

date. This notification may be made by electronic transmission.

1. The written notification of the expedited survey results shall include any licensing deficiencies, requirements for a plan of correction, and review and/or appeal rights as to the deficiencies, if applicable, pursuant to applicable licensing statutes, rules and regulations.

2. If deficiencies are cited at the expedited licensing survey, the department may, at its option:

a. require a plan of correction and conduct a follow-up licensing survey;

b. issue a provisional license, pursuant to applicable licensing regulations; or

c. issue a license denial, including appeal rights, pursuant to applicable licensing regulations.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2006.2.

**HISTORICAL NOTE:** Promulgated by the Department of Health, Bureau of Health Services Financing, LR 44:2161 (December 2018).

#### **§4113. Expedited Licensing Survey Refunds**

A. The department shall refund the expedited licensing process fee amount paid by an applicant provider or facility if the survey is not conducted within the time periods specified in §4111.A, unless such failure to conduct the survey is due to the unavailability of the facility or provider.

B. If the applicant facility or provider fails to be ready when the department begins to conduct the expedited licensing survey, the survey will be ended, no refund of the expedited licensing fee will be due, and the applicant facility or provider shall have the choice to:

1. re-submit a new expedited licensing process application and applicable fee; or

2. submit a regular licensing process application and applicable fee.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2006.2.

**HISTORICAL NOTE:** Promulgated by the Department of Health, Bureau of Health Services Financing, LR 44:2162 (December 2018).

## **Chapter 42. Adult Day Health Care**

### **Subchapter A. General Provisions**

#### **§4201. Introduction**

A. The purpose of Adult Day Health Care (ADHC) services is to provide an alternative to or a possible prevention or delay of 24-hour institutional care by furnishing direct care for a portion of the day to adults who have physical, mental, or functional impairments. An ADHC shall be operational for at least five hours each day of operation. An ADHC center shall be operational for at least five days per week. An ADHC center shall protect the

health, safety, welfare, and well-being of participants attending ADHC centers.

B. An ADHC center shall have a written statement describing its philosophy as well as long-term and short-term goals. The ADHC center program statement shall include goals that:

1. promote the participant's maximum level of independence;

2. maintain the participant's present level of functioning as long as possible, while preventing or delaying further deterioration;

3. restore and rehabilitate the participant to the highest level of functioning;

4. provide support and education for families and other caregivers;

5. foster participation, socialization and peer interaction; and

6. serve as an integral part of the community services network and the long-term care continuum of services.

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#### **§4203. Definitions**

*Accreditation*—process by which an ADHC that is owned and operated by a PACE organization with an executed program agreement with CMS/LDH is deemed to meet ADHC licensing requirements.

*Activities of Daily Living (ADL)*—the functions or tasks which are performed either independently or with supervision, or assistance for mobility (i.e., transferring, walking, grooming, bathing, dressing and undressing, eating and toileting).

*Adult Day Health Care (ADHC)*—a medical model adult day health care program designed to provide services for medical, nursing, social, and personal care needs to adults who have physical, mental or functional impairments. Such services are rendered by utilizing licensed professionals in a community based nursing center.

*Adult Day Health Care Center*—any place owned or operated for profit or nonprofit by a person, society, agency, corporation, institution, or any group wherein two or more functionally impaired adults who are not related to the owner or operator of such agency are provided with adult day health care services. This center type will be open and providing services at least five continuous hours in a 24-hour day.

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

*Change of Ownership (CHOW)*—a change in the legal center/entity responsible for the operation of the ADHC center.

*Chemical Restraint*—any drug that is used for discipline or convenience and when it is not required to treat medical symptoms.

*Complaints*—allegations of noncompliance with regulations filed by someone other than the center.

*Department*—the Louisiana Department of Health (LDH) and its representatives.

*Direct Care Staff*—unlicensed staff who provide personal care or other services and support to persons with disabilities or to the elderly to enhance their well-being, and who are involved in face-to-face direct contact with the participant.

*Director*—the person designated by the governing body of the ADHC to:

1. manage the center;
2. insure that all services provided are consistent with accepted standards of practice; and
3. ensure that center policies are executed.

*Direct Service Worker*—an unlicensed staff person who provides personal care or other services and support to persons with disabilities or to the elderly to enhance their well-being, and who is involved in face-to-face direct contact with the participant.

*Elopement*—to slip away or run away.

*Employee*—person who performs a job or task for compensation, such as wages or a salary. An employed person may be one who is contracted or one who is hired for a staff position.

*Full-Time Equivalent*—40 hours of employment per week or the number of hours the center is open per week, whichever is less.

*Functionally Impaired Adults*—persons 17 years of age or older who are physically and/or mentally impaired and require services and supervision for medical, nursing, social, and personal care needs.

*Governing Body*—the person or group of persons that assumes full legal responsibility for determining, implementing and monitoring policies governing the ADHC's total operation, and who is responsible for the day-to-day management of the ADHC program, and shall also insure that all services provided are consistent with accepted standards of practice.

*Individualized Service Plan (ISP)*—an individualized written program of action for each participant's care and services to be provided by the ADHC center based upon an assessment of the participant.

*Involuntary Discharge/Transfer*—a discharge or transfer of the participant from the ADHC center that is initiated by the center.

*Key Staff*—the designated program manager(s), social worker(s) or social services designee(s), and nurse(s) employed by the ADHC. A key staff person may also serve as the ADHC director.

*Licensed Practical Nurse (LPN)*—an individual currently licensed by the Louisiana State Board of Practical Nurse Examiners to practice practical nursing in Louisiana. The LPN works under the supervision of a registered nurse.

*Line of Credit*—a credit arrangement with a federally insured, licensed lending institution which is established to assure that the center has available funds as needed to continue the operations of the agency and the provision of services to participants. The line of credit shall be issued to the licensed entity and shall be specific to the geographic location shown on the license. For purposes of ADHC licensure, the line of credit shall not be a loan, credit card or a bank balance.

*Minimal Harm*—negative impact of injury causing the least possible physical or mental damage.

*Non-Operational*—the ADHC center is not open for business operations on designated days and hours as stated on the licensing application and business location signage.

*Participant*—an individual who attends an adult day health care center.

*Personal Representative*—an adult relative, friend or guardian of a participant who has an interest or responsibility in the participant's welfare. This individual may be designated by the participant to act on his/her behalf and should be notified in case of emergency and/or any change in the condition or care of the participant.

*Physical Restraint*—any manual method (ex: therapeutic or basket holds and prone or supine containment) or physical or mechanical device material (ex: arm splints, leg restraints, lap trays that the participant cannot remove easily, posey belts, posey mittens, helmets), or equipment attached or adjacent to the participant's body that interferes or restricts freedom of movement or normal access to one's body and cannot be easily removed by the participant.

*Primary Care Physician*—a physician, currently licensed by the Louisiana State Board of Medical Examiners, who is designated by the participant or his personal representative as responsible for the direction of the participant's overall medical care.

*Program Manager*—a designated staff person, who is responsible for carrying out the center's individualized program for each participant.

*Program of All-Inclusive Care for the Elderly (PACE)*—an organization that provides prepaid, capitated, comprehensive health care services.

*Progress Notes*—ongoing assessments of the participant which enable the staff to update the individualized service plan in a timely, effective manner.

*Registered Nurse (RN)*—an individual currently licensed by the Louisiana State Board of Nursing to practice professional nursing in Louisiana.

*Revocation*—action taken by the department to terminate an ADHC center's license.

*Social Service Designee/Social Worker*—an individual responsible for arranging medical and/or social services needed by the participant.

*Voluntary Discharge/Transfer*—a discharge or transfer of the participant from the ADHC center that is initiated by the participant or a legal or personal representative.

*Volunteer*—a person who provides services at an adult day health care center without compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

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#### **§4205. Licensure Requirements**

A. All ADHC centers shall be licensed by the Department of Health (LDH). LDH is the only licensing authority for ADHC centers in the State of Louisiana. It shall be unlawful to operate an ADHC center without possessing a current, valid license issued by LDH. The license shall:

1. be issued only to the person/entity named in the license application;
2. be valid only for the ADHC center to which it is issued and only for the specific geographic address of the center;
3. be valid for one year from the date of issuance, unless revoked prior to that date;
4. expire on the last day of the twelfth month after the date of issuance, unless otherwise renewed;
5. not be subject to sale, assignment, or other transfer, voluntary or involuntary; and
6. be posted in a conspicuous place on the licensed premises at all times.

B. In order for an ADHC center to be considered operational and retain licensed status, the center shall meet the following conditions.

1. The center shall always have at least one employee on duty at the business location during the days and hours of operation. Once a participant is admitted, all staff that are required to provide services shall be on duty during operational hours to assure adequate coverage and care to participants.
2. There shall be sufficient numbers of trained direct care and professional services staff either employed or

contracted and available to be assigned to provide care and services to persons receiving services at all times.

3. The center shall have admitted or has provided services to at least two participants in the past 12 months prior to their licensure resurvey.

C. The licensed center is required to abide by and adhere to any state laws, rules, policy and procedure manuals or memorandums pertaining to ADHC centers issued by LDH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2178 (October 2008), repromulgated LR 34:2623 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1965 (October 2017).

