleges;
2. vocational-technical programs; and
3. other educational entities.

C. Nursing facilities may provide the classroom and clinical training portion of the program but the competency evaluation shall be administered by an entity approved by the department.

D. Each training and competency evaluation program shall:

1. maintain qualified, approved personnel for classroom and clinical instruction;
2. protect the integrity of the competency evaluations by keeping them secure;
3. utilize a pass rate of at least 70 percent for each individual student; and
4. assure the curriculum meets federal and state requirements.

E. Clinical instruction shall be conducted in a nursing home or a hospital-based skilled nursing facility unit.

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2075 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1242 (May 2012).

### §10013. Certification Criteria for Nursing Professionals, Nursing Students and Military Personnel

A. Individuals applying for nurse aide certification shall complete the application form designated by the department and submit documentation as deemed necessary by the department to determine eligibility.

B. Registered nurses (RNs) and licensed practical nurses (LPNs) who have completed online courses shall provide an official transcript to determine eligibility to test.

C. Registered nurse (RN) and licensed practical nurse (LPN) students shall provide an official transcript and any other documentation needed to determine eligibility.

D. Registered nurses (RNs) and licensed practical nurses (LPNs) who trained in other countries, and are requesting certification to the registry, shall be required to test.

E. RN and LPN students who have completed a nursing course, or have completed sufficient course content to meet eligibility criteria for certification, shall be required to test if their request for certification is received within three years of taking the nursing course.

F. An individual who trained in another state but did not test, shall test and certify to the registry in that state before transferring to Louisiana, or shall retrain and test in Louisiana.

G. Military personnel shall provide a copy of their military transcript and any other documentation needed to determine eligibility.

H. Licensed nurses on probation or suspended status shall provide documentation as deemed necessary by the department to determine eligibility.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2075 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1242 (May 2012).

### §10015. Training Curriculum/Program Approval

#### A. Training Curriculum

1. Providers applying to have a training program after the effective date of this Rule shall use one of the state approved curriculums or any subsequent editions issued by the publisher or any future state approved curriculums.

2. The curriculum shall be a minimum of 80 hours in length, which includes 40 classroom hours and 40 clinical hours.

3. Each additional unit objective added to the approved curriculum, above the minimum 80 hours, shall be behaviorally-stated for each topic of instruction. Each objective shall state performance criteria which are measurable and shall serve as a basis for the competency evaluation.

a. The unit objectives shall be reviewed with the trainees at the beginning of each unit so each trainee will

know what is expected of him/her in each part of the training.

#### B. Curriculum Goals and Content

1. The goal of the nurse aide training and competency evaluation program is the provision of quality services to residents by nurse aides who are able to:

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

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

c. assist residents in attaining and maintaining functional independence;

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

e. demonstrate proficiency in the skills needed to support the assessment of the health, physical condition and well-being of residents.

2. Facility and non-facility based training programs shall provide at least 16 hours of instruction prior to a trainee's direct involvement with a resident. The 16 hours of instruction shall be devoted to areas listed in Subsection C of this Section.

C. The training program shall be conducted to ensure that each nurse aide, at a minimum, is able to demonstrate competencies in the following areas:

1. basic nursing skills including, but not limited to:

a. bed-making;

b. taking vital signs;

c. measuring height and weight;

d. caring for the resident's environment;

e. measuring fluid and nutrient intake and output;

f. assisting in the provision of proper nutritional care;

g. ambulating and transferring residents;

h. using body mechanics;

i. maintaining infection control and safety standards;

j. understanding the protocols in facility policy for the performance of and attaining/maintaining proficiency in basic cardio-pulmonary resuscitation including one hour of in-service training that shall be provided by the facility annually;

k. caring for residents when death is imminent;

l. recognizing abnormal signs and symptoms of common diseases and conditions; and

m. caring for residents suffering from Alzheimer's disease or dementia;

2. personal care skills including, but not limited to:

a. bathing, including mouth care;

b. grooming and dressing;

c. toileting;

d. assisting with feeding and hydration; and

e. skin care;

3. mental health and social service needs including, but not limited to:

a. modifying his/her own behavior in response to a resident's behavior;

b. identifying developmental tasks associated with the aging process and using task analysis to increase independence;

c. providing training in and the opportunity for self-care according to a resident's capabilities;

d. demonstrating principles of behavior modification by reinforcing appropriate behavior and causing inappropriate behavior to be reduced or eliminated;

e. demonstrating skills which support age-appropriate behavior by allowing the resident to make personal choices;

f. providing and reinforcing behavior consistent with maintaining a resident's dignity; and

g. utilizing a resident's family as a source of emotional support;

4. basic restorative services including, but not limited to:

a. the use of assistive devices in ambulation, eating and dressing;

b. maintenance of range of motion;

c. proper turning and positioning in a bed and a chair;

d. transferring a resident;

e. bowel and bladder training; and

f. care and use of prosthetic devices, such as hearing aids, artificial eyes or artificial limbs;

5. maintaining a resident's rights including, but not limited to:

a. assisting a resident to vote;

b. providing privacy and maintaining confidentiality;

c. allowing the resident to make personal choices to accommodate individual needs;

d. giving assistance in resolving grievances;

e. providing needed assistance in getting to, and participating in, resident and family groups and other activities;

f. maintaining reasonable care of a resident's personal possessions;

g. providing care which frees the resident from abuse, mistreatment or neglect and reporting any instances of poor care to appropriate facility staff; and

h. maintaining the resident's environment and care so as to minimize the need for physical and chemical restraints;

6. communication and interpersonal skills;
7. safety and emergency procedures;
8. promoting residents' independence; and
9. the Heimlich maneuver.

