

## Chapter 56. Behavioral Health Service Providers

### Subchapter A. General Provisions

#### §5601. Introduction

A. Pursuant to R.S. 40:2151-2161, the Department of Health (LDH) hereby establishes licensing standards for behavioral health service (BHS) providers. The purpose of these Chapters is to provide for the development, establishment and enforcement of statewide licensing standards for the care of clients receiving services from BHS providers, to ensure the maintenance of these standards, and to regulate conditions of these providers through a program of licensure that shall promote safe and adequate treatment of clients of BHS providers.

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

C. The following providers shall be licensed under the BHS provider license:

1. substance abuse/addiction treatment facilities;
2. mental health clinics; and
3. any other entity that meets the definition of a BHS provider.

D. Licensed substance abuse/addiction treatment facilities and mental health clinics have one year from the date of promulgation of the final Rule to comply with all of the provisions herein.

NOTE: Existing licensed substance abuse/addiction treatment facilities and mental health clinics shall be required to apply for a BHS provider license at the time of renewal of their current license(s).

E. The following entities shall be exempt from the licensure requirements for BHS providers:

1. hospitals licensed under R.S. 40:2100 et seq.;
2. crisis receiving centers licensed under 40:2180.11 et seq.;
3. nursing homes licensed under R.S. 40:2009.3 et seq.;
4. psychiatric residential treatment facilities and therapeutic group homes licensed under R.S. 40:2009;
5. facilities or services operated by the federal government;
6. federally qualified health care centers (FQHCs) certified by the federal government;
7. community mental health centers (CMHCs) certified by the federal government, that provide CMHC services allowed by the federal government;
8. home and community-based service (HCBS) providers providing HCBS services under a license issued pursuant to R.S. 40:2120.1 et seq.;
9. an individual licensed mental health professional (LMHP), whether incorporated or unincorporated, or a group practice of LMHPs, providing services under the auspices of and pursuant to the scope of the individual's license or group's licenses;
10. an individual licensed physician, or a group of licensed physicians, providing services under the auspices of and pursuant to the scope of the individual's license or group's licenses;
11. an individual licensed physician assistant, or a group practice of licensed physician assistants, providing services under the auspices of and pursuant to the scope of the individual's license or group's licenses;
12. school-based health clinics/centers that are certified by the Department of Health, Office of Public Health, and enrolled in the Medicaid Program;
13. a health care provider or entity solely providing case management or peer support services, or a combination thereof;
14. a health care provider that meets all of the following criteria:
  - a. was an accredited mental health rehabilitation provider enrolled in the Medicaid Program as of February 28, 2012;
  - b. was enrolled with the statewide management organization for the Louisiana Behavioral Health Partnership (LBHP) as of March 1, 2012;
  - c. maintains continuous, uninterrupted accreditation through an LDH authorized accreditation organization;
  - d. maintained continuous, uninterrupted enrollment with the statewide management organization for the LBHP,

and maintains continuous, uninterrupted enrollment with Medicaid managed care entities as of December 1, 2015;

NOTE: This exemption from licensure encompasses those mental health rehabilitation providers performing mental health rehabilitation services as previously regulated by the Medicaid Mental Health Rehabilitation Program. It does not include a mental health rehabilitation provider that performs other services that were not previously regulated under the Medicaid Mental Health Rehabilitation Program (e.g. addiction services, inpatient services, residential services). If a mental health rehabilitation provider performs behavioral health services in addition to those previously regulated under the Medicaid Mental Health Rehabilitation Program, the provider shall be licensed according to these licensing rules.

15. an individual licensed advanced practice registered nurse, or a group practice of licensed advanced practice registered nurses, providing services under the auspices of and pursuant to the scope of the individual's license or group's licenses;

16. rural health clinics (RHCs) providing RHC services under a license issued pursuant to R.S. 40:2197; and

17. facilities or services operated by the Department of Public Safety and Corrections, Corrections Services.

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## §5603. Definitions

*Abuse*—the infliction of physical or mental injury or the causing of the deterioration of an individual by means including, but not limited to, sexual *abuse*, or exploitation of funds or other things of value to such an extent that his health or mental or emotional well-being is endangered. Injury may include, but is not limited to: physical injury, mental disorientation, or emotional harm, whether it is caused by physical action or verbal statement or any other act or omission classified as abuse by Louisiana law, including, but not limited to, the *Louisiana Children's Code*.

*Accredited*—the process of review and acceptance by an accreditation body.

*Active Client*—a client that is being treated for addictive disorders at least every 90 days or a client that is being treated for mental health disorders at least every 180 days.

*Addictionologist*—a licensed physician who is either of the following:

1. certified by the American Board of Psychiatry and Neurology with a subspecialty in addiction psychiatry; or
2. certified by the American Board of Addiction Medicine.

*Addiction Outpatient Treatment Program (ASAM Level I)*—an outpatient program that offers comprehensive, coordinated, professionally directed and defined addiction treatment services that may vary in level of intensity and may be delivered in a wide variety of settings. Services are

provided in regularly scheduled sessions of fewer than nine contact hours a week.

*Administrative Procedure Act (APA)*—R.S. 49:950 et seq.

*Admission*—the formal acceptance of an individual for assessment and/or therapeutic services provided by the BHS provider.

*Adolescent*—an individual 13 through 17 years of age.

*ADRA*—Addictive Disorder Regulatory Authority.

*Adult*—an individual 18 years of age or older.

*Advance Practice Registered Nurse (APRN)*—a licensed registered nurse who meets the criteria for an *advanced practice registered nurse* as established by the Louisiana State Board of Nursing and is licensed as an APRN and in good standing with the Louisiana State Board of Nursing.

*Ambulatory Detoxification with Extended on-site Monitoring (ASAM Level II-D)*—an organized outpatient addiction treatment service that may be delivered in an office setting or health care or behavioral health services provider by trained clinicians who provide medically supervised evaluation, detoxification and referral services. The services are designed to treat the client's level of clinical severity to achieve safe and comfortable withdrawal from mood-altering chemicals and to effectively facilitate the client's entry into ongoing treatment and recovery. The services are provided in conjunction with intensive outpatient treatment services (level II.1).

*ASAM*—American Society of Addiction Medicine.

*Authorized Licensed Prescriber*—a physician, physician assistant, nurse practitioner, or medical psychologist licensed in the state of Louisiana and with full prescriptive authority who is authorized by the BHS provider to prescribe treatment to clients of the specific BHS provider at which he/she practices.

*Behavioral Health Service (BHS) Provider or Provider*—a facility, agency, institution, person, society, corporation, partnership, unincorporated association, group, or other legal entity that provides behavioral health services, presents itself to the public as a *provider* of behavioral health services.

*Behavioral Health Services*—mental health services, substance abuse/addiction treatment services, or a combination of such services, for adults, adolescents and children. Such services may be provided in a residential setting, in a clinic setting on an outpatient basis, or in a home or community setting.