#### **§4207. Initial License Application Process**

A. Each ADHC applicant shall obtain facility need review approval (FNR) prior to submission of an initial application for licensing.

B. After FNR approval is received, an initial application for licensing as an ADHC center shall be obtained from the department. A completed initial license application packet for an ADHC center shall be submitted to and approved by the department prior to an applicant providing ADHC services. An applicant shall submit a completed initial licensing packet to the department, which shall include:

1. a completed ADHC licensure application and the non-refundable licensing fee as established by statute;
2. a copy of the approval letter of the architectural center plans from the Office of the State Fire Marshal;
3. a copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal;
4. a copy of the health inspection report with approval of occupancy report of the center from the Office of Public Health;
5. a copy of state-wide criminal background checks conducted by the Louisiana State Police, or its authorized agent, on all owners;
6. proof of financial viability including:
  - a. line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000; and
  - b. general and professional liability insurance of at least \$300,000;
7. if applicable, clinical laboratory improvement amendments (CLIA) certificate or CLIA certificate of waiver;
8. a completed disclosure of ownership and control information form;
9. a floor sketch or drawing of the premises to be licensed;

10. the days and hours of operation; and

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

C. If the initial licensing packet is incomplete, the applicant will be notified of the missing information and will have 90 days to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an ADHC center shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

D. Once the initial licensing application packet is approved by LDH, the applicant will be sent written notification with instructions for requesting the announced initial licensing survey.

E. An applicant who has received the notification with instructions for requesting the announced initial licensing survey shall notify the department of readiness for an initial licensing survey within 90 days of the date of receipt of that notification. If an applicant fails to notify the department of readiness for an initial licensing survey within 90 days, the initial licensing application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an ADHC center shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

F. Applicants shall be in compliance with all appropriate federal, state, departmental, or local statutes, laws, ordinances, rules, regulations, and fees before the ADHC center will be issued an initial license to operate by LDH.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2178 (October 2008), repromulgated LR 34:2624 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2373 (September 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1965 (October 2017).

#### **§4209. Initial Licensing Surveys**

A. Prior to the initial license being issued to the ADHC center, an initial licensing survey shall be conducted on-site at the ADHC center to assure compliance with ADHC licensing standards.

B. In the event that the initial licensing survey finds that the ADHC center is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the center. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

C. In the event that the initial licensing survey finds that the ADHC center is noncompliant with any licensing laws or regulations that are a threat to the health, safety, or welfare

of the participants, the department shall deny the initial license.

D. In the event that the initial licensing survey finds that the ADHC center is noncompliant with any other required statutes, laws, ordinances, rules or regulations that are a threat to the health, safety, or welfare of the participants, the department shall deny the initial license.

E. In the event that the initial licensing survey finds that the ADHC center is noncompliant with any licensing laws, rules or regulations, but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the department may issue a provisional initial license for a period not to exceed six months. The center shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. If all such noncompliance or deficiencies are determined by the department to be corrected on a follow-up survey, then a full license will be issued. If all such noncompliance or deficiencies are not corrected on the follow-up survey, 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 fee.

F. The initial licensing survey of an ADHC center shall be an announced survey. Follow-up surveys to the initial licensing surveys are not announced surveys.

G. Once an ADHC center has been issued an initial license, the department may conduct licensing surveys at intervals deemed necessary by the department to determine compliance with licensing regulations; these licensing surveys shall be unannounced.

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

2. The department may issue appropriate sanctions, including, but not limited to:

- a. civil monetary penalties;
- b. directed plans of correction; and
- c. license revocations for deficiencies and noncompliance with any licensing survey.

H. LDH surveyors and staff shall be given access to all areas of the center and all relevant files during any licensing survey. LDH surveyors and staff shall be allowed to interview any center staff or participant as necessary to conduct the survey.

I. When issued, the initial ADHC license shall specify the maximum number of participants which may be served by the ADHC center.

J. Plan of Correction. A plan of correction shall be required from an ADHC center for any survey where deficiencies have been cited. The plan of correction shall be filed with HSS within 10 calendar days after the center's receipt of notification and statement of deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2179 (October 2008), repromulgated LR 34:2624 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1966 (October 2017).

#### **§4211. Types of Licenses**

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

1. In the event that the initial licensing survey finds that the ADHC center is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the center. The license shall be valid until the expiration date shown on the license unless the license is modified, revoked, suspended, or terminated.

2. In the event that the initial licensing survey finds that the ADHC center is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, the department is authorized to issue a provisional initial license pursuant to the requirements and provisions of this §4209.

3. The department may issue a full renewal license to an existing licensed ADHC center who 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. The department, in its sole discretion, may issue a provisional license to an existing licensed ADHC center for a period not to exceed six months, for the following reasons:

a. the existing ADHC center has more than five deficient practices or deficiencies cited during any one survey;

b. the existing ADHC center has more than three validated complaints in one licensed year period;

c. the existing ADHC center has been issued a deficiency that involved placing a participant at risk for serious harm or death;

d. the exiting ADHC center has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey;

e. the existing ADHC center is not in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules, regulations, and fees at the time of renewal of the license.

5. When the department issues a provisional license to an existing licensed ADHC center, the department shall conduct an on-site follow-up survey at the ADHC center prior to the expiration of the provisional license. If that on-site follow-up survey determines that the ADHC center has corrected the deficient practices and has maintained

compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the ADHC license.

6. If an existing licensed ADHC center has been issued a notice of license revocation, suspension, modification, or termination, and the center's license is due for annual renewal, the department shall deny a license renewal subject to the pending license revocation, suspension, modification, or termination. The denial of renewal of such a license does not affect in any manner the license revocation, suspension, modification or termination.

B. The denial of 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.

C. The license for an ADHC center shall be valid for one year from the date of issuance unless revoked, suspended, modified, or terminated prior to that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2179 (October 2008), repromulgated LR 34:2625 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR:43:1966 (October 2017).

#### **§4212. Accredited Status**

A. After initial licensure, an ADHC center may request accreditation. To achieve accredited status, the ADHC shall be required to submit a copy of its current program of all-inclusive care for the elderly (PACE) program agreement to show documented proof of meeting initial and continual compliance with PACE requirements and for each annual renewal of licensure.

B. The department may accept accreditation in lieu of periodic on-site licensing surveys when the center provides documentation to the department that shows:

1. the PACE program agreement is current; and

2. the center remains in substantial compliance with all PACE program agreement requirements.

C. The department may conduct unannounced complaint investigations on all ADHCs, including those with accredited status.

D. There is no waiver of licensure fees for a center that is granted accredited status by the department. An ADHC that is granted accredited status shall pay all initial licensing fees, renewal of licensure fees pursuant to §4213, and any other required fees, to achieve or maintain accredited status. The center shall pay any civil monetary penalties imposed by LDH or may forfeit accredited status.

E. The department may rescind accredited status and may conduct a licensing survey for the following:

1. any substantiated complaint within the preceding 12 months;

2. a change of ownership;

3. issuance of a provisional license in the preceding 12-month period;
4. deficiencies identified in the preceding 12-month period that placed participants at risk for harm;
5. treatment or service resulting in death or serious injury; or
6. a change in geographic location.

F. The ADHC center shall notify HSS upon change in accredited status within two business days.

G. The department will rescind accredited status if the center's PACE Program agreement is terminated.

H. An ADHC center which receives approval for accredited status is subject to, and shall comply with, all provisions of this Chapter.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

**HISTORICAL NOTE:** Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1967 (October 2017).

#### **§4213. Renewal of License**

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

1. the license renewal application;
2. the days and hours of operation;
3. a current fire inspection report;
4. a current health inspection report;
5. the required license renewal fee;
6. proof of continuous financial viability without interruption including maintenance of a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000;
7. proof of PACE program agreement, if accredited; and
8. any other documentation required by the department.

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2180 (October 2008), repromulgated LR 34:2626 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1967 (October 2017).

#### **§4215. Reporting Requirements**

A. The following changes, or any combination thereof, shall be reported in writing to the department within five working days of the occurrence of the change. A change in:

1. the name of the ADHC center;
2. the geographic or mailing address;
3. contact information, i.e., telephone number, fax number, email address; or
4. key administrative staff (i.e., director, program manager, social service designee, a registered nurse (RN) and /or licensed practical nurse (LPN), etc).

B. Change of Ownership (CHOW). The license of an ADHC center is not transferable to any other ADHC or individual. A license cannot be sold. When a change of ownership occurs, the ADHC center shall notify the Health Standards Section in writing within 15 days prior to the effective date of the CHOW.

1. A signed copy of the legal document showing the transfer of ownership shall be provided to HSS.

2. Other required documents are to be submitted to HSS within five working days of the effective date of the CHOW.

3. The new owner shall submit a license application identifying all new information and, for the application to be complete, it shall be submitted with the appropriate CHOW licensing fee.

4. An ADHC center that is under license revocation, renewal of licensure or provisional licensure, may not undergo a CHOW.