**D. Program Approval**

1. All training programs shall meet the guidelines established by the department.

2. To get a nurse aide training program approved, the facility or school shall submit to the department the application, completed in its entirety, which denotes the state approved curriculum that shall be used and all required documentation stipulated in the nurse aide training packet.

3. All schools applying for approval shall identify the physical locations used for classroom instruction and for the clinical experience. Non-facility based programs shall also submit clinical contracts which meet the guidelines established by the department.

4. Approval to provide nurse aide training is granted specifically for the provider who submitted the application. There is no provision for subcontracting the training program.

5. If an approved program ceases to provide a nurse aide training and competency evaluation program for a two year period, the program shall be closed. The provider must reapply if they wish to provide training at a later date.

6. All approved providers shall maintain a current address, telephone and fax number, and e-mail address. The provider shall report to the department any changes in this information or other aspects of the approved program within five working days.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

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**§10017. Coordinators, Instructors and Trainers**

**A. Program Coordinator.** Every nurse aide training program shall have a program coordinator who provides general supervision of the training received by the nurse aide trainees.

1. The program coordinator shall be a registered nurse (RN) and shall have the following experience and qualifications:

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

- i. a nursing facility/unit;
- ii. a geriatrics department;
- iii. a chronic care hospital;
- iv. other long-term care setting; or

v. experience in varied responsibilities including, but not limited to, direct resident care or supervision and staff education; and

b. completion of VTIE, CTTIE, "train-the-trainer" type program or a master's degree or higher.

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

**B. Instructors.** Instructors shall be RN's or LPN's and shall hold a current Louisiana nursing license. Licensed practical (vocational) nurses, under the general supervision of the coordinator, may provide classroom and clinical skills instruction and supervision of trainees if they have two years of experience in caring for the elderly and/or chronically ill of any age or have equivalent experience.

1. Such experience is normally obtained through employment in:

- a. a nursing facility;
- b. a geriatrics department;
- c. a chronic care hospital; or
- d. other long-term care setting.

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

3. The ratio of instructors to trainees in clinical training shall not exceed 1:10 and the ratio of instructors to trainees in the classroom shall not exceed 1:23.

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

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

- a. registered nurses;
- b. licensed practical/vocational nurses;
- c. pharmacists;

- d. dietitians;
- e. social workers;
- f. sanitarians;
- g. fire safety experts;
- h. nursing home administrators;
- i. gerontologists;
- j. psychologists;
- k. physical and occupational therapists;
- l. activities specialists; and
- m. speech/language/hearing therapists.

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

3. The training program may utilize other persons such as residents, experienced aides and ombudsmen as resource personnel if these persons are needed to meet the planned program objectives or a specific unit of training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2076 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1244 (May 2012).

#### **§10019. Training Program Responsibilities**

A. Each nurse aide trainee shall be at least 16 years old.

B. Each nurse aide trainee shall be clearly identified as a trainee at all times during clinical training. Identification shall be recognizable to residents, family members, visitors and staff.

C. Each nurse aide training program shall provide all trainees with an orientation of the clinical training site of at least four hours that is not included in the required 80 hours of core curriculum. The orientation shall include but is not limited to:

- 1. an explanation of the facility's organizational structure;
- 2. the facility's policies and procedures;
- 3. discussion of the facility's philosophy of care;
- 4. description of the resident population;
- 5. employee rules; and
- 6. what constitutes abuse, neglect, and misappropriation, including the consequences imposed if found guilty of such.

D. The facility/school shall not accept a nurse aide trainee into a training program until the facility or school conducts a statewide criminal history background check which includes a check of the national sex offender public registry.

1. A trainee shall not be eligible to participate in a training program if convicted or found guilty by a court of law of:

- a. abusing, neglecting or mistreating the elderly or infirm as defined by R.S. 40:2009.20;
- b. misappropriating a resident's property; or
- c. has not had a finding of abuse, neglect, mistreatment or misappropriation of a resident's property placed on the Nurse Aide Registry or the Direct Service Worker Registry.

2. If a criminal history background check cannot be legally obtained by a training program, trainees may obtain a certified copy of their criminal history from the Louisiana State Police by requesting that a "right to review" be conducted.

E. Trainees shall not be prohibited from completing training due to:

- a. criminal history that is not related to abuse, neglect or misappropriation; or
- b. the Louisiana State Police not being able to complete a criminal history check due to the age of the trainee.

F. For facility-based training programs, the facility shall assure that trainees do not perform any care and services for which they have not trained and been found proficient by the instructor. Trainees providing services to residents shall be under the general supervision of a licensed nurse approved to work in a nurse aide training program.

1. Trainees enrolled in facility-based training programs, shall complete training and test within 60 days of hire.

2. Nursing facilities may provide the classroom instruction and clinical instruction but the competency evaluation shall be administered by an entity approved by the department.

3. A class roster as well as the beginning and ending dates of each training class shall be available for review by the department at all times. This shall be available for both classroom and clinical instruction.

G. Providers shall issue a certificate of completion to nurse aide trainees who successfully complete a training and competency evaluation program. The certificate shall contain the following:

- 1. the name of the nurse aide training program or school;
- 2. the date the program began;
- 3. the date the program ended;
- 4. the notation that this is a "DHH Approved Program;"
- 5. the name of the instructor; and
- 6. the signature of the coordinator and the date signed

H. Any entity responsible for the nurse aide training and competency evaluation program shall report to the Nurse Aide Registry within 30 days the names of all individuals who have satisfactorily passed the competency evaluation.

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HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2077 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1244 (May 2012).

### §10021. Competency Evaluation

A. Written or oral examinations shall be provided by an entity or organization approved by the department. The examination shall reflect the content and emphasis of the training program and shall be developed in accordance with accepted educational principles.