*Building and Construction Guidelines*—structural and design requirements applicable to the BHS provider which does not include occupancy requirements.

*Business Location*—the licensed location and office of the BHS provider that provides services only in the home and/or community.

*Case Management*—the coordination of services, agencies, resources, or people within a planned framework of action toward the achievement of goals established in the

treatment plan that may involve liaison activities and collateral contracts with other providers.

*Certified Addiction Counselor (CAC)*—pursuant to R.S. 37:3387.1, any person who, by means of his specific knowledge acquired through formal education and practical experience, is qualified to provide addictive disorder counseling services and is certified by the ADRA as a CAC. The CAC may not practice independently and may not render a diagnostic impression.

*Change of Ownership (CHOW)*—the sale or transfer whether by purchase, lease, gift or otherwise of a BHS provider by a person/corporation of controlling interest that results in a change of ownership or control of 30 percent or greater of either the voting rights or assets of a BHS provider or that results in the acquiring person/corporation holding a 50 percent or greater interest in the ownership or control of the BHS provider.

*Child*—an individual under the age of 13.

*Client*—any person who has been accepted for treatment or services, including rehabilitation services, furnished by a provider licensed pursuant to this Chapter.

*Client Education*—information that is provided to clients and groups concerning alcoholism and other drug abuse, positive lifestyle changes, mental health promotion, suicide prevention and intervention, safety, recovery, relapse prevention, self-care, parenting, and the available services and resources. Educational group size is not restricted and may be offered as an outreach program.

*Client Record*—a single complete record kept by the provider which documents all treatment provided to the client and actions taken by the provider on behalf of the client. The record may be electronic, paper, magnetic material, film or other media.

*Clinical Services*—treatment services that include screening, assessment, treatment planning, counseling, crisis mitigation and education.

*Clinically Managed High-Intensity Residential Treatment Program (ASAM Level III.5)*—a residential program that offers continuous observation, monitoring, and treatment by clinical staff designed to treat clients experiencing substance-related disorders who have clinically-relevant social and psychological problems, such as criminal activity, impaired functioning and disaffiliation from mainstream values, with the goal of promoting abstinence from substance use and antisocial behavior and affecting a global change in clients' lifestyles, attitudes and values.

*Clinically Managed Low Intensity Residential Treatment Program (ASAM Level III.1)*—a residential program that offers at least five hours a week of a combination of low-intensity clinical and recovery-focused services for substance-related disorders. Services may include individual, group and family therapy, medication management and medication education, and treatment is directed toward applying recovery skills, preventing relapse, improving emotional functioning, promoting personal responsibility

and reintegrating the client into the worlds of work, education and family life (e.g., halfway house).

*Clinically Managed Medium-Intensity Residential Treatment Program (ASAM Level III.3)*—a residential program that offers at least 20 hours per week of a combination of medium-intensity clinical and recovery-focused services in a structured recovery environment to support recovery from substance-related disorders; is frequently referred to as extended or long term care.

*Clinically Managed Residential Detoxification or Social Detoxification (ASAM LEVEL III.2D)*—an organized residential program utilizing 24 hour active programming and containment provided in a non-medical setting that provides relatively extended, sub-acute treatments, medication monitoring observation, and support in a supervised environment for a client experiencing non-life threatening withdrawal symptoms from the effects of alcohol/drugs and impaired functioning and who is able to participate in daily residential activities.

*Community Psychiatric Support and Treatment (CPST)*—goal-directed supports and solution-focused interventions intended to achieve identified goals or objectives as set forth in the client's individualized treatment plan. These supports and interventions are designed to improve behavioral health outcomes by utilizing evidence-based driven care.

*Compulsive Gambling*—persistent and recurrent maladaptive gambling behavior that disrupts personal, family, community, or vocational pursuits, and is so designated by a court, or diagnosed by a licensed physician or LMHP.

*Controlled Dangerous Substance*—any substance defined, enumerated, or included in federal or state statute or regulations or any substance which may hereafter be designated as a *controlled dangerous substance* by amendment of supplementation of such regulations or statute. The term shall not include distilled spirits, wine, malt beverages, or tobacco.

*Core Services*—the essential and necessary elements required of every BHS provider, when indicated, including assessment, orientation, client education, consultation with professionals, counseling services, referral, crisis mitigation, medication management, rehabilitation services, and treatment.

*Counselor in Training (CIT)*—a person currently registered with the Addictive Disorder Regulatory Authority (ADRA) and pursuing a course of training in substance abuse/addiction treatment counseling which includes educational hours, practicum hours, and direct, on-site supervision.

*Crime of Violence*—an offense listed as a *crime of violence* in R.S. 14:2.

*Crisis Intervention*—face to face intervention provided to a client who is experiencing a psychiatric crisis. The services are designed to interrupt and/or ameliorate a crisis experience, via a preliminary assessment, immediate crisis

resolution and de-escalation with referral and linkage to appropriate community services to avoid more restrictive levels of treatment.

*Crisis Mitigation Services*—a BHS provider's assistance to clients during a crisis that provides 24-hour on call telephone assistance to prevent relapse or harm to self or others, to provide referral to other services, and to provide support during related crises. Referral to 911 or a hospital's emergency department alone does not constitute crisis mitigation services.

*Deemed Status*—following the issuance of an initial license, the department's acceptance of the BHS provider's accreditation as compliance with this Chapter in lieu of on-site licensing surveys.

*Department*—the Louisiana Department of Health (LDH) or any office or agency thereof designated by the secretary to administer the provisions of this Chapter.

*Dependent Children*—any child/adolescent under the age of 18 that relies on the care of a parent or legal guardian.

*Diagnosis*—the act of identifying a disease or behavioral health disorder as defined by the current version of the Diagnostic and Statistical Manual (DSM). A *diagnosis* is determined by a qualified LMHP or physician based on comprehensive assessment of physical evidence (if related to diagnosis), signs and symptoms, clinical and psycho-social evidence, and individual/family history.

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

*Disaster* or *Emergency*—a local, community-wide, regional or statewide declared health crisis or event.

*Dispense* or *Dispensing*—the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient. *Dispense* necessarily includes a transfer of possession of a drug or device to the patient or the patient's agent.

*Dispensing Physician*—any physician in the state of Louisiana who is registered as a *dispensing physician* with the Louisiana State Board of Medical Examiners and who dispenses to his/her patients any drug, chemical, or medication, except a bona fide medication sample.

*Division of Administrative Law (DAL)*—the Louisiana Department of State Civil Service, Division of Administrative Law or its successor.

*Exploitation*—act or process to use (either directly or indirectly) the labor or resources of an individual or organization for monetary or personal benefit, profit, or gain.