C. Any change which requires a change in the license shall be accompanied by a fee. Any request for a duplicate license shall be accompanied by a fee.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2180 (October 2008), repromulgated LR 34:2626 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1967 (October 2017).

#### **§4217. Denial of License, Revocation of License, Denial of License Renewal**

A. The department may deny an application for a license, may deny a license renewal, or may revoke a license in accordance with the provisions of the Administrative Procedures Act.

##### **B. Denial of an Initial License**

1. The department shall deny an initial license in the event that the initial licensing survey finds that the ADHC center is noncompliant with any licensing laws, rules, ordinances or regulations or with any other required statutes that are a threat to the health, safety, or welfare of the participants.

2. The department shall deny any initial license for any of the reasons designated in §4217.D that a license may be revoked or denied renewal.

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

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

1. failure to be in substantial compliance with the ADHC licensing laws, rules, and regulations;
2. failure to be in substantial compliance with other required statutes, laws, ordinances, rules, and regulations;
3. failure to uphold participant rights whereby deficient practices may result in harm, injury, or death of a participant;
4. failure to protect a participant from a harmful act of an employee including, but not limited to:
  - a. abuse, neglect, exploitation, or extortion;
  - b. any action posing a threat to a participant's health and safety;
  - c. coercion;
  - d. threat or intimidation; or
  - e. harassment;
5. failure to notify the proper authorities of all suspected cases of neglect, criminal activity, mental or physical abuse, or any combination thereof;
6. knowingly making a false statement in any of the following areas including, but not limited to:
  - a. application for initial license or renewal of license;
  - b. data forms;
  - c. participant records;
  - d. matters under investigation by the department or the Office of the Attorney General;
  - e. information submitted for reimbursement from any payment source;
7. knowingly making a false statement or providing false, forged, or altered information or documentation to LDH employees or to law enforcement agencies;
8. the use of false, fraudulent, or misleading advertising;
9. an owner, officer, member, manager, director, or person designated to manage or supervise participant care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court;
  - a. for purposes of this paragraph, conviction of a felony means a felony relating to the violence, abuse, or

negligence of a person, or a felony relating to the misappropriation of property belonging to another person;

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

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

12. failure to allow, or refusal to allow, access to authorized departmental personnel to records; or

13. bribery, harassment, or intimidation of any participant designed to cause that participant to use the services of any particular ADHC center.

E. In the event an ADHC license is revoked or renewal is denied, any owner, officer, member, manager or director of such ADHC center is prohibited from owning, managing, directing or operating another ADHC center for a period of two years from the date of the final disposition of the revocation or denial action.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2180 (October 2008), repromulgated LR 34:2626 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1968 (October 2017).

#### **§4219. Notice and Appeal of License Denial, Revocation, and Denial of License Renewal**

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

B. The ADHC center has a right to an informal reconsideration of the license denial, license revocation, or denial of license renewal.

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

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

3. If a timely request is received by HSS, an informal reconsideration shall be scheduled and the center will receive written notification.

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

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

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

time limits for filing an administrative appeal of the license denial, revocation, or denial of license renewal.

C. The ADHC center has a right to an administrative appeal of the license denial, license revocation, or denial of license renewal.

1. The ADHC center shall request the administrative appeal within 30 days of the receipt of the notice of the license denial, license revocation, or denial of license renewal or within 30 days of the receipt of the results of the informal reconsideration, if conducted. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law (DAL).

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

3. If a timely request for an administrative appeal is received by the DAL, the license revocation or denial of license renewal will be suspended during the pendency of the appeal. However, if the secretary of the department determines that the violations of the center pose an imminent or immediate threat to the health, safety, or welfare of a participant, the imposition of the license revocation or denial of license renewal may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the center will receive written notification.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2181 (October 2008), repromulgated LR 34:2627 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1968 (October 2017).

#### **§4220. Complaint Surveys (Formerly §4221)**

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

B. Complaint surveys shall be unannounced surveys.

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

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

E. LDH surveyors and staff shall be given access to all areas of the center and all relevant files during any complaint survey. LDH surveyors and staff shall be allowed to interview any ADHC center staff and participant as required to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2182 (October 2008), repromulgated LR 34:2627 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1969 (October 2017).

#### **§4221. Statement of Deficiencies (Formerly §4223)**

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

1. the most recent annual survey statement of deficiencies; and
2. any subsequent complaint survey statement of deficiencies.

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

C. Unless otherwise provided in statute or in these licensing provisions, a center shall have the right to an informal reconsideration of any deficiencies cited as a result of a survey or investigation.

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

2. The informal reconsideration of the deficiencies shall be requested in writing within 10 calendar days of the ADHC center's receipt of the statement of deficiencies, unless otherwise provided in these standards.

3. The request for informal reconsideration of the deficiencies shall be made to HSS and will be considered timely if received by HSS within 10 calendar days of the center's receipt of the statement deficiencies.

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

NOTE: Informal reconsiderations of the results of a complaint investigation are conducted as desk reviews.

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

6. Except as provided for complaint surveys pursuant to R.S. 40:2009.13 et seq., and as provided in these licensing provisions for initial license denials, revocations and denial of license renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies.

7. The request for an informal reconsideration of any deficiencies cited as a result of a survey or investigation does not delay submission of the required plan of correction within the prescribed timeframe.



AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:21482 (October 2008), repromulgated LR 34:2627 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1969 (October 2017).

#### **§4222. Cessation of Business**

A. Except as provided in §4223 and §4224 of these licensing regulations, a license shall be immediately null and void if an ADHC center becomes non-operational.

B. A cessation of business is deemed to be effective the date on which the ADHC center ceased offering or providing services to the community and/or is considered non-operational in accordance with the requirements of §4205.

C. Upon the cessation of business, the ADHC center 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 center. The ADHC center does not have a right to appeal a cessation of business.

E. Prior to the effective date of the closure or cessation of business, the ADHC center shall:

1. give 30 days' advance written notice to:
  - a. each participant or participant's legal representative, if applicable;
  - b. each participant's physician;
  - c. Health Standards Section (HSS);
  - d. Office of Aging and Adult Services (OAAS); and
  - e. support coordination agency for waiver participants;
2. provide for a safe and orderly discharge and transition of all of the center's participants.

F. In addition to the advance notice, the ADHC center shall submit a written plan for the disposition of participant(s) 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 center's patients medical records;
3. the name and contact information for the 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 center, at least 15 days prior to the effective date of closure.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1969 (October 2017).

#### **§4223. Inactivation of License due to a Declared Disaster or Emergency**

A. An ADHC center licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

1. the licensed center shall submit written notification to HSS within 60 days of the date of the executive order or proclamation of emergency or disaster that:
  - a. the ADHC center 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 licensed ADHC center intends to resume operation as an ADHC center in the same service area;
  - c. includes an attestation that the emergency or disaster is the sole causal factor in the interruption of the provision of services;
  - d. includes an attestation that all participants have been properly discharged or transferred to another center; and
  - e. provides a list of each participant and where that participant is discharged or transferred to;

2. the licensed ADHC center resumes operating as a ADHC center in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

3. the licensed ADHC center continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and

4. the licensed ADHC center continues to submit required documentation and information to the department.

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

C. Upon completion of repairs, renovations, rebuilding or replacement, an ADHC center which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met.

1. The ADHC center shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening.

a. The license reinstatement request shall inform the department of the anticipated date of opening, and shall request scheduling of a licensing survey.

b. The license reinstatement request shall include a completed licensing application with appropriate licensing fees.

2. The center resumes operating as an ADHC center in the same service area within one year.

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

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

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

F. The provisions of this section shall not apply to an ADHC center which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this section shall be deemed a voluntary surrender of the ADHC center license and any applicable facility need review approval for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1970 (October 2017).

#### **§4224. Inactivation of License due to a Non-Declared Disaster or Emergency**

A. A licensed ADHC center in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

1. the licensed ADHC center shall submit written notification to the HSS within 30 days of the date of the non-declared emergency or disaster stating that:

a. the ADHC center has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

b. the licensed ADHC center intends to resume operation as a ADHC center in the same service area;

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

d. the licensed ADHC center's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the center;

NOTE: Pursuant to these provisions, an extension of the 30 day deadline for initiation of request may be granted at the discretion of the department.

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

3. the licensed ADHC center continues to submit required documentation and information to the department, including, but not limited to cost reports.

B. Upon receiving a completed written request to temporarily inactivate an ADHC license, the department shall issue a notice of inactivation of license to the ADHC center.

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

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

EXCEPTION: If the center requires an extension of this timeframe due to circumstances beyond the center's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the ADHC center's active efforts to complete construction or repairs and the reasons for request for extension of center's inactive license. Any approval for extension is at the sole discretion of the department.

E. Upon completion of repairs, renovations, rebuilding or replacement of the center, an ADHC which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. the ADHC center shall submit a written license reinstatement request to the licensing agency of the department;

2. the license reinstatement request shall inform the department of the anticipated date of opening and shall

request scheduling of a licensing or physical environment survey, where applicable; and

3. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

F. Upon receiving a completed written request to reinstate an ADHC license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the center has met the requirements for licensure including the requirements of this Subsection.