B. The written evaluation component shall be given in English unless the aide will be working in a facility in which the predominant language is something other than English. In this case, the examination may be taken in the written predominant language used in the facility, dependent upon the availability of a translator who shall maintain the integrity of the examination.

C. A substitute examination, including an oral component, shall be developed for those nurse aides with limited literacy skills. This examination shall contain all of the content that is included in the written examination and shall include a written reading comprehension portion that shall determine competency to read job-related information.

D. Trainees of non-facility based programs shall take the competency evaluation (through skills demonstration and either written or oral examination) within 30 days after completion of the training program.

E. Trainees shall be provided a maximum of three opportunities within one year following completion of the training program to successfully complete the competency evaluation.

F. The evaluation program shall be developed and conducted to ensure that each nurse aide, at a minimum, is able to demonstrate competencies listed in §10015.C.

G. For the skills training component of the evaluation program, each nurse aide training program shall develop a performance record of duties/skills taught which shall verify proficiency attained.

1. The performance record shall consist of, at a minimum:

a. a listing of the duties/skills expected to be learned in the program; and

b. space to note satisfactory or unsatisfactory performance of each task including:

i. the date of the performance; and

ii. the name of the instructor supervising the performance.

2. At the completion of the nurse aide training program, the nurse aide and his/her employer shall receive a copy of this record. If the individual did not successfully perform all duties/skills on this performance record, he/she shall receive training for all duties and skills not satisfactorily performed until satisfactory performance is confirmed.

H. The skills demonstration of the competency evaluation program shall consist of a minimum performance of five tasks, all of which are included in the performance record. These five tasks shall be selected for each aide from a pool of evaluation tasks which have been ranked according to degree of difficulty. A random selection of tasks shall be made with at least one task from each degree of difficulty being selected. Such evaluation tasks may include, but are not limited to:

1. making an occupied bed;

2. taking and recording a resident's blood pressure, temperature, pulse and respirations;

3. orienting a new resident to the facility;

4. performing a range of motion exercises;

5. giving a bed bath;

6. positioning a resident on his/her side; and

7. responding to a demented resident who is calling out, yelling or indicating distress or anger.

I. Task-related evaluation items shall be developed to evaluate communication and psychosocial skills. The skills demonstration portion of the competency evaluation may be held in either a nursing facility or in a laboratory equipped for this purpose.

J. In the case of nursing facilities that provide their own training programs, the facility shall contact an approved entity to administer competency evaluation. The clinical portion of the competency evaluation shall be given in a nursing facility, but shall be administered by personnel not associated with the facility. The competency evaluation may be proctored by facility personnel if the competency evaluation is:

1. secured from tampering;

2. standardized;

3. scored by a testing, educational or other organization approved by the state or scored by the state itself; and

4. not administered or scored by facility personnel.

K. The examiner conducting the clinical competency evaluation for any individual trainee shall be approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2077 (November 2006), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1245 (May 2012).

### §10023. Compliance with Federal and State Regulations

A. The department shall review all components of a training and competency evaluation program for compliance with federal and state regulations.

B. Programs not meeting minimum requirements may be terminated if the program does not provide an acceptable plan for correcting deficiencies.

C. Programs not accessible or refusing to permit unannounced visits by the department shall be terminated.

D. A program that has not conducted training or certified trainees to the registry within a two year period shall be closed.

#### E. Operational Requirements

1. In order to be considered operational and retain approval to conduct a training program, providers shall have at least one employee on duty at the business location during the hours of operation reported on the training program application submitted to the DHH Health Standards Section.

2. All nurse aide training providers (facility based and non-facility based) shall maintain a current, operational telephone number, fax number and e-mail address and shall keep the department informed of any changes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2078 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Financing, LR 38:1246 (May 2012).

### §10025. Nurse Aide Responsibilities

A. A nurse aide shall be responsible for notifying the registry of current contact information such as address, telephone number, and e-mail address.

B. A nurse aide shall perform at least eight hours of nursing or nursing-related services in an approved setting during every consecutive 24-month period for pay after completion of a training and competency evaluation program to maintain certification.

C. If a nurse aide does not have proof of the required eight hours of paid employment in an approved setting in a 24-month period needed for recertification, he/she may retest with the two years immediately following the expiration. If the nurse aide fails to retest within the allotted time period, they shall retrain.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2078 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1246 (May 2012).

## Subchapter C. Nurse Aide Registry

### §10033. General Provisions

A. The Department of Health (LDH) shall develop and maintain the Louisiana Certified Nurse Aide Registry (LCNAR) for individuals who have successfully completed a nurse aide training and/or competency evaluation program. Each individual listed on the LCNAR will have the following information maintained and retrievable:

1. name;
2. address;
3. Social Security number;
4. phone number;
5. place of employment;
6. date of employment;
7. date employment ceased;
8. state certification number;
9. documentation of any investigation including codes for specific findings of a resident's:
  - a. abuse;
  - b. neglect;
  - c. misappropriated property; and
  - d. an accurate summary of findings only after actions on findings are final;
10. current e-mail address; and
11. status of certification, which includes the:
  - a. certified date;
  - b. recertified date; and
  - c. expiration date.

B. The registry shall renew certification in accordance with the provisions of §10025 of this Chapter.

C. Employers shall use the registry to determine if a prospective hire is a certified nurse aide and if there is a finding placed on the registry that he/she has abused or neglected a resident or misappropriated a resident's property or funds.