*Facility Need Approval (FNA)*—the letter of approval from the Office of Behavioral Health which is required for licensure applicants for opioid treatment programs prior to

applying for a BHS provider license or the letter of approval from the Facility Need Review Committee within the department which is required for licensure applicants for PSR or CPST services prior to applying for a BHS provider license.

*FDA*—the United States Food and Drug Administration.

*Financial Viability*—the provider seeking licensure is able to provide verification and continuous maintenance of all of the following pursuant to R.S. 40:2153:

1. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000;
2. general and professional liability insurance of at least \$500,000; and
3. workers' compensation insurance.

*Geographic Service Area*—the geographic area and location that a BHS provider's license allows services to be provided; for purposes of this licensing rule, geographic service area shall be as follows:

1. for providers operated by a human service district or authority, the geographic service area shall be the parishes and jurisdiction of the district or authority as defined in statute; and
2. for all other BHS providers, the geographic service area shall be the parish in which that provider has its business office and any contiguous parishes.

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

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

*High Risk Behavior*—includes substance abuse, gambling, violence, academic failure, delinquency behavior, and mental health issues such as depression, anxiety, and suicidal ideations.

*Human Services District or Authority*—an existing or newly created local governmental entity with local accountability and management of behavioral health and developmental disabilities services as well as any public health or other services contracted to the district by the department.

*Human Services Field*—an academic program with a curriculum content in which at least 70 percent of the required courses are in the study of behavioral health or human behavior.

*Intensive Outpatient Treatment Program (ASAM Level II.1)*—professionally directed assessment, diagnosis, treatment and recovery services provided in an organized non-residential treatment setting, including individual, group, family counseling and psycho-education on recovery as well as monitoring of drug use, medication management,

medical and psychiatric examinations, crisis mitigation coverage and orientation to community-based support groups. Services may be offered during the day, before or after work or school, in the evening or on a weekend, and the program shall provide nine or more hours of structured programming per week for adults and six or more hours of structured programming per week for children/adolescents.

*LDH Authorized Accreditation Organization*—any organization authorized by LDH to accredit behavioral health providers.

*Level of Care*—intensity of services provided by the provider.

*Licensed Addiction Counselor (LAC)*—any person who, by means of his specific knowledge, acquired through formal education and practical experience, is qualified to provide addiction counseling services and is licensed by the ADRA as a licensed addiction counselor pursuant to R.S. 37:3387.

*Licensed Clinical Social Worker (LCSW)*—a person duly licensed to independently practice clinical social work under R.S. 37:2702 et seq.

*Licensed Marriage and Family Therapist (LMFT)*—a person to whom a license has been issued and who is licensed to perform the professional application of psychotherapeutic and family systems theories and techniques in the assessment and treatment of individuals, couples and families. An *LMFT* is not permitted to diagnose a behavioral health disorder under his/her scope of practice under state law.

*Licensed Mental Health Professional (LMHP)*—an individual who is currently licensed and in good standing in the state of Louisiana to practice within the scope of all applicable state laws, practice acts and the individual's professional license, as one of the following:

1. medical psychologist;
2. licensed psychologist;
3. licensed clinical social worker (LCSW);
4. licensed professional counselor (LPC);
5. licensed marriage and family therapist (LMFT);
6. licensed addiction counselor (LAC);
7. advance practice registered nurse (APRN); or
8. licensed rehabilitation counselor (LRC).

*Licensed Professional Counselor*—any person who holds himself out to the public for a fee or other personal gain, by any title or description of services incorporating the words “*licensed professional counselor*” or any similar term, and who offers to render professional mental health counseling services denoting a client-counselor relationship in which the counselor assumes responsibility for knowledge, skill and ethical considerations needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to practice mental health counseling.

*Licensed Psychologist*—any person licensed as a psychologist pursuant to R.S. 37:2352.

*Licensed Rehabilitation Counselor (LRC)*—any person who holds himself out to the public, for a fee or other personal gain, by any title or description of services incorporating the words “*licensed professional vocational rehabilitation counselor*” or any similar terms, and who offers to render professional rehabilitation counseling services denoting a client-counselor relationship in which the counselor assumes responsibility for knowledge, skill, and ethical considerations needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to engage in the practice of rehabilitation counseling. An *LRC* is also known as a licensed professional vocational rehabilitation counselor. An *LRC* is not permitted to provide assessment or treatment services for substance abuse/addiction, mental health or co-occurring disorders under his/her scope of practice under state law.

*Master's-Prepared*—an individual who has completed a master's degree in social work or counseling, but has not met the requirements for licensing by the appropriate state board.

*Medical Psychologist*—a licensed psychological practitioner who has undergone specialized training in clinical psychopharmacology and has passed a national proficiency examination in psychopharmacology approved by the Louisiana State Board of Medical Examiners.

*Medically Managed Residential Detoxification (Medically Supported Detoxification) (ASAM Level III.7D)*—a residential program that provides 24-hour observation, monitoring and treatment delivered by medical and nursing professionals to clients whose withdrawal signs and symptoms are moderate to severe and thus require residential care, but do not need the full resources of an acute care hospital.

*Medically Monitored Intensive Residential Treatment Program (ASAM Level III.7)*—a residential program that provides a planned regimen of 24-hour professionally directed evaluation, observation, medical monitoring and addiction treatment to clients with co-occurring psychiatric and substance disorders whose disorders are so severe that they require a residential level of care but do not need the full resources of an acute care hospital. The program provides 24 hours of structured treatment activities per week, including, but not limited to, psychiatric and substance use assessments, diagnosis treatment, and rehabilitative and rehabilitation services.

*Medication Administration*—preparation and/or giving of a legally prescribed individual dose of medication to a client by qualified staff including observation and monitoring of a client's response to medication.

*Mental Health Clinic*—an entity through which outpatient behavioral health services are provided, including screening, diagnosis, management or treatment of a mental disorder, mental illness, or other psychological or psychiatric condition or problem and 24-hour emergency services that

are provided either directly or through formal affiliation with other agencies by an interdisciplinary team of mental health professionals and subordinates in accordance with a plan of treatment or under the direction of a psychiatrist or another qualified physician with psychiatric consultation.

*Mental Health Rehabilitation (MHR)*—an outpatient healthcare program provider of any psychosocial rehabilitation (PSR), crisis intervention (CI) and/or community psychiatric support and treatment (CPST) services that promotes the restoration of community functioning and well-being of an individual diagnosed with a mental health or mental or emotional disorder. The MHR provider utilizes evidence based supports and interventions designed to improve individual and community outcomes.

*Mental Health Rehabilitation Services (MHRS)*—outpatient services for adults with serious mental illness and children with emotional/behavioral disorders which are medically necessary to reduce the disability resulting from mental illness and assist in the recovery and resiliency of the recipient. These services are home and community-based and are provided on an as needed basis to assist recipients in coping with the symptoms of their illness. The intent of MHRS is to minimize the disabling effects on the individual's capacity for independent living and to prevent or limit the periods of inpatient treatment.