G. No change of ownership in the ADHC center shall occur until such ADHC center has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as an ADHC center.

H. The provisions of this subsection shall not apply to an ADHC center which has voluntarily surrendered its license and ceased operation.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1970 (October 2017).

## Subchapter B. Administration and Organization

### §4225. Governing Body

A. The center shall have a governing body with responsibility as an authority over the policies and activities of the center.

1. The center shall have documents identifying the following information regarding the governing body:

- a. names and addresses of all members;
- b. terms of membership, if applicable;
- c. officers of the governing body, if applicable; and
- d. terms of office of all officers, if applicable.

2. When the governing body is composed of more than one person, formal meetings shall be held at least twice a year.

3. The governing body shall have by-laws specifying frequency of meetings and quorum requirements.

4. The center shall have written minutes of all formal meetings of the governing body.

5. The governing body may be composed of a single person or owner who shall assume all responsibilities of the governing body. At least twice a year, such single person or owner shall have documentation of reviewing and meeting the requirements pursuant to §4225.B.

B. Governing Body Responsibilities. The governing body of an ADHC center shall:

1. ensure the center's continual compliance and conformity with all relevant federal, state, parish and municipal laws and regulations;

2. ensure that the center is adequately funded and fiscally sound;

3. review and approve the center's annual budget;

4. ensure that the center is housed, maintained, staffed and equipped appropriately considering the nature of the program;

5. designate a person to act as the director and delegate sufficient authority to this person to manage the center and to insure that all services provided are consistent with accepted standards of practice;

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

7. annually evaluate the director's performance;

8. have the authority to dismiss the director;

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

10. inform designated representatives of the department prior to initiating any substantial changes in the program, services or physical plant of the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2182 (October 2008), repromulgated LR 34:2628 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1971 (October 2017).

### §4227. Policy and Procedures

A. An ADHC center shall have a written program plan describing the services and programs that it furnishes.

B. The center shall have written policies and procedures governing all areas of care and services provided by the center that are available to staff, participants, and/or sponsors. These policies and procedures shall:

1. ensure that each participant receives the necessary care and services to promote his/her highest level of functioning and well-being;

2. reflect awareness of the medical and psychosocial needs of participants as well as provisions for meeting those needs, including admission, transfer, and discharge planning; and the range of services available to participants;

3. be developed in consultation with a group of professional personnel consisting of at least a licensed physician, the director, and a registered nurse;

4. govern access, duplication and dissemination of information from the participant's personal and medical record;

5. establish guidelines to protect any money or other personal items brought to the ADHC center by participants;

6. describe the process for participants to file a grievance with the center and/or register a complaint with the department:

a. the LDH toll-free telephone number for registering complaints shall be posted conspicuously in public areas of the ADHC center;

7. be available to the participant's physician of choice;

8. be revised as necessary, but reviewed by the professional group at least annually; and

9. be approved by the governing body.

C. The director, or his designee:

1. is responsible for the execution of ADHC center policies; and

2. shall be accessible to center staff or to any representative of the Department of Health conducting an audit, survey, monitoring activity, or research and quality assurance.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2182 (October 2008), repromulgated LR 34:2628 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2373 (September 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1971 (October 2017).

#### **§4229. Fiscal Accountability**

A. A center shall establish a system of business management and staffing to assure maintenance of complete and accurate accounts, books and records.

B. A center shall demonstrate fiscal accountability through regular recording of its finances.

C. A center shall not permit funds to be paid or committed to be paid to any entity in which any member of the governing body or administrative personnel, or members of their immediate families, have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the center.

1. The center shall provide a written disclosure of any financial transaction regarding the center in which a member of the governing body, administrative personnel, or his/her immediate family is involved.

D. The center shall ensure that all entries in records are legible, signed by the person making the entry and accompanied by the date on which the entry was made.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2183 (October 2008), repromulgated LR 34:2628 (December 2008).

#### **§4231. Administrative Records**

A. A center shall have administrative records that include:

1. documents identifying the governing body;

a. a list of the officers and members of the governing body, their addresses and terms of membership, if applicable;

b. by-laws of the governing body and minutes of formal meetings, if applicable;

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

3. an organizational chart for the center;

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

5. insurance policies;

6. annual budgets and audit reports; and

7. a master list of all other programs and services used by the center.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2183 (October 2008), repromulgated LR 34:2629 (December 2008).

#### **§4233. Participant Case Records**

A. A center shall have an organized record system which includes a written case record for each participant. The case record shall contain administrative and treatment data from the time of admission until the time that the participant leaves the center.

B. The participant's case record shall include:

1. identifying information such as:

a. name;

b. birth date;

c. home address;

d. Social Security number;

e. marital status;

f. gender;

g. ethnic group; and

h. religion;

2. identifying information for the participant's personal representative, if applicable, such as:

- a. name;
- b. address; and
- c. telephone number;
- 3. social and medical history including:
  - a. a complete record of admitting diagnoses and any treatments that the participant is receiving;
  - b. history of serious illness, serious injury or major surgery;
  - c. allergies to medication;
  - d. a list of all prescribed medications and non-prescribed drugs currently used;
  - e. current use of alcohol; and
  - f. the name of the participant's personal physician and an alternate;
- 4. complete health records, when available, including physical, dental and/or vision examinations;
- 5. a copy of the participant's individual service plan including:
  - a. any subsequent modifications; and
  - b. an appropriate summary to guide and assist direct care staff in implementing the participant's program;
- 6. the findings made in periodic reviews of the plan including:
  - a. a summary of the successes and failures of the participant's program; and
  - b. recommendations for any modifications deemed necessary;
- 7. any grievances or complaints filed by the participant and the resolution or disposition of these grievances or complaints;
- 8. a log of the participant's attendance and absence;
- 9. a physician's signed and dated orders for medication, treatment, diet, and/or restorative and special medical procedures required for the safety and well-being of the participant;
- 10. progress notes that:
  - a. document the delivery of all services identified in the individualized service plan;
  - b. document that each staff member is carrying out the approaches identified in the individualized service plan that he/she is responsible for;
  - c. record the progress being made and discuss whether or not the approaches in the individualized service plan are working;
  - d. record any changes in the participant's medical condition, behavior or home situation which may indicate a need for a change in the individualized service plan; and

e. document the completion of incident reports, when appropriate; and

NOTE: Each individual responsible for providing direct services shall record progress notes at least weekly, but any changes to the participant's condition or normal routine should be documented on the day of the occurrence.

11. discharge planning and referral.

C. All entries made by center staff in participants' records shall be legible, signed and dated.

D. The medications and treatments administered to participants at the center shall be charted by the appropriate staff.

E. The center may produce, maintain and/or store participant case records either electronically or in paper form.

F. The center shall ensure that participant case records are available to staff who are directly involved with participant care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2183 (October 2008), repromulgated LR 34:2629 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1972 (October 2017).

**§4235. Retention of Records**

A. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of according to state laws. An ADHC center shall have sufficient space, facilities and supplies for providing effective record-keeping services.

B. All records concerning past or present medical conditions of participants are confidential and shall be maintained in compliance with the provisions of the Health Insurance Portability and Accountability Act (HIPAA) of 1996. The expressed written consent of the participant shall be obtained prior to the disclosure of medical information regarding the participant.

C. The participant's medical record shall consist of the active participant record and the ADHC center's storage files or folders. As this active record becomes bulky, the outdated information shall be removed and filed in the ADHC center's storage files or folders. The active medical records shall contain the following information:

- 1. the necessary admission records;
- 2. at least six months of current pertinent information relating to the participant's active ongoing care; and
- 3. if the ADHC center is aware that a participant has been interdicted, a statement to this effect shall be noted on the inside front cover of the record.

D. Upon request, the ADHC center shall make all records, including participant records, available to the applicable federal and state regulatory agencies in order to

determine the center's compliance with applicable federal and state laws, rules and regulations.

E. An ADHC center's records may be produced, maintained and/or stored in either an electronic or paper form and shall be producible upon request by the department or its employees.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2184 (October 2008), repromulgated LR 34:2629 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1972 (October 2017).

#### **§4237. Confidentiality and Security of Records**

A. A center shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released. Records shall be the property of the ADHC center and as custodian, the center shall secure records against loss, tampering or unauthorized use.

B. A center shall maintain the confidentiality of all participants' case records. Employees of the center shall not disclose or knowingly permit the disclosure of any information concerning the participant or his/her family, directly or indirectly, to any unauthorized person.

C. A center shall obtain the participant's written, informed permission prior to releasing any information from which the participant or his/her family might be identified, except for authorized federal and state agencies or another program with professional interest in the participant.

D. The ADHC center shall safeguard the confidentiality of participant information and shall release confidential information only under the following conditions:

1. by court order; or
2. by the participant's written authorization, unless contraindicated as documented in the participant's record by the attending physician.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2184 (October 2008), repromulgated LR 34:2630 (December 2008).

### **Subchapter C. Participant Rights**

#### **§4239. Statement of Rights**

A. Each participant shall be informed of his/her rights and responsibilities regarding the ADHC center. The regulations of the ADHC center and all rules governing participant conduct and behavior shall be fully explained to the participant. Before or upon admission, the ADHC center shall provide a copy of the participant rights document to each participant. A signed and dated acknowledgment form shall be filed in each participant's record.