D. If there is a final and binding administrative decision to place a finding on the registry or if there is a final conviction, guilty plea or no contest plea to a crime(s) by a nurse aide against the elderly, infirmed or a nursing facility resident, the department shall place the adverse finding on the registry. Record of the occurrence and associated findings shall remain permanently on the registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2078 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services

Financing, LR 38:1246 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1936 (November 2023).

### §10035. Certification by Reciprocity

A. Nurse aides may become certified by reciprocity from other states. Applicants shall, at a minimum, submit to the Nurse Aide Registry the following information either on forms or via electronic submissions approved by the department:

1. his/her name;
2. his/her Social Security number;
3. the certification number in the other state;
4. the address of the other state's registry;
5. his/her former place of employment;
6. the date of employment and termination;
7. his/her e-mail address;
8. a copy of his/her social security card; and
9. a copy of his/her official Louisiana identification, such as a driver's license, identification card, etc.

B. After verification of certification in the other state, the registry shall certify the aide in Louisiana. Likewise, the registry will be responsible for granting reciprocity to other states.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2079 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1246 (May 2012).

## Subchapter D. Provider Participation

### §10045. Employer Responsibilities

A. A person shall not be employed as a nurse aide or nurse aide trainee by a nursing facility or hospital based SNF unit for more than 60 days unless he/she has satisfactorily completed an approved training and competency evaluation program.

B. A person shall not be employed as a nurse aide or nurse aide trainee if there is a final administrative or judicial court decision that the nurse aide or trainee has:

1. committed abuse, neglect or mistreatment of the elderly, infirm or nursing facility resident;
2. misappropriated a resident's property; or
3. as specified in R.S. 40:1300.53.

C. The provider shall complete and send the appropriate form or approved electronic submission to the registry to verify employment or termination of a certified nurse aide. Failure to send notification to the registry within five working days of employment or termination may result in further adverse action against the provider. The provider shall maintain documentation to verify compliance.

D. All facilities shall continue to provide on-going training on a routine basis in groups and, as necessary in specific situations, on a one-to-one basis.

1. Each nurse aide shall receive and be compensated for 12 hours of on-going training per year.

2. Training may be conducted in the unit as long as it is:

- a. directed toward skills improvement;
- b. provided by appropriately trained staff; and
- c. documented.

E. When a change of ownership (CHOW) occurs, the new owner or the administrator/designee is responsible for ensuring that all reporting of employment and termination to the registry is current. In the event that a request for verification of work history is received after the CHOW occurs, the current owner is responsible for compliance.

F. The facility administrator/designee is responsible for reporting employment and termination to the registry for nurse aides employed by staffing agencies. This shall be done at least monthly.

G. No nurse aide who is employed by, or who has received an offer of employment from a facility on the date on which the aide begins a nurse aide competency evaluation program may be charged for any portion of the program.

H. If an individual who is not employed, or does not have an offer to be employed, as a nurse aide becomes employed by, or receives an offer of employment from, a facility not later than 12 months after completing a nurse aide competency evaluation program, the state shall provide for the reimbursement of costs incurred in completing the program on a pro rata basis during the period in which the individual is employed as a nurse aide.

I. If a training program is facility based, the administrator or their designee shall reconcile with the nurse aide registry at least monthly, their CNA's that are currently employed or have been terminated. Accuracy of the information held by the registry is dependent upon the information received from the facility. Failure to maintain current data shall result in adverse action by the department.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2079 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1247 (May 2012).

## Subchapter E. Violations

### §10055. Disqualification of Training Programs

A. The department prohibits nursing facilities from offering nurse aide training programs when the facilities have:

1. been determined to be out of compliance by the Medicaid or Medicare Programs until the end of a two-year



period during which time no survey or investigation finds any deficiencies; or

2. operated under a waiver granted on the basis of a demonstration that the facility is unable to provide RN coverage in excess of 48 hours during a week.

B. The department may prohibit nursing facilities from offering nurse aide training programs when the facilities have been sanctioned with:

1. civil monetary penalties of \$5,000 or more;
2. termination of vendor payments;
3. a ban on new admissions;
4. placement under temporary management or closure of a facility with transfer of residents; or
5. extended or partial extended survey.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2079 (November 2006), amended LR 38:1247 (May 2012).

#### **§10057. Allegations of Nurse Aide Wrong-Doing**

A. The department, through its Division of Administrative Law or successor entity, has provided for a process for the review and investigation of all allegations of wrong-doing by nurse aides employed in nursing facilities. Certified nurse aides and nurse aide trainees must not:

1. use verbal, mental, sexual or physical abuse, corporal punishment or involuntary seclusion on a resident in a nursing facility; nor
2. neglect a resident or commit misappropriation of a resident's property or funds.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2079 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1247 (May 2012).

#### **§10059. Notice of Violation**

A. When there are substantiated charges against the nurse aide, either through oral or written evidence, the department shall notify the individual(s) implicated in the investigation of the following information by certified mail:

1. the nature of the violation(s) and the date and time of each occurrence;
2. the department's intent to report the violation(s) to the Nurse Aide Registry; and
3. the right to request an informal dispute resolution and/or the right to an administrative hearing.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and the Omnibus Budget Reconciliation Act of 1987, P.L. 100-203.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2079 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1247 (May 2012).

#### **§10061. Informal Dispute Resolution**

A. When a nurse aide feels that he/she has been wrongly accused, the following procedure shall be followed.

1. The nurse aide may request an informal dispute resolution (IDR) within 15 calendar days of the receipt of the agency's notice of violation. The request for an IDR must be made to the department in writing.

2. The IDR is designed:

- a. to provide an opportunity for the nurse aide to informally review the situation;
- b. for the agency to offer alternatives based on corrections or clarifications, if any; and
- c. for the nurse aide to evaluate the necessity for seeking an administrative hearing.