*Mental Health Service*—a service related to the screening, diagnosis, management, or treatment of a mental disorder, mental illness, or other psychological or psychiatric condition or problem.

*Minor*—any person under the age of 18.

*Mothers with Dependent Children Program or Dependent Care Program*—a program that is designed to provide substance abuse/addiction treatment to mothers with dependent children who remain with the parent while the parent is in treatment.

*Neglect*—the failure to provide the proper or necessary medical care, nutrition or other care necessary for a client's well-being or any other act or omission classified as *neglect* by Louisiana law.

*Non-Ambulatory*—unable to walk or accomplish mobility without assistance.

*Non-Prescription Medication*—medication that can be purchased over-the-counter without an order from a licensed practitioner.

*Nurse*—any registered *nurse* licensed and in good standing with the Louisiana State Board of Nursing or any practical *nurse* licensed and in good standing with the Louisiana State Board of Practical Nurse Examiners.

*OBH*—the LDH Office of Behavioral Health.

*Off-Site*—a parent facility's alternate program that provides behavioral health services on a routine basis in a geographic location that:

1. is detached from the parent provider;

2. is owned by, leased by or donated or loaned to the parent provider for the purpose of providing behavioral health services; and

3. has a sub-license issued under the parent facility's license.

*OHSEP*—Office of Homeland Security and Emergency Preparedness.

*On Call*—immediately available for telephone consultation and less than one hour from ability to be on duty.

*On Duty*—scheduled, present and awake at the site to perform job duties.

*OPH*—the LDH Office of Public Health.

*Opioid Treatment Program*—a program that engages in medication-assisted opioid treatment of clients with an opioid agonist treatment medication.

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

*Outpatient Clinic*—a BHS provider that provides behavioral health services on-site at the provider's geographic location but is not a residential provider.

*Outpatient Services*—behavioral health services offered in an accessible non-residential setting to clients whose physical and emotional status allows them to function in their usual environment.

*Parent Facility*—the main building or premises of a behavioral health service provider where services are provided on-site and administrative records are maintained.

*Partial Hospital Program (PHP-ASAM Level II.5)*—an organized outpatient service that delivers treatment to adolescents and adults. This level encompasses services that meet the multidimensional instability and complex needs of people with addiction and co-occurring conditions which do not require 24-hour care.

*Physical Environment*—the BHS provider's licensed exterior and interior space where BH services are rendered.

*Physician*—an individual who is currently licensed and in good standing in the state of Louisiana to practice medicine in Louisiana and who is acting within the scope of all applicable state laws and the individual's professional license.

*Physician Assistant*—an individual who is currently approved and licensed by and in good standing with the Louisiana State Board of Medical Examiners to perform medical services under the supervision of a physician or group of physicians who are licensed by and registered with the Louisiana State Board of Medical Examiners to supervise a *physician assistant*, and who is acting within the scope of all applicable state laws and the individual's professional license.

*Plan Review*—the process of obtaining approval for construction plans and specifications for the BHS provider.

*Prescription Medication*—medication that requires an order from a licensed practitioner and that can only be dispensed by a pharmacist on the order of a licensed practitioner or a dispensing physician and requires labeling in accordance with R.S. 37:1161 et seq.

*Professional Board(s)*—the entity responsible for licensure or certification for specific professions (e.g., nursing, counselors, social workers, physicians, etc.).

*Psychosocial Rehabilitation (PSR)*—face to face intervention with the client designed to assist with compensating for or eliminating functional deficits and interpersonal and/or environmental barriers associated with his/her mental illness.

*Qualifying Experience*—experience used to qualify for any position that is counted by using 1 year equals 12 months of full-time work.

*Recovery Focused Services*—services such as life skills training, job readiness, self-help meetings, parenting skills, training and recreation activities that should be coordinated with clinical services.

*Referral*—the BHS provider identifies needed services not provided by the provider and assists the client/family to optimally utilize the available support systems and community resources to meet the client's needs.

*Registered Addiction Counselor (RAC)*—pursuant to R.S. 37:3387.2, any person who, by means of his/her specific knowledge acquired through formal education and practical experience, is qualified to provide addictive disorder counseling services and is registered by the ADRA as a RAC. The RAC may not practice independently and may not render a diagnostic impression.

*Rehabilitative Services*—services intended to promote the maximum reduction of symptoms and/or restoration of the client to his/her best age-appropriate functional level according to an individualized treatment plan.

*Residential Treatment Program*—a planned regimen of 24-hour professionally-directed evaluation, observation, monitoring and treatment of behavioral health conditions according to a treatment plan.

*Secretary*—the secretary of the Department of Health or his/her designee.

*Self-Administration*—the client's preparation and direct application of a medication to his/her own body by injection, inhalation, ingestion or any other means.

*Shelter in Place*—a provider's decision to stay on-site rather than evacuate during a disaster or emergency.

*Site/Premises*—a single identifiable geographical location owned, leased, or controlled by a provider where any element of treatment is offered or provided. Multiple buildings may be contained in the license only if they are connected by walk-ways and not separated by public streets, or have different geographical addresses.

*Staff*—individuals who provide services for the provider including employees, contractors, consultants and volunteers.

*State Opioid Authority (SOA)*—the agency or other appropriate officials designated by the governor or his/her designee, to exercise the responsibility and authority within the state for governing the treatment of opiate addiction with an opioid drug. The *state opioid authority* for the state of Louisiana is the Office of Behavioral Health.

*Stock Medication*—any medication obtained through a pharmacy or pharmacy contract that is not designated for a specific client.

*Substance Abuse/Addiction Treatment Service*—a service related to the screening, diagnosis, management, or treatment for the abuse of or addiction to controlled dangerous substances, drugs or inhalants, alcohol, problem gambling or a combination thereof; may also be referred to as *substance use disorder service*.

*Take-Home Dose(s)*—a dose of opioid agonist treatment medication dispensed by a dispensing physician or pharmacist to a client for unsupervised use, including for use on Sundays, state and federal holidays, and emergency closures per LDH directive.

*Therapeutic Counseling Services or Sessions*—individual or group therapeutic treatment that teaches skills to assist clients, families, or groups in achieving objectives through exploration of a problem and its ramifications, examination of attitudes and feelings, consideration of alternative solutions and decision making and problem solving. *Therapeutic counseling sessions* consist of no more than 15 clients and last at least 15 minutes.

*Treatment*—the application of planned procedures to identify and change patterns of behaviors that are maladaptive, destructive and/or injurious to health; or to restore appropriate levels of physical, psychological and/or social functioning.

*Treatment Plan*—the provider's documentation of the client's issues, needs, ongoing goals and objectives of care based on admission information and updated based on the client's response to treatment.