B. If the ADHC center changes its participant rights policies, a signed and dated acknowledgment form shall be filed in each participant's record.

C. The center shall have a written policy on participant civil rights. This policy shall give assurances that:

1. a participant's civil rights are not abridged or abrogated solely as a result of placement in the ADHC center's program; and
2. a participant is not denied admission, segregated into programs or otherwise subjected to discrimination on the basis of race, religion or ethnic background.

D. The participant rights document shall include at least the following items:

1. the right to be informed, in writing, of:
  - a. all services available at the ADHC center;
  - b. the charges for those services; and
  - c. the center's days and hours of operation;
2. the right to participate in each interdisciplinary staffing meeting and any other meeting involving the care of the participant;
3. the right to refuse any service provided in the ADHC center;
4. the right to present complaints or recommend changes regarding the center's policies and services to staff or to outside representatives without fear of restraint, interference, coercion, discrimination or reprisal;
5. the right to be free from mental, physical or verbal abuse;
6. the right to be free from coercion; and
7. the right to be free from restraints. ADHC centers are prohibited from the use of any restraints;
8. the right to privacy during the provision of personal needs services;
9. the right to communicate, associate, and meet privately with individuals of his/her choice, unless this infringes on the rights of another participant; and
10. the right not to be required to perform services for the ADHC center, except when the performance of a specific service is identified in the individualized service plan as an appropriate approach to meeting a need or resolving a problem of the participant.

E. A friendly, supportive, comfortable, and safe atmosphere shall be maintained at all times, and all participants shall be treated equitably with respect, kindness, and patience.

F. Each participant shall be encouraged and assisted to exercise his/her rights as a participant at the ADHC center and as a citizen.

G. Devolution of Participant Rights. If the participant rights have devolved to the personal representative or next of kin, that party shall receive the explanation of and sign the participant rights and any other documents described in these standards. Under the following conditions, the ADHC center shall ensure that participant rights devolve to the personal representative or next of kin.

1. The participant has been interdicted in a court of law. In such cases, the ADHC center shall ensure that the participant's rights devolve to the curator/curatrix of record. The ADHC center shall obtain an official document verifying that the participant has indeed been interdicted and the interdiction shall be documented on the inside front cover of the participant's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2184 (October 2008), repromulgated LR 34:2630 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1972 (October 2017).

## Subchapter D. ADHC Center Services

### §4241. Mandatory Daily Program Components

A. There shall be a planned daily program of both individual and group activities which is sufficiently varied and structured so as to directly involve the participants in a stimulated and meaningful use of time while at the center. Emphasis shall be given to maintaining and improving the participants' functional abilities.

B. Participants shall be encouraged to take part in the planning and directions of activities. Programming shall allow for active and passive participation.

C. Centers shall provide a detailed description of individual and group activities that are being provided to participants on a daily basis and shall make this information available upon request. This information shall also be made available to participants and their families.

D. When available, community resources may be used to provide educational programs, lectures, concerts and similarly stimulating activities to participants.

E. An arts and crafts activities program may be available to make use of the rehabilitative as well as the recreational values of such pastimes. A supply of materials adequate to accommodate all participants shall be on hand for this program.

F. An outdoor activities program, such as gardening or walking, may be maintained where space, weather, and participants' health permit.

G. A daily rest period may be incorporated into the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 34:2185 (October 2008), repromulgated LR 34:2631 (December 2008).

### §4243. Core Services

A. At a minimum, each center shall provide the following services:

1. individualized training or assistance with the activities of daily living (toileting, grooming, ambulation, etc.);
2. health and nutrition counseling;
3. an individualized, daily exercise program;
4. an individualized, goal-directed recreation program;
5. daily health education;
6. one nutritionally-balanced hot meal and two snacks served each day;
7. nursing services that include the following individualized health services:
  - a. monitoring vital signs appropriate to the diagnosis and medication regimen of each participant no less frequently than monthly;
  - b. administering medications and treatments in accordance with physician's orders;
  - c. initiating and developing a self-administration of medication plan for the ADHC center which is individualized for each participant for whom it is indicated; and
8. transportation to and from the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2185 (October 2008), repromulgated LR 34:2631 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1972 (October 2017).

### §4245. Transportation Requirements

A. The center shall provide transportation to and from the ADHC center at the beginning and end of the program day. The center shall comply with the following requirements governing transportation.

1. The center shall have liability insurance coverage and have proof of such coverage.
2. The center shall conform to all state laws and regulations pertaining to drivers, vehicles and insurance.

B. The driver, whether directly employed or provided by third-party contract, shall hold a valid chauffeur's license or commercial driver license (CDL), if applicable with passenger endorsement.

1. The driver shall meet personal and health qualifications of other staff and receive necessary and appropriate training to ensure competence to perform duties assigned.

C. The number of occupants allowed in a car, bus, station wagon, van, or any other type of transportation shall not exceed the number for which the vehicle is designed.

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

E. The vehicle shall be maintained in operating condition.

F. There shall be at least one staff member in the vehicle who is trained in first-aid and cardio pulmonary resuscitation (CPR) whether transportation is provided by center-owned transportation or by a third-party commercial proprietor.

G. Centers shall provide transportation to any participant within their licensed region, but no participant, regardless of their region of origin, may be in transport for more than one hour on any single trip.

1. If the center develops a policy that establishes a limited mileage radius for transporting participants, that policy shall be submitted to LDH for review and approval prior to the center being allowed to limit transportation for participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2186 (October 2008), repromulgated LR 34:2631 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2373 (September 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1973 (October 2017).

## Subchapter E. Participant Care

### §4249. Medical Services

A. Medical services shall be provided by the participant's physician of choice.

B. The center shall have a listing of available medical services for referral. When referrals are made, the center shall follow-up to see that the participant is receiving services.

C. Appropriate staff shall immediately notify the participant's physician and the legal or personal representative of any emergency, change in condition or injury to the participant that occurs at the center.

1. In areas where 911 services are not available, the center shall have means to transport participants for medical emergencies.

2. In cities or communities that have a city or community wide ambulance service (fire department or other emergency medical service), a statement in the center files regarding available emergency transportation services and the method of contact for the service will be acceptable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 34:2186 (October 2008), repromulgated LR 34:2632 (December 2008).

### §4251. Nursing Services

A. All nursing services furnished in the ADHC center shall be provided in accordance with acceptable nursing professional practice standards.

B. A licensed registered nurse (RN) shall serve on the interdisciplinary (ID) team and shall monitor the overall health needs of the participants. The RN serves as a liaison between the participant and medical resources, including the treating physician.

1. The RN's responsibilities include medication review for each participant at least monthly and when there is a change in the medication regimen to:

- a. determine the appropriateness of the medication regime;
- b. evaluate contraindications;
- c. evaluate the need for lab monitoring;
- d. make referrals to the primary care physician for needed monitoring tests;
- e. report the efficacy of the medications prescribed; and
- f. determine if medications are properly being administered in the center.

C. The RN shall supervise the method of medication administration to participants (both self-administration and staff administration).

D. The RN shall approve the method of medication storage and record-keeping.

E. The RN or LPN shall document the receipt of all prescribed medications for each participant with a legible signature and will comply with all Louisiana laws and rules regarding medication control and disbursement.

F. The RN shall give in-service training to both staff and participants on health related matters at least quarterly.

G. The RN shall ensure that diagnoses are compiled into a central location in the participant's record and updated when there is a change.

H. The RN shall monitor and supervise any staff licensed practical nurse (LPN) providing care and services to participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2186 (October 2008), repromulgated LR 34:2632 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1973 (October 2017).

### §4253. Nutrition Services

A. There shall be a hot, nutritious and palatable noon meal served daily which provides one-third of the



recommended dietary allowances (RDA) as established by the National Research Council and American Dietetic Association. Accommodations shall be made for participants with special diets.

1. There shall be a mid-morning snack served daily in centers where breakfast is not served.

2. There shall be a mid-afternoon snack served daily.

B. Menus shall be varied and planned and approved well in advance by a licensed registered dietitian. Any substitutions shall be of comparable nutritional value and documented.

C. All food and drinks shall be of safe quality.

D. Drinking water shall be readily available and offered to participants.

E. Food preparation areas and utensils cleaning procedures shall comply with the State Sanitary Code.

F. A licensed registered dietitian shall:

1. review all orders for special diets;
2. prepare menus as needed; and
3. provide in-service training to staff and, as appropriate, participants.

G. Documentation of these reviews and recommendations shall be available in the participant case record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2187 (October 2008), repromulgated LR 34:2632 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1973 (October 2017).

#### **§4255. Social Work Services**

A. All social work services shall be provided in accordance with acceptable professional social work practice standards.

B. A social service designee or social worker shall serve on the ID team and shall monitor the overall social needs of the participant.