3. An IDR meeting shall be arranged within 20 days of the request.

4. During the IDR, the nurse aide shall be afforded the opportunity to:

- a. talk with agency personnel involved in the situation;
- b. review pertinent documents on which the alleged violation is based;
- c. ask questions;
- d. seek clarifications; and
- e. provide additional information.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2080 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1247 (May 2012).

## **Subchapter F. Administrative Hearings**

#### **§10071. General Provisions**

A. Within 30 calendar days after receipt of the department's notice of violation or the notice of the results of an informal dispute resolution, the nurse aide may request an administrative hearing.

1. The request for an administrative hearing must be made in writing to the department's Division of Administrative Law or successor entity.

2. The request shall contain a statement setting forth the specific charges with which the nurse aide disagrees and the reasons for this disagreement.

3. Unless a timely and proper request is received by the Division of Administrative Law or successor entity, the findings of the department shall be considered a final and binding administrative determination.

a. Notification of the finding of abuse, neglect and/or misappropriation shall then be sent to the Nurse Aide Registry to be recorded.

B. When an administrative hearing is scheduled, the Division of Administrative Law or successor entity shall notify the nurse aide, his/her representative and the agency representative in writing.

1. The notice shall be mailed no later than 15 calendar days before the scheduled date of the administrative hearing and shall contain the:

- a. date of the hearing;
- b. time of the hearing; and
- c. the place of the hearing.

C. The administrative hearing shall be conducted by an administrative law judge from the Division of Administrative Law or successor entity as authorized by the Administrative Procedure Act, R.S. 49:950 et seq., and according to the following procedures.

1. An audio recording of the hearing shall be made.

2. A transcript shall be prepared and reproduced at the request of a party to the hearing, provided he bears the cost of the copy of the transcript.

3. Testimony at the hearing shall be taken only under oath, affirmation or penalty of perjury.

4. Each party shall have the right to:

- a. call and examine parties and witnesses;
- b. introduce exhibits;
- c. question opposing witnesses and parties on any matter relevant to the issue, even though the matter was not covered in the direct examination;
- d. impeach any witness regardless of which party first called him to testify; and
- e. rebut the evidence against him/her.

5. Any relevant evidence shall be admitted if it is the sort of evidence upon which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make the admission of such evidence improper over objection in civil or criminal actions.

a. Documentary evidence may be received in the form of copies or excerpts.

6. The administrative law judge may question any party or witness and may admit any relevant and material evidence.

7. Each party has the burden of proving whatever facts he/she must establish to sustain his/her position.

a. The burden of producing evidence to substantiate the written allegation(s) shall be on the department and the provider of services.

b. When the charge of abuse, neglect or misappropriation is substantiated, the nurse aide may not rest on the mere denial in his/her testimony and pleading(s) but must set forth specific facts and produce evidence to disprove or contest the charge(s).

D. Any party may appear, and be heard, at any appeals proceeding through an attorney or a designated representative. The representative shall have a written authorization to appear on behalf of the provider.

1. A person appearing in a representative capacity shall file a written notice of appearance on behalf of a provider identifying:

- a. his/her name;
- b. address;
- c. telephone number; and
- d. the party being represented.

E. At the conclusion of the administrative hearing, the administrative law judge shall:

- 1. take the matter under advisement; and
- 2. shall prepare a written proposed decision which will contain:
  - a. findings of fact;
  - b. a determination of the issues presented;
  - c. a citation of applicable policy and regulations; and
  - d. an order.

F. The written proposed decision is provided to the secretary of the department. The secretary may:

- 1. adopt the proposed decision;
- 2. reject the proposed decision based upon the record; or
- 3. remand the proposed decision to the administrative law judge to take additional evidence:

a. If the proposed decision is remanded, the administrative law judge shall submit a new proposed decision to the secretary.

G. The decision of the secretary shall be final and binding upon adoption, subject only to judicial review by the courts. A copy of the decision shall be mailed to the nurse aide at his/her last known address and to any representative thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2080 (November 2006), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1248 (May 2012).

### §10073. Preliminary Conferences

A. Although not specifically required, the Division of Administrative Law or successor entity may schedule a preliminary conference. The purposes of the preliminary conference include, but are not limited to:

1. clarification, formulations and simplification of issues;
2. resolution of controversial matters;
3. exchange of documents and information;
4. stipulations of fact to avoid unnecessary introduction of evidence at the formal review;
5. the identification of witnesses; and
6. other matters as may aid disposition of the issues.

B. When the Division of Administrative Law or successor entity schedules a preliminary conference, all parties shall be notified in writing. The notice shall direct any parties and their attorneys to appear on a specific date and at a specific time and place.

C. When the preliminary conference resolves all or some of the matters in controversy, a summary of the findings agreed to at the conference shall be provided by the administrative law judge. When the preliminary conference does not resolve all of the matters in controversy, an administrative hearing shall be scheduled on those matters still in controversy.

1. The hearing shall be scheduled within 30 calendar days following the completion of the preliminary conference or at a time mutually convenient to all parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2081 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1248 (May 2012).

### §10075. Witnesses and Subpoenas

A. Each party shall arrange for the presence of their witnesses at the hearing.

B. A subpoena to compel the attendance of a witness may be issued by the administrative law judge:

1. upon written request by a party and a showing of the need for such action; or
2. on his own motion.

C. An application for subpoena duces tecum for the production by a witness of books, papers, correspondence, memoranda or other records shall be made in writing to the administrative law judge. The written application shall:

1. give the name and address of the person or entity upon whom the subpoena is to be served;

2. precisely describe the material that is desired to be produced;

3. state the materiality thereof to the issue involved in the proceeding; and

4. include a statement that, to the best of the applicant's knowledge, the witness has such items in his possession or under his control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2081 (November 2006).