*Unlicensed Professional (UP)*—for purposes of this Rule, any unlicensed behavioral health professional who cannot practice independently or without supervision by a LHMP. This includes but is not limited to CACs, RACs and unlicensed addiction counselors, social workers or psychologists.

*Volunteer*—an individual who offers services on behalf of the provider for the benefit of the provider willingly and without pay.

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## Subchapter B. Licensing

### §5605. General Provisions

A. All BHS providers shall be licensed by the LDH. It shall be unlawful to operate as a BHS provider without a license issued by the department.

B. A BHS provider license authorizes the provider to provide behavioral health services.

C. A BHS provider license shall:

1. be issued only for the person/entity and premises named in the license application;
2. be valid only for the BHS provider to which it is issued and only for one geographic address of that provider approved by LDH;
3. be valid for up to one year from the date of issuance, unless revoked, suspended, or modified prior to that date, or unless a provisional license is issued;
4. expire on the expiration date listed on the license, unless timely renewed by the BHS provider;
5. be invalid if sold, assigned, donated or transferred, whether voluntary or involuntary;
6. be posted in a conspicuous place on the licensed premises at all times;
7. be valid for only one geographic service area; and
8. enable the BHS provider to render delineated behavioral health services within its geographic service area as defined in Section 5603.

D. To be considered operational and retain licensed status, the BHS provider shall meet the following applicable operational requirements.

1. A BHS provider providing on-site services shall:
  - a. have established operational hours for a minimum of 20 hours per week, as indicated on the license application or change notification approved by LDH;
  - b. have services available and the required direct care staff on duty at all times during operational hours to meet the needs of the clients;
  - c. be able to accept referrals during operational hours; and
  - d. at any time that the BHS provider has an interruption in services or a change in the licensed location due to an emergency situation, the provider shall notify the HSS no later than the next business day.
2. A BHS provider providing services only in the home and community shall:
  - a. have a business location which conforms to the provisions of §5691.B of this Chapter;

b. have at least one employee on duty at the business location during stated hours of operation; and

c. have direct care staff and professional services staff employed and available to be assigned to provide services to persons in their homes or in the community upon referral for services.

E. The licensed BHS provider shall abide by any state and/or federal law, rule, policy, procedure, manual or memorandum pertaining to BHS providers.

F. Provider Names. A BHS provider is prohibited from using:

1. the same name as another provider;
2. a name that resembles the name of another provider;
3. a name that may mislead the client or public into believing it is owned, endorsed or operated by the state of Louisiana when it is not.

G. Off-Sites. A licensed BHS provider may have an off-site location with the approval of HSS that meets the following requirements.

1. The off-site may share a name with the parent facility if a geographic indicator (e.g. street, city or parish) is added to the end of the off-site name.
2. Each off-site shall be licensed as an off-site under the parent facility's license.
3. The off-site shall have written established operating hours.
4. The off-site shall operate within the same geographic service area, as defined in Section 5603, as the parent facility.
5. A residential off-site shall be reviewed under the plan review process.
6. An initial survey may be required prior to opening a residential off-site.
7. An off-site shall have staff to comply with all requirements in this Chapter and who are present during established operating hours to meet the needs of the clients.
8. Personnel records and client records may be housed at the parent facility.
9. Clients who do not receive all treatment services at an off-site may receive the services at the parent facility or be referred to another licensed provider that provides those services.
10. The off-site may offer fewer services than the parent facility and/or may have less staff than the parent facility.

11. The off-site together with the parent facility provides all core functions of a BHS provider and meets all licensing requirements of a BHS provider.

H. Plan Review

1. Plan review is required for outpatient clinics and residential BHS provider locations where direct care services or treatment will be provided, except for the physical environment of a substance abuse/addiction treatment facility or licensed mental health clinic at the time of this Chapter's promulgation.

2. Notwithstanding the provisions in this Section, any entity that will operate as a BHS provider and is required to go through plan review shall complete the plan review process and obtain approval for its construction documents in accordance with:

- a. R.S. 40:1574;
- b. the current *Louisiana Administrative Code* (LAC) provisions;
- c. OSFM requirements; and
- d. the requirements for the provider's physical environment in Subchapter H of this Chapter.

3. Any change in the type of the license shall require review for requirements applicable at the time of licensing change.

4. Upon plan review approval, the provider shall submit the following to the department:

- a. a copy of the final construction documents approved by OSFM; and
- b. OSFM's approval letter.

#### I. Waivers

1. The secretary of the LDH may, within his/her sole discretion, grant waivers to building and construction guidelines which are not part of or otherwise required under the provisions of the *LAC Title 51, Public Health Sanitary Code* or the OSFM.

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

- a. how client safety and quality of care are not compromised by the waiver;
- b. the undue hardship imposed on the provider if the waiver is not granted; and
- c. the provider's ability to completely fulfill all other requirements of service.

3. The department will make a written determination of each waiver request.

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

J. The BHS provider shall maintain and make available to the department any information or records related to compliance with this Chapter.

K. The BHS provider shall permit designated representatives of the department, in performance of their duties, to:

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

L. An owner, officer, member, manager, administrator, clinical director, medical director, managing employee or clinical supervisor is prohibited from being a BHS provider, who has been convicted of or entered a guilty or nolo contendere plea to a felony related to:

- 1. violence, abuse or neglect against a person;
- 2. sexual misconduct and/or any crimes that requires the person to register pursuant to the Sex Offenders Registration Act;
- 3. cruelty, exploitation or the sexual battery of a juvenile or the infirmed;
- 4. the misappropriation of property belonging to another person;
- 5. a crime of violence;
- 6. an alcohol or drug offense, unless the offender has:
  - a. completed his/her sentence, including the terms of probation or parole, at least five years prior to the ownership of or working relationship with the provider; and
  - b. been sober per personal attestation for the last two years;
- 7. possession or use of a firearm or deadly weapon;
- 8. Medicare or Medicaid fraud; or
- 9. fraud or misappropriation of federal or state funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2162.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1687 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1380 (July 2017), LR 46:588 (April 2020).

#### §5606. License Restrictions

A. A BHS provider shall provide only those services or modules:

- 1. specified on its license; and
- 2. only to clients residing in the provider's designated geographic service area or at the provider's licensed location.

B. A BHS provider may apply for a waiver from the Health Standards Section (HSS) to provide home or community services to a client residing outside of the provider's designated geographic service area only under the following conditions:

1. A waiver may be granted by HSS if there is no other BHS provider in the client's service area that is licensed and that has the capacity to provide the required services to the client.

2. The provider shall submit a written waiver request to HSS.

3. The written waiver request shall be specific to one client and shall include the reasons for which the waiver is requested.

4. HSS shall approve or deny the waiver request within 30 days of receipt of the written waiver request, and shall provide written notice to the provider via mail or electronic transmission (email or facsimile).