C. Social services, as a part of an interdisciplinary spectrum of services, shall be provided to the participants to:

1. maximize the social functioning of each participant;
2. enhance the coping capacity of the participant and, as appropriate, his family;
3. assert and safeguarding the human and civil rights of participants; and
4. foster the human dignity and personal worth of each participant.

D. While the participant is receiving ADHC services, the social service designee or social worker shall, as appropriate,

serve as a liaison between the participant and the center, their family and the community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2187 (October 2008), LR 34:2632 (December 2008).

## **Subchapter F. Human Resources**

### **§4259. Personnel Policies**

A. An ADHC center shall have personnel policies that include:

1. a written plan for recruitment, screening, orientation, in-service training, staff development, supervision and performance evaluation of all staff members;

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

3. a health assessment which includes, at a minimum, evidence that the employee is free of active tuberculosis and that staff are retested on a time schedule as mandated by the Office of Public Health:

- a. policies shall be in accordance with state rules, laws and regulations for employees, either contracted or directly employed, and volunteers;

4. a written employee grievance procedure;

5. abuse reporting procedures that require all employees to report any incidents of abuse or neglect in accordance with state law, whether the abuse or mistreatment is committed by another staff member, a family member or any other person;

6. clarification of the center's prohibited use of social media. The policy shall ensure that all staff, either contracted or directly employed, receive training relative to the restrictive use of social media and include, at a minimum, ensuring confidentiality of participant information and preservation of participant dignity and respect, including protection of participant privacy and personal and property rights; and

7. prevention of discrimination.

B. A center shall not discriminate in recruiting or hiring on the basis of sex, race, creed, national origin or religion.

C. A center's screening procedures shall address the prospective employee's qualifications, ability, related experience, health, character, emotional stability and social skills as related to the appropriate job description.

1. A center shall obtain written references from three persons (or prepare documentation based on telephone contacts with three persons) prior to making an offer of employment. The names of the references and a signed release shall be obtained from the potential employee.

2. A center shall comply with the provisions of R.S. 40:2120.41-2120.47 and the rules regarding the direct service worker (DSW) registry prior to making an offer of employment to a direct care staff applicant.

3. A center shall obtain a state-wide criminal background check conducted by the Louisiana State Police, or its designee, prior to making an offer of employment to a direct care staff applicant in accordance with applicable state laws.

a. The center shall have documentation on the final disposition of all charges that bar employment pursuant to applicable state law.

D. Annual performance evaluations shall be completed for all staff members.

1. For any person who interacts with participants, the performance evaluation procedures shall address the quality and nature of a staff member's interactions with participants.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2187 (October 2008), repromulgated LR 34:2633 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1973 (October 2017).

#### **§4261. Orientation and Training**

A. A center's orientation program shall provide training for any new direct care staff, either contracted or employed, to acquaint them with the philosophy, organization, program, practices and goals of the center. The orientation shall also include instruction in safety and emergency procedures as well as the specific responsibilities of the employee's job.

B. A center shall document that all employees, either contracted or staff, receive training on an annual basis in:

1. the principles and practices of participant care;
2. the center's administrative procedures and programmatic goals;
3. emergency and safety procedures;
4. protecting the participant's rights;
5. procedures and legal requirements concerning the reporting of abuse and neglect;
6. acceptable behavior management techniques,
7. crisis management; and
8. the center's policy on the prohibited use of social media.

C. A center shall ensure that each direct care staff completes no less than 20 hours of face-to-face training per year. Orientation and normal supervision shall not be considered for meeting this requirement.

D. A new direct care staff employee shall not be assigned to carry out a participant's care until competency has been demonstrated and documented.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2187 (October 2008), repromulgated LR 34:2633 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1974 (October 2017).

#### **§4263. Personnel Files**

A. In accordance with §4259, an ADHC center shall have a personnel file for each employee, either contracted or staff that contains:

1. the application for employment and/or resume;
2. the statewide criminal background history checks;
3. documentation of proof of DSW registry checks;
4. reference letters from former employer(s) and personal references or written documentation based on telephone contact with such references;
5. any required medical examinations;
6. evidence of applicable professional credentials/certifications according to state law;
7. annual performance evaluations;
8. personnel actions, other appropriate materials, reports and notes relating to the individual's employment with the center; and
9. the employee's starting and termination dates.

B. An ADHC center shall retain an employee's personnel file for at least three years after the employee's termination of employment.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2188 (October 2008), repromulgated LR 34:2633 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1974 (October 2017).

## **Subchapter G. Center Responsibilities**

#### **§4265. General Provisions**

A. A center shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to ensure that the center's responsibilities are carried out and that the following functions are adequately performed:

1. administrative functions;
2. fiscal functions;
3. clerical functions;
4. housekeeping, maintenance and food service functions;
5. direct service functions;
6. supervisory functions;
7. record-keeping and reporting functions;

8. social services functions; and
9. ancillary service functions;

B. The center shall ensure that all staff members are properly certified and/or licensed as legally required.

C. The center shall ensure that an adequate number of qualified direct service staff is present with the participants as necessary to ensure the health, safety and well-being of participants.

1. Staff coverage shall be maintained giving consideration to the time of the day, the size and nature of the center and the needs of the participants.

D. The center shall not knowingly hire, or continue to employ, any person whose health, educational achievement, emotional or psychological makeup impairs his/her ability to properly protect the health and safety of the participants or is such that it would endanger the physical or psychological well-being of the participants.

1. This requirement is not to be interpreted to exclude the continued employment of persons undergoing temporary medical or emotional problems unless such problems pose a threat to the health or safety of any participant or staff.

E. If any required professional services are not furnished by center employees, the center shall have a written agreement with an appropriately qualified professional to perform the required service or written agreements with the state for required resources.

F. The center shall establish procedures to assure adequate communication among staff in order to provide continuity of services to the participant. This system of communication shall include:

1. a regular review of individual and aggregate problems of participants, including actions taken to resolve these problems;
2. sharing daily information, noting unusual circumstances and other information requiring continued action by staff; and
3. the maintenance of all accidents, personal injuries and pertinent incidents records related to implementation of the participant's individual service plans.

G. Any employee who is working directly with participant care shall have access to information from participant case records that is necessary for the effective performance of the employee's assigned tasks.

H. The center shall establish procedures which facilitate participation and feedback by staff members in policy-making, planning and program development for participants.

I. At all times, there shall be a staff member in the center who has knowledge of and can apply first aid and who is certified in CPR.

J. In the absence of the director, a staff member shall be designated to supervise the center.

K. The center shall not provide service to more participants than the number specified on its license on any given day or at any given time.

L. The center shall make available to the department any information, which the center is required to have under these standards and is reasonably related to the assessment of compliance with these standards. The participant's rights shall not be considered abridged by this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2188 (October 2008), repromulgated LR 34:2633 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1974 (October 2017).

#### **§4267. Staffing Requirements**

A. Staff at ADHC centers shall meet the following education and experience requirements. All college degrees shall be from a nationally accredited institution of higher education as defined in §102(b) of the Higher Education Act of 1965 as amended. The following "key" staff positions are required and subject to the provisions listed below.

1. Director. The director shall have a bachelor's degree in a human services-related field, such as social work, nursing, education or psychology. Eight years of supervisory experience working in a human services-related field may be substituted for the bachelor's degree.

2. Nurse. The center shall employ one or more RN or LPN who shall be available to provide medical care and supervision services as required by all participants. The RN or LPN shall be on the premises daily for at least 8 hours or the number of hours the center is open, or during the time participants are present at the center, whichever is less. Nurses shall have a current Louisiana state nursing license.

3. Social Service Designee/Social Worker. The center shall designate at least one staff person who shall be employed at least 10 hours a week to serve as the social services designee or social worker.

a. The social services designee shall have, at a minimum, a bachelor's degree in a human service-related field such as psychology, sociology, education, or counseling. Two years of experience in a human service-related field may be substituted for each year of college.

b. The social worker shall have a bachelor's or master's degree in social work.

4. Program Manager. The center shall designate at least one staff member who shall be employed at least 10 hours a week to be responsible for carrying out the center's individualized program for each participant.

B. The following additional staff positions are required, subject to the provisions listed below.

1. Food Service Supervisor. The center shall designate one staff member who shall be employed at least 10 hours a week who shall be responsible for meal preparation and/or

serving. The food service supervisor shall have ServSafe® certification.

2. *Direct Service Worker*—an unlicensed person who provides personal care or other services and support to persons with disabilities or to the elderly to enhance their well-being, and who is involved in face-to-face direct contact with the participant.

3. *Volunteers*. Volunteers and student interns are considered a supplement to the required staffing component. A center which uses volunteers or student interns on a regular basis shall have a written plan for using these resources. This plan shall be given to all volunteers and interns and it shall indicate that all volunteers and interns shall be:

- a. directly supervised by a paid staff member;
- b. oriented and trained in the philosophy of the center and the needs of participants as well as the methods of meeting those needs;
- c. subject to character and reference checks similar to those performed for employment applicants upon obtaining a signed release and the names of the references from the potential volunteer/intern student;
- d. aware of and briefed on any special needs or problems of participants; and
- e. provided program orientation and ongoing in-service training. The in-service training should be held at least quarterly.