### §10077. Continuances or Further Hearings

A. The administrative law judge may continue a hearing to another time or place, or order a further hearing on his own motion or at the request of any party who shows good cause.

B. Where the administrative law judge, at his/her discretion, determines that additional evidence is necessary for the proper determination of the case, he/she may:

1. continue the hearing to a later date and order the party(s) to produce additional evidence; or

2. close the hearing and hold the record open in order to permit the introduction of additional documentary evidence:

a. any evidence submitted shall be made available to both parties and each party shall have the opportunity for rebuttal.

C. Written notice of the time and place of a continued or further hearing shall be given. When a continuance of further hearing is ordered during an administrative hearing, oral notice of the time and place of the continued hearing may be given to each party present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2081 (November 2006).

### §10079. Failure to Appear at Administrative Hearings

A. If a nurse aide fails to appear at an administrative hearing, a notice/letter of abandonment may be issued by the Division of Administrative Law or successor entity dismissing the appeal. A copy of the notice shall be mailed to each party.

B. Any dismissal may be rescinded upon order of the Division of Administrative Law or successor entity if the nurse aide:

1. makes written application within 10 calendar days after the mailing of the dismissal notice; and

2. provides evidence of good cause for his/her failure to appear at the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and P.L. 100-203.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2081 (November 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1248 (May 2012).

## Subchapter G. Medication Attendant Certified

### §10080. Definitions

**Adult Residential Care Provider**—a facility, agency, institution, society, corporation, partnership, company, entity, residence, person or persons, or any other group which provides adult residential care for compensation to two or more adults who are unrelated to the licensee or operator.

**Department**—the Louisiana Department of Health (LDH).

**LBP**—the Louisiana Board of Pharmacy.

**LSBN**—the Louisiana State Board of Nursing.

**LSBPNE**—the Louisiana State Board of Practical Nurse Examiners.

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

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

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

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

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

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

**Medication Error Rate**—is determined by calculating the percentage of medication errors observed during a medication administration observation. The numerator in the ratio is the total number of errors that the HSS survey team observes, both significant and non-significant. The denominator consists of the total number of observations, or opportunities for errors, and includes all the doses the HSS

survey team observed being administered plus the doses ordered but not administered. The equation for calculating a medication error rate is as follows: medication error rate equals number of errors observed divided by the opportunities for errors times 100.

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

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

**Registered Pharmacist**—an individual currently licensed by the Louisiana Board of Pharmacy to practice pharmacy.

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

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1413 (July 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 46:29 (January 2020), LR 49:690 (April 2023).

### §10081. General Provisions

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

1. passed a qualifying CNA examination and are in good standing;
2. successfully completed a state-approved MAC training course and competency evaluation administered by a state-approved testing source; and
3. passed drug screening/testing and a statewide criminal background/security check conducted by the Louisiana State Police, or its designee.

B. The MAC registry shall contain the following items:

1. a list of individuals who have successfully completed the approved MAC training curriculum and competency evaluation. Each individual listed shall have the following information maintained on the registry:
  - a. name;
  - b. address;
  - c. Social Security number;
  - d. telephone number;
  - e. place of employment;
  - f. date of employment;
  - g. date employment ceased;
  - h. state issued certification number;

i. documentation of any investigation, if applicable, including findings of:

- i. abuse;
- ii. neglect;
- iii. extortion;
- iv. exploitation and misappropriation of property;
- v. significant medication errors; and
- vi. an accurate summary of findings after action on findings are final and after any appeal is ruled upon or the deadline for filing an appeal has expired;

j. information relative to training and registry status which will be available through procedures established by the department; and

k. a current, monitored e-mail address.

C. Registry. Employers shall use the registry to determine if a prospective hire is a MAC and if there is a finding that he/she has abused or neglected an individual being supported or misappropriated the individual's property or funds.

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

E. Arrest. A MAC, or his or her employer, if aware, shall immediately notify the department of any arrest in any state.

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

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

1. function in accordance with applicable laws and rules relating to administration of medication and operation of a LLCF; and

2. comply with the department's rules applicable to such personnel used in a LLCF.

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

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

administration has been completed, they may assist in other areas.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1413 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1248 (May 2012), repromulgated LR 38:1412 (June 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:30 (January 2020), LR 49:691 (April 2023).

### §10082. General Requirements

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

1. be proficient in reading, writing, speaking, and understanding the English language at a minimum eighth grade level as evidenced by the MAC training program's required entry placement test scores.

2. be a citizen of the United States or a legal alien with appropriate documentation from the U.S. Department of Homeland Security;

3. be at least 18 years of age;

4. complete a required health and physical examination;

5. be a graduate of high school or have a general equivalency diploma;

6. be currently employed in a LLCF as a CNA on the first official day of an applicant's MAC training program;

7. have a minimum of one year experience in a LLCF; and

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

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

1. holds a current certificate issued by the department under this Chapter and acts under the supervision of a person who holds a current license under state law which authorizes the licensee to administer medication; or

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

C. All MAC training and competency evaluation programs must be approved by the department. Each state-approved MAC training and competency evaluation program shall:

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1414 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1249 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:30 (January 2020), LR 49:691 (April 2023).

### **§10083. Certification Requirements**

#### **A. Initial Certification**

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

#### **B. Renewal Certification**

1. A MAC certificate holder shall:
  - a. be a CNA in good standing;
  - b. have no findings on the MAC registry;
  - c. submit the following documentation to the registry prior to the expiration date of the certificate:
    - i. a signed attestation acknowledging review of the current MAC requirements;
    - ii. documentation of having completed four hours of state-approved continuing education administered by an approved institution focusing on medication administration, prior to expiration of the certificate; and
    - iii. documentation of having worked at least 400 hours within the previous 12 months as a MAC in an LLCF.