5. The provider shall notify the client of HSS's decision.

C. The provider shall not provide services to a client residing outside of the provider's designated geographic service area unless the provider has received a written waiver request approval from HSS.

D. There is no appeal from a decision by HSS to deny a waiver request under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2162.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 46:588 (April 2020).

### **§5607. Initial Licensure Application Process**

A. Any entity, organization or person seeking to operate as a BHS provider shall submit a completed initial license application packet to the department for approval. Initial BHS provider licensure application packets are available from HSS.

B. The completed initial licensing application packet shall include:

1. a completed BHS provider licensure application;
2. the non-refundable licensing fee established by statute;
3. the plan review approval letter from OSFM, if applicable;
4. the on-site inspection report with approval for occupancy by the OSFM, if applicable;
5. the health inspection report with recommendation for licensure from the Office of Public Health;
6. a current (within 90 days prior to the submission of the application packet) statewide criminal background check, including sex offender registry status, on all owners and managing employees;
7. except for governmental entities, proof of financial viability;

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

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

10. a letter of intent detailing the type of BHS provider operated by the licensee and the types of services or specializations that will be provided by the BHS provider (e.g. addiction treatment program, mental health program, residential provider, outpatient provider, opioid treatment program);

11. if operated by a corporate entity, such as a corporation or a limited liability company, current proof of registration and status with the Louisiana Secretary of State; and

12. any other documentation or information required by the department for licensure including, but not limited to, documentation for opioid treatment programs, such as a copy of the OBH FNA letter.

C. **Deadline for Submitting Initial Licensure Application for Unlicensed Agencies**

1. Any unlicensed agency that is a provider of any psychosocial rehabilitation, crisis intervention and/or community psychiatric support and treatment services prior to the promulgation of this Rule and is required to be licensed as a BHS provider has 180 days from the promulgation of this Rule to submit an initial licensing application packet to HSS.

2. Any such unlicensed agency may continue to operate without a license during the licensing process until the department acts upon the initial license application and any and all appeal processes associated with the initial licensure is complete or the delay for taking an appeal has expired, whichever is later.

3. The department has the authority to issue a cease and desist order and pursue legal action for failure to comply with the deadline for submitting an initial licensure application. The cease and desist order shall require immediate discharge of all current clients and no new clients shall be admitted.

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

1. be notified of the missing information; and
2. have 90 days from receipt of the notification to submit the additional requested information; if not submitted, the application shall be closed.

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

F. The applicant shall notify the department of initial licensing survey readiness within the required 90 days of receipt of application approval. If an applicant fails to notify

the department of initial licensing survey readiness within 90 days, the application shall be closed.

G. If an initial licensing application is closed, an applicant who seeks to operate as a BHS provider shall submit:

1. a new initial licensing packet;
2. non-refundable licensing fee; and
3. facility need approval, if applicable

H. Applicants shall be in compliance with all applicable federal, state, departmental or local statutes, laws, ordinances, rules, regulations and fees before the BHS provider will be issued an initial license to operate.

I. A BHS provider is prohibited from providing behavioral health services to clients during the initial application process and prior to obtaining a license, unless the applicant qualifies as one of the following facilities:

1. a licensed mental health clinic;
2. a licensed substance abuse/addiction treatment facility; or
3. an agency that is a provider of psychosocial rehabilitation, community psychiatric support and treatment, and/or crisis intervention services.

J. Off-Sites. In order to operate an off-site, the provider shall submit:

1. a request for opening an off-site location;
2. a completed application, including established operational hours;
3. payment of applicable fees;
4. current on-site inspection reports from OSFM and OPH; and
5. for any residential off-site, plan review approval from OSFM.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1688 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1381 (July 2017).

#### **§5609. Initial Licensing Surveys**

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

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

C. In the event that the initial licensing survey finds that the provider is noncompliant with any licensing laws or regulations, or any other required rules or regulations, that

present a potential threat to the health, safety, or welfare of the clients, the department shall deny the initial license. If the department denies an initial license, the applicant for a BHS provider license shall discharge the clients receiving services.

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

1. issue a provisional initial license for a period not to exceed six months; and/or
2. conduct a follow-up survey following the initial licensing survey to ensure correction of the deficiencies.

a. Follow-up surveys to the initial licensing surveys are unannounced surveys.

b. If all deficiencies are corrected on the follow-up survey, a full license may be issued.

c. If the provider fails to correct the deficiencies, the initial license may be denied.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1689 (September 2015).

#### **§5611. Types of Licenses**

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

##### **1. Initial License**

a. The department may issue a full license to the BHS provider when the initial licensing survey indicates the provider is compliant with:

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

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

2. **Provisional Initial License.** The department may issue a provisional initial license to the BHS provider when the initial licensing survey finds that the BHS provider is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, but the department determines that the noncompliance does not present a threat to the health, safety or welfare of the clients.

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

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

c. If all such noncompliance or deficiencies are not corrected on the follow-up survey, or new deficiencies affecting the health, safety or welfare of a client are cited, the provisional license may expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and the appropriate licensing fees.

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

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

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

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

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

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

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

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

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

c. The provider shall:

i. submit a plan of correction to the department for approval; and

ii. correct all noncompliance or deficiencies prior to the expiration of the provisional license.

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

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

f. The provisional license may expire if:

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

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

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

i. a new initial licensing application packet;

ii. a non-refundable licensing fee; and

iii. facility need approval, if applicable.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1690 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1381 (July 2017).

### **§5613. Changes in Licensee Information or Personnel**

A. A BHS provider shall report in writing to HSS within five days of any change of the following:

1. BHS provider's entity name;
2. business name;
3. mailing address;
4. telephone number; or
5. email address of the administrator.

B. Any change to the BHS provider's name or doing business as name requires the nonrefundable fee for the issuance of an amended license with the new name.

C. A BHS provider shall report in writing to the HSS any change in the provider's key administrative personnel within five days of the change.

1. Key administrative personnel include the following:
  - a. administrator;
  - b. medical director;
  - c. clinical director; and
  - d. clinical supervisor.

2. The BHS provider's written notice to HSS shall include the individual's:

- a. name;
- b. hire date; and
- c. qualifications.

### **D. Change of Ownerships**

1. A BHS provider shall report a change of ownership (CHOW) in writing to HSS within five days following the change. The new owner shall submit the following:

- a. the legal CHOW document;

- b. all documents required for a new license; and
- c. the applicable nonrefundable licensing fee.

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

3. If there are any outstanding fees, fines or monies owed to the department by the existing licensed entity, the CHOW will be suspended until payment of all outstanding amounts.

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

#### E. Change in Geographic Location

1. A BHS provider that seeks to change its geographic location shall submit:

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

2. In order to receive approval for the change of geographic location, the BHS provider shall have:

- a. plan review approval, if required;
- b. approval from the OSFM and the OPH recommendation for licensure of the new geographic location;
- c. an approved license application packet;
- d. compliance with other applicable licensing requirements; and
- e. an on-site licensing survey prior to relocation of the provider.