C. The direct service worker to participant ratio shall be a minimum of one full-time direct service worker to every nine participants.

D. Center staffing requirements shall be based on licensed capacity; however, the center shall ensure that the following requirements are met regardless of the licensed capacity of the center.

1. The RN or LPN shall be on the premises daily for at least eight hours, the number of hours the center is open, or during the time participants are present at the center, whichever is less.

2. If the RN or LPN has been on duty at least eight hours and there are still participants present in the ADHC, the RN or LPN may be relieved of duty, however, at least one key staff person shall remain on duty at the center. The key staff person shall be the social service designee/social worker or the program manager.

3. A staff member who is certified in CPR shall be on the premises at all times while participants are present.

E. Centers with a licensed capacity of 15 or fewer participants may designate one full-time staff person or full-time equivalent person to fill up to three “key staff” positions, and shall employ at least one full-time person or full-time equivalent to fulfill key staff requirements.

F. Centers with a licensed capacity to serve 16-30 participants shall employ at least two full-time persons or

full-time equivalents to fulfill key staff requirements, and may designate one full-time staff person or full-time equivalent person to fill up to, but no more than, two “key staff” positions.

G. Centers with a licensed capacity to serve more than 30 participants shall employ at least three full-time persons or full-time equivalents to fill key staff positions. Each key staff position shall be filled with a full-time person or full-time equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2188 (October 2008), repromulgated LR 34:2634 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2373 (September 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1974 (October 2017).

#### §4269. Incident Reports

A. There shall be policies and procedures which cover the writing of and disposition of incident reports.

1. The center shall complete incident reports for each participant involved in the following occurrences:

- a. accidents and injuries;
- b. the involvement of any participant in any occurrence which has the potential for affecting the welfare of any other participant;
- c. any elopement or attempted elopement, or when the whereabouts of a participant is unknown for any length of time; and
- d. any suspected abuse, whether or not it occurred at the center.

B. Progress notes documented on the day of the incident shall indicate that an incident report was written.

C. The completed individual incident report shall be filed in a central record system.

D. Incident reports shall include, at a minimum, the following information:

1. the name of the participant or participants;
2. the date and time of the incident;
3. a detailed description of the incident;
4. the names of witnesses to the incident and their statements; and
5. a description of the action taken by the center with regard to the incident.

E. Incident reports shall be reviewed by the director, his designee or a medical professional within 24 hours of the occurrence. A qualified professional shall recommend action, in a timely manner, as indicated by the consequences of the incident.

F. ID team members shall review all incident reports quarterly, and recommend action as indicated to:

1. insure that the reports have all of the required information;
2. identify staff training needs;
3. identify patterns which may indicate a need for changes in the center policies/practices; and
4. assist in identifying those participants who may require changes in their plans of care or who may not be appropriately placed in the ADHC center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2189 (October 2008), repromulgated LR 34:2635 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1975 (October 2017).

## Subchapter H. Direct Service Management

### §4273. Admissions

A. A center shall have a written description of its admission policies and criteria. The admission information for individual participants shall include:

1. the participant's name, date of birth, home address and telephone number;
2. the name, address and telephone number of the participant's closest relative or friend;
3. a brief social history that includes the participant's marital status, general health status, education, former occupation, leisure-time interest and existence of supportive family members or friends;
4. the name, address and telephone number of the participant's physician and/or medical center as well as the date of participant's last physical exam;
5. a nursing assessment summary performed by the center's RN or LPN at the time of the participant's admission to the center which includes:
  - a. special dietary needs;
  - b. prescribed medication;
  - c. allergies;
  - d. any limitations on activity;
  - e. the degree to which the participant is ambulant;
  - f. visual or hearing limitations and/or other physical impairments;
  - g. apparent mental state or degree of confusion or alertness;
  - h. the ability to control bowel or bladder;
  - i. the ability to feed self;

- j. the ability to dress self; and
- k. the ability to self-administer medication.

NOTE: The Minimum Data Set Home Care (MDS/HC) can be used in place of the nursing assessment summary.

B. The center shall not refuse admission to any participant on the grounds of race, sex or ethnic origin.

C. The center shall not knowingly admit any participant into care whose presence would be seriously damaging to the ongoing functioning of the center or to participants already receiving services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2189 (October 2008), repromulgated LR 34:2635 (December 2008).

### §4275. Discharge

A. The center shall have written policies and procedures governing voluntary discharges (the participant withdraws from the program on his/her own) and non-voluntary discharges (center initiated discharges).

1. The policy may include the procedures for non-voluntary discharges due to the health and safety of the participant or that of other participants if they would be endangered by the further stay of a particular participant in the center.

B. There shall be a written report detailing the circumstances leading to any discharge.

C. Prior to a planned discharge, the center's ID Team shall formulate an aftercare plan specifying needed supports and the resources available to the participant.

D. When the participant is going to another home and community-based program or institutional center, discharge planning shall include the participant's needs, medication history, social data and any other information that will assist in his/her care in the new program or center.

1. A center member of the ID Team shall confer with the representatives of the new program regarding the individual needs and problems of the participant, if at all possible.

2. Upon discharge, the center shall provide a summary of the participant's health record to the person or agency responsible for the future planning and care of the participant. The discharge summary shall include:

- a. medical diagnoses;
- b. medication regimen (current physicians orders);
- c. treatment regimen (current physicians orders);
- d. functional needs (inabilities);
- e. any special equipment utilized (dentures, ambulatory aids, eye glasses, etc.);
- f. social needs;

g. financial resources; and

h. any other information which will enable the receiving center/caregivers to provide the continued necessary care without interruption.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2190 (October 2008), repromulgated LR 34:2635 (December 2008).

#### **§4277. Interdisciplinary Team Responsibilities**

A. It shall be the responsibility of the ID team to assess and develop an individualized service plan for each participant prior to or within 20 days of admission of a participant.

B. Prior to the individual staffing of a participant by the ID team, each team member shall complete an assessment to be used at the team meeting. This assessment shall, at a minimum, include a physical assessment and a social evaluation.

C. The ID team shall meet, reassess, and reevaluate each participant at least quarterly to review the individualized service plan to ensure that it is sufficient for each participant.

D. The ID team shall make referrals, as indicated, to other disciplines and for any service which would enhance the functional capacity of a participant.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2190 (October 2008), repromulgated LR 34:2636 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1975 (October 2017).

#### **§4279. Interdisciplinary Team-Composition**

A. The ID team may be composed of either full-time staff members, contractual consultants or a combination of both.

B. The ID team shall be composed of:

1. a registered nurse licensed to practice in the state of Louisiana;
2. a social service designee/social worker; and
3. at least one direct care staff person from the center.

C. In addition, dietitians, physical therapists, occupational therapists, recreational therapists, physicians and others may sit on the team to staff an individual participant on an as needed basis.

D. The participant, and/or family members or legal or personal representative if appropriate, shall be involved in the ID team staffing and any other meeting involving the care needed by the participant while receiving services at the ADHC center.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2190 (October 2008), repromulgated LR 34:2636 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1975 (October 2017).

#### **§4281. Individualized Service Plan**

A. The participant's ADHC individualized service plan shall:

1. be developed from the staffing performed by the ID team of each participant;
2. state the individual needs and identified problems of the participant for which intervention is indicated in assessments, progress notes and medical reports;
3. include the number of days and time of scheduled attendance required to meet the needs of the participant;
4. use the strengths of the participant to develop approaches and list these approaches with the frequency that each will be used to meet the needs of the participant;
5. identify the staff member who will be responsible for carrying out each item in the plan (the position, rather than the name of the employee, may be indicated in the plan);
6. ensure that all persons working with the participant are appropriately informed of the services required by the individualized service plan;
7. propose a reasonable time-limited goal with established priorities. The projected resolution date or review date for each problem shall be noted;
8. contain the necessary elements of the self-administration or other medication administration plan, if applicable;
9. include discharge as a goal;
10. be legible and written in terminology which all staff personnel can understand;
11. be signed and dated by all the team members; and
12. be included as a part of the participant's case record.

B. Unless it is clearly not feasible to do so, a center shall ensure that the individualized service plan and any subsequent revisions are explained to the participant and, where appropriate, the legally responsible person/personal representative or family member in language understandable to these persons.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2190 (October 2008), repromulgated LR 34:2636 (December 2008).

**§4283. Individualized Service Plan Review**

A. The individualized service plan shall be reviewed and updated at least quarterly and whenever there is a change in problems, goals or approaches as indicated.

B. This review shall be done by the person indicated on the plan as the individual primarily responsible for carrying out the plan.

C. This review shall be accomplished by reviewing the individual reports of all persons responsible for meeting the needs of the participant. These reports shall include any reports from physicians, social service designees/social workers, nurses, therapists, dietitians, and family members as well as incident reports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2191 (October 2008), repromulgated LR 34:2637 (December 2008).