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

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

applicant passed that state's-approved MAC competency examination.

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

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

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

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

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

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

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

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

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

a. include authorized duties and prohibited duties described in this Subchapter, and the facility's medication administration policies;

b. be provided by a licensed RN who is employed by the LLCF in which the MAC is currently employed; and

c. include documentation of a competency evaluation through skills demonstration and written examination.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1415 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1249 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:31 (January 2020), LR 49:692 (April 2023).

**§10084. Coordinators, Instructors, and Trainers**

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

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

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

- i. a LLCF unit;
- ii. a geriatrics department;
- iii. a chronic care hospital;
- iv. other long-term care setting; or

v. experience in varied responsibilities including, but not limited to, direct resident care or supervision and staff education; and

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

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

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

1. Such experience may be obtained through employment in:

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

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

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

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

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

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

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

3. The training program may utilize other persons such as residents, experienced aides, and ombudsmen as resource personnel if these persons are needed to meet the planned program objectives or a specific unit of training.

**D. Trainees**

1. Each MAC trainee shall be clearly identified as a trainee during all clinical portions of the training. Identification should be recognizable to residents, family members, visitors and staff.

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

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

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1415 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:31 (January 2020), LR 49:692 (April 2023).

**§10085. Training Curriculum**

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

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

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

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

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

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

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

2. the facility's policies and procedures;

3. discussion of the facility's philosophy of care;

4. a description of the resident population; and

5. employee policies and procedures.

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

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

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

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

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

a. the role and functions of a MAC;

b. the professional relationship between the MAC and the residents and their families; and

c. prohibited functions or duties;

2. definition of nurse delegation;

3. definition of the basic terms used in medication administration, including identification of the abbreviations used in medication orders and on the medication administration records;

4. review of the various forms of medications;

5. methods of medication administration including:

a. proper positioning of resident for various medication administrations; and

b. the value of good body alignment prior to and after medication administration;

6. requirements for proper storage and security of medications;

7. proper methods for disposal of drugs;

8. infection control;

9. basic anatomy and physiology;

10. the functions of the gastrointestinal, musculoskeletal, integumentary, nervous, sensory, renal and urinary, reproductive, cardiovascular, respiratory, and endocrine systems;

a. description of the common disorders associated with these systems; and

b. the effect of aging on these systems;

11. definition of pharmacology including:

a. medication classifications;

b. a description of a controlled drug and how administration of these drugs differ;

c. the cycle of a drug in the body; and

d. side effects of medications;

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

a. a description of the difference among all forms of oral medication; and

b. special precautions observed when administering time-released capsules, enteric-coated tablets and oral suspensions;

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

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

15. the safe instillation of ophthalmic drops and ointments;

16. the safe administration of nose drops;

17. proper technique for administration of inhalant medications including:

a. a description of when the MAC may administer an inhalant;

18. the safe administration of a rectal suppository;

19. the safe administration of a vaginal medication;

20. developing proficiency in measuring liquid medications in a medicine cup or syringe;

21. measuring apical pulse and/or blood pressure (B/P) prior to medication administration;



22. the importance of the "chain of command;"
23. developing effective communication and interpersonal skills;
24. maintaining communication with the licensed nurse including:
  - a. a description of the situations that must be reported to the nurse;
25. the purpose of the clinical record and the importance of timely, clear and complete documentation in the medication administration record;
26. methods for avoiding medication errors:
  - a. reporting and documentation requirements when medication errors occur;
27. a resident's rights related to medication administration;
28. a discussion of the "rights" of medication administration;
29. the application and certification; and
30. violations of the laws and rules that may result in disciplinary action and/or loss of certification.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1416 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:32 (January 2020), LR 49:693 (April 2023).

#### §10086. Competency Evaluation

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

B. Written examinations shall be provided by the training entity or organizations approved by the department. The examination shall reflect the content and emphasis of the training curriculum and will be developed in accordance with accepted educational principles.

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

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

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

Health, Bureau of Health Services Financing, LR 46:32 (January 2020), LR 49:694 (April 2023).

#### §10087. Authorized Duties

A. The MAC may perform certain duties and functions delegated by a licensed RN and under the direct supervision of a licensed nurse who is on-site and on duty. These authorized duties shall apply to MAC trainees under the supervision of the clinical instructor. The ratio of MACs to licensed nurses shall not exceed two medication attendants to one licensed nurse at any given time.

B. MACs may:

1. observe and report to the licensed nurse a resident's adverse reaction to a medication;
2. administer medications which require vital signs only with direct authorization from the licensed nurse prior to administration;
3. take and record vital signs prior to the administration of medication that could affect or change the vital signs;
4. in an emergency only, administer oxygen at 2 liters per minute per nasal cannula and immediately after the emergency, verbally notify the licensed nurse on duty and appropriately document the action and notification;
5. administer regularly prescribed medication only after personally preparing (setting up) the medications to be administered;
6. deliver and administer certain prescribed medications ordered by an authorized prescriber by the following methods:
  - a. orally;
  - b. topically (to intact skin only);
  - c. drops and sprays for the eye, ear or nose;
  - d. vaginally;
  - e. rectally;
  - f. transdermally;
  - g. by metered dose oral inhalation; or
  - h. sublingually;
7. record medications administered in the resident's chart and/or medication administration record;
8. chart medication effects and side effects;
9. administer medications which require vital signs, only with direct authorization from the licensed nurse prior to administration:
  - a. the results of the vital signs must be documented in the clinical record;
10. administer pro re nata (prn), as needed medications only with direct authorization of the licensed nurse;
11. measure prescribed liquid medication only if verified by the licensed nurse prior to administration; and

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1416 (July 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 46:32 (January 2020), LR 49:694 (April 2023).