3. Upon approval of the requirements for a change in geographic location, the department may issue a new license to the BHS provider.

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1690 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1381 (July 2017).

### §5615. Renewal of License

A. A BHS provider license shall expire on the expiration date listed on the license, unless timely renewed by the BHS provider.

B. To renew a license, the BHS provider shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the

current license. The license renewal application packet shall include:

- 1. the license renewal application;
- 2. a current OSFM report (for on-site and residential services);
- 3. a current OPH inspection report (for on-site and residential services);
- 4. the non-refundable license renewal fee as established by statute;
- 5. except for governmental entities, proof of financial viability;
- 6. payment of any outstanding fees, fines or monies owed to the department; and
- 7. any other documentation required by the department.

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

D. Failure to submit a completed license renewal application packet prior to the expiration of the current license may result in the voluntary non-renewal of the BHS provider license upon the license expiration.

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

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

#### G. Voluntary Non-Renewal of a License

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

- a. expires on the license's expiration date; and
- b. is considered a non-renewal and voluntarily surrendered.

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

3. If a provider fails to timely renew its license, the provider shall immediately cease providing services. If the provider is actively treating clients, the provider shall:

- a. within two days of voluntary non-renewal, provide written notice to HSS of the number of clients receiving treatment;
- b. within two days of voluntary non-renewal, provide written notice to each active client's prescribing physician and to every client, or, if applicable, the client's parent or legal guardian, of the following:
  - i. voluntary non-renewal of license;

- ii. date of closure; and
- iii. plans for the transition of the client;
- c. discharge and transition each client in accordance with this Chapter within 15 days of the license's expiration date; and
- d. provide written notice to HSS of the location where client and personnel records will be stored and the name, address and telephone number of the person responsible for the records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1691 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1381 (July 2017).

#### **§5617. Deemed Status**

A. A licensed BHS provider may request deemed status once the provider becomes accredited by an LDH authorized accreditation organization, or if the applicant has achieved accreditation prior to initial licensure and becomes licensed.

B. The department may approve the deemed status request and accept accreditation in lieu of periodic licensing surveys when the provider provides documentation to the department that shows:

- 1. the accreditation is current and was obtained through the LDH authorized accreditation organization;
- 2. all behavioral health services provided under the BHS provider license are accredited; and
- 3. the accrediting organization's findings.

C. If deemed status is approved, accreditation will be accepted as evidence of satisfactory compliance with this Chapter in lieu of conducting periodic relicensure surveys.

D. To maintain deemed status, the provider shall submit a copy of current accreditation documentation with its annual license renewal application.

E. The department may conduct unannounced complaint investigations on all behavioral health service providers, including those with deemed status.

F. The department may rescind deemed status and conduct a licensing survey for the following:

- 1. any valid complaint within the preceding 12 months;
- 2. an addition of services;
- 3. a change of ownership;
- 4. issuance of a provisional license in the preceding 12-month period;
- 5. deficiencies identified in the preceding 12-month period that placed clients at risk for harm;
- 6. treatment or service resulting in death or serious injury; or

- 7. a change in geographic location.

G. The provider shall notify HSS upon change in accreditation status within two business days.

H. The department shall rescind deemed status when the provider loses its accreditation.

I. A BHS provider approved for deemed status is subject to and shall comply with all provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1692 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1381 (July 2017).

#### **§5619. Licensing Surveys**

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1692 (September 2015).

#### **§5621. Complaint Investigations**

A. Pursuant to R.S. 40:2009.13 et seq., the department may conduct unannounced complaint investigations on all behavioral health providers, including those with deemed status.

B. The department shall issue a statement of deficiencies to the provider if deficient practice is cited as a result of the complaint investigation.

C. Upon issuance of a statement of deficiencies, the department may require the provider to submit an acceptable plan of correction.

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

#### **E. Informal Reconsiderations of Complaint Investigations**

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

each disputed deficiency or deficiencies and the reason for the dispute that demonstrates the findings were cited in error.

2. An informal reconsideration for a complaint investigation shall be conducted by HSS as a desk review.

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

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

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1692 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1382 (July 2017).

### **§5623. Statement of Deficiencies**

A. The BHS provider shall post the following statements of deficiencies issued by the department in a readily accessible place on the licensed premises:

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

2. each of the complaint survey statements of deficiencies, including the plans of correction, issued after the most recent annual survey.

B. The BHS provider shall make its statements of deficiencies available to the public 30 days after the provider submits an acceptable plan of correction of the deficiencies or 90 days after the statement of deficiencies is issued to the provider, whichever occurs first.

#### **C. Informal Dispute Resolution**

1. Unless otherwise provided in statute or in this Chapter, a BHS provider has the right to an informal dispute resolution (IDR) of any deficiencies cited as a result of a survey.

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

3. The BHS provider's written request for IDR shall be received by HSS within 10 calendar days of the provider's receipt of the statement of deficiencies and shall identify each disputed deficiency or deficiencies and the reason for the dispute that demonstrates the findings were cited in error.

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

5. HSS shall notify the provider in writing of the results of the IDR.

6. Except as provided for complaint surveys and as provided in this Chapter:

a. the IDR decision is the final administrative decision regarding the deficiencies; and

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1692 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1382 (July 2017).

### **§5625. Cessation of Business**

A. Except as provided in §5677 and §5678 of these licensing regulations, a license shall be immediately null and void if a BHS provider ceases to operate.

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

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

D. Cessation of business is deemed to be a voluntary action on the part of the provider. The BHS provider 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 BHS provider shall:

1. give 30 days advance written notice to:

a. HSS;

b. the prescribing physician; and

c. the client, legal guardian or legal representative, if applicable, of each client; and

2. provide for an orderly discharge and transition of all of the clients in accordance with the provisions of this Chapter.

F. In addition to the advance notice of voluntary closure, the BHS provider shall submit a written plan for the disposition of client medical records for approval by the department. The plan shall include the following:

1. the effective date of the voluntary closure;

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

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

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

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1693 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1382 (July 2017).

### **§5627. Sanctions**

A. The department may issue sanctions for deficiencies and violations of law, rules and regulations that include:

1. civil fines;
2. license revocation or denial of license renewal; and
3. any sanctions allowed under state law or regulation.