**Subchapter I. Emergency and Safety****§4285. Emergency and Safety Procedures**

A. A center shall have a written overall plan of emergency and safety procedures. The plan shall:

1. provide for the evacuation of participants to safe or sheltered areas;
2. include provisions for training staff and, as appropriate, participants in preventing, reporting and responding to fires and other emergencies;
3. provide means for an on-going safety program including continuous inspection of the center for possible hazards, continuous monitoring of safety equipment, and investigation of all accidents or emergencies; and
4. include provisions for training personnel in their emergency duties and in the use of any fire-fighting or other emergency equipment in their immediate work areas.

B. The center shall ensure the immediate accessibility of appropriate first aid supplies in kits that are to be located in the center's building and all vehicles used to transport participants.

C. A center shall have access to telephone service whenever participants are in attendance.

1. Emergency telephone numbers shall be posted for easy access, including fire department, police, medical services, poison control and ambulance.

D. A center shall immediately notify the department and other appropriate agencies of any fire, disaster or other emergency which may present a danger to participants or require their evacuation from the center.

E. At any time that the ADHC has an interruption in services or a change in the licensed location due to an emergency situation, the center shall notify HSS no later than the next stated business day.

F. There shall be a policy and procedure that insures the notification of family members or responsible parties whenever an emergency occurs for an individual participant.

G. Upon the identification of the non-responsiveness of a participant at the center, the center's staff shall implement the emergency medical procedures and notify the participant's family members and other medical personnel.

H. A center shall conduct emergency drills at least once every three months.

I. A center shall make every effort to ensure that staff and participants recognize the nature and importance of such drills.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2191 (October 2008), repromulgated LR 34:2637 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1975 (October 2017).

**§4287. General Safety Practices**

A. A center shall not maintain any firearms or chemical weapons where participants may have access to them.

B. A center shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers that are labeled as to the contents. Such materials shall be maintained only as necessary and shall be used in such a manner as to ensure the safety of participants, staff and visitors.

C. The center shall not have less than two remote exits.

D. Doors in means of egress shall swing in the direction of exit travel.

E. Every bathroom door lock shall be designed to permit opening of the locked door from the outside in an emergency, and the opening device shall be readily accessible to the staff.

F. Unvented or open-flame heaters shall not be utilized in center.

G. All exterior and interior doors used by participants shall be at least 32 inches wide.

H. All hallways/corridors shall be at least 36 inches wide.

I. At least one primary entrance shall be accessible to people with disabilities or impairments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2191 (October 2008), repromulgated LR 34:2637 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1975 (October 2017).

## Subchapter J. Physical Environment

### §4289. General Appearance and Conditions

A. The center shall present an attractive outside and inside appearance and be designed and furnished with consideration for the special needs and interests of the population to be served as well as the activities and services to be provided.

1. Illumination levels in all areas shall be adequate and careful attention shall be given to avoiding glare.

2. The design shall facilitate the participant's movement throughout the center and involvement in activities and services.

3. Heating, cooling and ventilation system(s) shall permit comfortable conditions.

4. Sufficient furniture shall be available to facilitate usage by the entire participant population in attendance.

5. Furniture and equipment that will be used by participants shall be selected for comfort and safety as well as be appropriate for use by persons with visual and mobility limitations, and other physical disabilities.

6. Floors and steps shall have a non-slippery surface and be dry when in use by the participants. Doorways and passageways shall be kept clear to allow free and unhindered passage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2192 (October 2008), repromulgated LR 34:2637 (December 2008).

### §4291. Space Requirements

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

B. The center shall provide at least 40 square feet of indoor space for each participant. The square footage excludes hallways, offices, restrooms, storage rooms, kitchens, etc.

C. The center shall be flexible and adaptable for large and small groups and individual activities and services.

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

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

F. There shall be sufficient parking area available for the safe daily delivery and pick-up of participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2192 (October 2008), repromulgated LR 34:2638 (December 2008).

### §4293. ADHC Furnishings

A. The center shall be furnished so as to meet the needs of the participants. All furnishings and equipment shall be kept clean and in good repair.

B. Lounge and Recreational Areas. Adequate furniture shall be available and shall be appropriate for use by the participants in terms of comfort and safety.

C. Dining Area. Furnishings shall include tables and comfortable chairs sufficient in number to serve all participants. Meals may be served either cafeteria style or directly at the table depending upon the method of food preparation or physical condition of the participants.

D. Kitchen. If the center has a kitchen area, it shall meet all health and sanitation requirements and shall be of sufficient size to accommodate meal preparation for the proposed number of participants.

E. Toilet Facilities. There shall be sufficient toilet and hand-washing facilities to meet the needs of both males and females. The number of toilets and hand-washing facilities shall be not less than one for each 12 participants.

1. There shall be at least two toilet facilities when males and females are served.

2. Toilets and hand-washing facilities shall be equipped so as to be accessible for people with disabilities.

F. Isolation/Treatment Room. There shall be a separate room or partitioned area for temporarily isolating a participant in case of illness. This room may be furnished with a bed or a recliner for the participant's use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2192 (October 2008), repromulgated LR 34:2638 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1975 (October 2017).

### §4295. Location of Center

A. An adult day health care center that is located within any center or program that is also licensed by the department shall have its own identifiable staff, space, and storage. These centers shall meet specific requirements if they are located within the same physical location as another program that is also licensed by the department.

1. The program or center within which the ADHC center is located shall meet the requirements of its own license.

B. New centers may not be located within 1,500 feet of another adult day health care center unless both centers are owned and managed by the same organization.

C. The location or site of an ADHC center shall be chosen so as to be conducive to the program and the participants served.



D. ADHC Centers within Nursing Centers. An adult day care center can only be located within a nursing center when the following conditions are met.

1. Space required for licensure of the nursing center cannot be utilized as space for the licensure of the adult day care center.

2. If space to be used for the ADHC center is nursing center bedroom space, the number of beds associated with the space occupied by the ADHC program shall be reduced from the licensed capacity of the nursing center.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2192 (October 2008), repromulgated LR 34:2638 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1976 (October 2017).

## Chapter 44. Abortion Facilities

### Subchapter A. General Provisions

#### §4401. Definitions

*Abortion*—any surgical procedure performed, after pregnancy has been medically verified, with the intent to cause the termination of the pregnancy, other than for the purpose of:

1. producing a live birth;
2. removing an ectopic pregnancy; or
3. removing a dead fetus caused by a spontaneous abortion.

*Active Admitting Privileges*—the physician is a member in good standing of the medical staff of a hospital that is currently licensed by the department, with the ability to admit a patient and to provide diagnostic and surgical services to such patient.

1. The hospital shall be located not further than 30 miles from the location at which the abortion is performed or induced, and shall provide obstetrical or gynecological health care services.

2. Violations of active admitting privileges provisions shall be fined not more than \$4,000 per violation.

*Administrator*—the person responsible for the day-to-day management, supervision, and operation of the outpatient abortion facility.

*Change of Ownership (CHOW)*—transfer of ownership to someone other than the owner listed on the initial licensing application or license renewal application.

*Coerced Abortion*—the use of force, intimidation, threat of force, threat of deprivation of food and shelter, or the deprivation of food and shelter by a parent or any other person in order to compel a female child to undergo an abortion against her will, whether or not the abortion procedure has been attempted or completed.

*CRNA*—a certified registered nurse anesthetist licensed by the Louisiana State Board of Nursing who is under the supervision of the physician performing the abortion or an anesthesiologist who is immediately available if needed as defined in the medical staff bylaws and in accordance with applicable licensing boards. A CRNA is an advanced practice registered nurse educated in the field of nurse anesthesia and certified according to the requirements of a nationally recognized certifying body such as the Council on Certification of Nurse Anesthetists or the Council on Recertification of Nurse Anesthetists, as approved by the board and who is authorized to select and administer anesthetics or ancillary services to patients under their care.

*Department*—the Department of Health and Hospitals (DHH).

*Facility Need Review (FNR)*—pursuant to R.S. 40:2116, a process that requires licensure applicants to prove the need for the services prior to applying for licensure.

*First Trimester*—the time period up to 14 weeks after the first day of the last menstrual period.

*General Anesthesia*—any drug, element, or other material which, when administered, results in a controlled state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including a loss of ability to independently maintain an airway and respond purposefully to physical stimuli or verbal command.

*Gestational Age*—the age of the unborn child as measured by the time elapsed since the first day of the last menstrual period as determined by a physician and confirmed through the use of an ultrasound.

*Health Standards Section (HSS)*—the Department of Health and Hospitals, Health Standards Section.

*Medical Director*—a physician who is responsible for all of the medical care provided to patients in the outpatient abortion facility, and for the ethical and professional practices of the medical staff.

*OPH*—the Department of Health and Hospitals, Office of Public Health.

*OSFM*—the Department of Public Safety and Corrections, Office of State Fire Marshal, Public Safety Services.

*Outpatient Abortion Facility*—any outpatient facility or clinic, other than a hospital or an ambulatory surgical center as defined by applicable state law, in which any second trimester or five or more first trimester abortions per calendar year are performed.

*Patient*—the woman receiving services from an outpatient abortion facility.

*Peer Review*—the evaluation of work by one or more persons of similar competence to the producers of the work.

*Physician*—a doctor who possesses a current license to practice medicine in Louisiana, is in good standing with the Louisiana State Board of Medical Examiners, and whose