### **§10088. Prohibited Duties**

A. Medication attendants certified shall not:

1. administer any controlled dangerous substances (schedules II through V) as set forth by the Drug Enforcement Agency or the Louisiana Board of Pharmacy;

2. administer any medications by the following parenteral routes:

- a. intramuscular;
- b. intravenous;
- c. subcutaneous;
- d. intradermal; or
- e. other routes restricted in department rules;

3. administer any medication used for intermittent positive pressure breathing (IPPB) treatments;

4. administer an initial dose of a medication that has not been previously administered to a resident as determined by the clinical record;

5. calculate medication doses for administration;

6. administer medications or feedings by way of a tube inserted in a cavity of the body;

7. receive or assume responsibility for writing any verbal or telephone order from an authorized prescriber;

8. order new medications or medications whose directions have changed from the pharmacy;

9. apply topical medications that involve the treatment of skin that is broken;

10. steal, divert or otherwise misuse medication;

11. violate any provision of this Chapter;

12. procure or attempt to procure a certificate by fraudulent means;

13. neglect to administer prescribed medications in a responsible and timely manner;

14. perform a task involving the administration of a medication which requires:

- a. an assessment of the patient's physical status;
- b. an assessment of the need for the medication;
- c. a calculation of the dose of the medication; or
- d. the conversion of the dose;

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1417 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:32 (January 2020), LR 49:695 (April 2023).

### **§10089. Allegations of Medication Attendant Certified Wrong-Doing**

A. The department, through its Division of Administrative Law or successor entity, has provided for a process of the review and investigation of all allegations of resident abuse, neglect or misappropriation of residents' property or funds by MACs.

B. In the event of an allegation of wrong-doing, MACs shall be bound by the department's established:

1. reporting requirements;
2. informal dispute resolution policies; and
3. appeal and administrative hearing provisions:

a. the formal hearing shall be conducted according to formal hearing procedures set forth in the Administrative Procedure Act.

C. Through the formal hearing process, determinations will be made on both the certificate for MAC pursuant to this Section and the certificate for CNA practice in accordance with LAC 48:I. §10061-§10079.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1417 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:33 (January 2020), LR 49:695 (April 2023).

### **§10090. Suspension, Revocation or Denial of Renewal**

A. The department may revoke, suspend or deny renewal of a certificate or reprimand a certificate holder for a violation of this Chapter.

B. The following are grounds for disciplinary actions:

1. stealing, diverting or otherwise misusing medication;

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

3. violating any provision of this Chapter; or

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

C. Prior to institution of formal proceedings to revoke or suspend a certificate, the department shall give written notice to the certificate holder of the facts or conduct alleged to warrant revocation, suspension or rescission. The certificate holder shall be given an opportunity to participate in an informal dispute resolution process.

D. If denial, revocation or suspension of a certificate is proposed, the department shall give written notice that the certificate holder must submit a written request for a formal hearing within 30 days of receipt of the notice. If not, the right to a hearing shall be waived and the certificate shall be denied, revoked or suspended.

E. If the department suspends a MAC's certificate, the suspension shall remain in effect until the department:

1. determines that the reason for suspension no longer exists;

2. revokes the certificate; or

3. determines not to renew the certificate.

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

1. If a suspension overlaps a certificate renewal date, the suspended certificate holder shall be subject to the renewal procedures pursuant to the provisions of this Subchapter. However, the department shall not renew the certificate until it determines that the reason for suspension no longer exists.

G. If the department revokes or denies renewal of a certificate, a person may reapply for a certificate by complying with the provisions of this Chapter at the time of reapplication. The department may refuse to issue a certificate if the reason for revocation or denial of renewal continues to exist.

1. If a certificate is revoked or denied renewal, the certificate holder shall immediately return the certificate to the department.

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

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

of Health, Bureau of Health Services Financing, LR 46:33 (January 2020), LR 49:695 (April 2023).

### **§10091. Provider Participation and Responsibilities**

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

B. If a facility is non-compliant with program regulations, the department shall take into consideration the findings that resulted in the facility's noncompliance before making a determination whether or not to allow the facility to utilize MACs. Emphasis shall be placed on deficiencies cited in the area of medication administration such as significant medication errors, medication error rates and repeat deficiencies of such.

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

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

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

1. the number of beds for the entire LLCF and beds per unit;

2. the total resident capacity for the LLCF;

3. the type of LLCF;

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

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

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

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

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

G. Disqualification of MAC program. The department may sanction a facility and/or revoke a facility's

participation in the MAC program for a period of two years, if it is determined by the department that, based upon the facility's compliance history, the safety and well-being of residents is jeopardized by the facility's non-compliance with licensing standards. The department may also sanction and/or revoke a facility's participation in the MAC program, if the facility provides false statements and/or documentation concerning their MAC program. If the facility's participation is revoked, the facility may ask for a reconsideration and review of the circumstances which contributed to the revocation of participation in the MAC program.

H. Reinstatement of MAC Provider Participation. A LLCF who has lost their MAC program and/or nurse aide training and competency evaluation programming

(NATCEP) program due to non-compliance resulting in substandard quality of care, harm or immediate jeopardy, including but not limited to medication errors, may re-apply to participate in the MAC program upon the end of the two-year period of the prohibition timeframe. If the facility's participation in the MAC program is revoked for providing false statements or documentation, the facility may not reapply for reinstatement.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 49:696 (April 2023).