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

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

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

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

- b. any action posing a threat to a client's health and safety;
- c. coercion;
- d. threat or intimidation;
- e. harassment; or
- f. illegal or criminal activities;

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

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

- a. application for initial license or renewal of license;
- b. data forms;
- c. clinical records, client records or provider records;
- d. matters under investigation by the department or authorized law enforcement agencies; or
- e. information submitted for reimbursement from any payment source;

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

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

13. the BHS provider, an owner, officer, member, manager, administrator, medical director, clinical director, managing employee or clinical supervisor that has pled guilty or nolo contendere to a felony, or is convicted of a felony, as documented by a certified copy of the record of the court, related to:

- a. violence, abuse or neglect against a person;
- b. sexual misconduct and/or any crimes that require the person to register pursuant to the Sex Offenders Registration Act;
- c. cruelty, exploitation or the sexual battery of a juvenile or the infirmed;
- d. the misappropriation of property belonging to another person;
- e. a crime of violence;
- f. an alcohol or drug offense, unless the offender has:
  - i. completed his/her sentence, including the terms of probation or parole, at least five years prior to the ownership of or working relationship with the provider; and
  - ii. been sober per personal attestation for at least the last two years;
- g. a firearm or deadly weapon;

- h. Medicare or Medicaid fraud; or
- i. fraud or misappropriation of federal or state funds;

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

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

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

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

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

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

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

21. failure to maintain accreditation, if accreditation is a federal or state requirement for participation in the program; or

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

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

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

E. If the secretary of the department determines that the health and safety of a client or the community may be at risk, the imposition of the license revocation or denial of license renewal may be immediate and may be enforced during the pendency of the administrative appeal. The department will provide written notification to the BHS provider if the imposition of the action will be immediate.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1693 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1382 (July 2017).

## **§5629. Notice and Appeal of License Denial, License Revocation and Denial of License Renewal**

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

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

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

1. If the BHS provider chooses to request an administrative reconsideration, the request shall:

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

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

3. The HSS shall conduct the administrative reconsideration. The BHS provider may request to present an oral presentation and be represented by counsel.

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

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

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

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

1. If the BHS provider chooses to request an administrative appeal, the request shall be received:

- a. by the DAL or its successor, within 30 days of the BHS provider's receipt of the results of the administrative reconsideration; or
- b. within 30 days of the BHS provider's receipt of the notice of the initial license denial, revocation or denial of license renewal if the BHS provider chooses to forego its rights to an administrative reconsideration;

2. The provider's request for administrative appeal shall:

- a. be in writing;
- b. include any documentation that demonstrates that the determination was made in error; and

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

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

4. If a timely request for an administrative appeal is received by the DAL, the BHS provider shall be allowed to continue to operate and provide services until the DAL issues a final administrative decision, unless the imposition of the revocation or denial of license renewal is immediate based on the secretary's determination that the health and safety of a client or the community may be at risk.

E. If a licensed BHS provider has been issued notice of license revocation by the department, and the license is due for annual renewal, the department shall deny the license renewal application. The denial of the license renewal application does not affect, in any manner, the license revocation.

F. Administrative Hearings of Initial License Denials, Denial of License Renewals and License Revocations

1. If a timely administrative appeal is submitted by the BHS provider, the DAL or its successor, shall conduct the hearing in accordance with the APA.

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

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

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

b. notify HSS in writing of the secure and confidential location where the client records will be stored and the name, address and phone number of the contact person responsible for the records.

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

H. Administrative Reconsiderations of Deficiencies Cited Resulting in the Expiration of a Provisional Initial License or Provisional License

1. A BHS provider with a provisional initial license or a provisional license that expires due to deficiencies cited at the follow-up survey has the right to request an administrative reconsideration of the validity of the deficiencies cited at the follow up survey.

2. The BHS provider's request for an administrative reconsideration shall:

a. be in writing;

b. be received by the HSS within five calendar days of receipt of the notice of the results of the follow-up survey from the department; and

c. identify each disputed deficiency or deficiencies and the reason for the dispute that demonstrates the findings were cited in error.

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

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

a. To request a stay, the BHS provider shall submit its written application to the DAL at the time the administrative appeal is filed.

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

I. Administrative Hearing of the Expiration of a Provisional Initial License or Provisional License

1. A BHS provider with a provisional initial license or a provisional license that expires due to deficiencies cited at the follow-up survey has the right to request an administrative appeal of the validity of the deficiencies cited at the follow up survey.

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

3. The BHS provider's request for an administrative appeal shall:

a. be in writing;

b. be submitted to the DAL within 15 calendar days of receipt of the notice of the results of the follow-up survey from the department; and

c. identify each disputed deficiency or deficiencies and the reason for the dispute that demonstrates the findings were cited in error.

4. If the BHS provider submits a timely request for an administrative hearing, the DAL shall conduct the hearing in accordance with the APA.

a. If the final DAL decision is to remove all disputed deficiencies, the department will reinstate the BHS provider's license upon the payment of any outstanding fees and settlement of any outstanding sanctions due to the department.

b. If the final DAL decision is to uphold the disputed deficiencies thereby affirming the expiration of the provisional license, the BHS provider shall discharge any and all clients receiving services and comply with the

cessation of business requirements in accordance with this Chapter.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1694 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1382 (July 2017).

## Subchapter C. Organization and Administration

### §5631. General Provisions

A. Purpose and Organizational Structure. The BHS provider shall develop and maintain a written statement that clearly defines the purpose and organization of the provider. The statement shall include:

1. the program philosophy;
2. the program goals and objectives;
3. the ages, sex and characteristics of clients accepted for care;
4. the geographical area served;
5. the types of services provided;
6. the admission criteria;
7. the needs, problems, situations or patterns addressed by the BHS provider's program; and
8. the BHS provider's organizational chart which clearly delineates the line of authority.

B. The BHS provider shall provide supervision and services that:

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1696 (September 2015).

### §5633. Governing Body

A. A BHS provider shall have the following:

1. an identifiable governing body with responsibility for and authority over the policies and operations of the BHS provider;
2. documentation identifying the governing body's:
  - a. members;
  - b. contact information for each member;
  - c. terms of membership;

- d. officers; and
- e. terms of office for each officer.

B. The governing body of a BHS provider shall:

1. be comprised of one or more persons;
2. hold formal meetings at least twice a year;
3. maintain written minutes of all formal meetings of the governing body; and
4. maintain by-laws specifying frequency of meetings and quorum requirements.

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

1. ensuring the BHS provider's compliance with all federal, state, local and municipal laws and regulations as applicable;
2. maintaining funding and fiscal resources to ensure the provision of services and compliance with this Chapter;
3. reviewing and approving the BHS provider's annual budget;
4. designating a qualified person to act as administrator, and delegating this person the authority to manage the BHS provider;
5. at least once a year, formulating and reviewing, in consultation with the administrator, the clinical supervisor, clinical director and/or medical director, written policies concerning:
  - a. the BHS provider's philosophy and goals;
  - b. current services;
  - c. personnel practices and job descriptions; and
  - d. fiscal management;
6. evaluating the performance of the administrator at least once a year;
7. meeting with designated representatives of the department whenever required to do so;
8. informing the department, or its designee, prior to initiating any substantial changes in the services provided by the BHS provider; and
9. ensuring statewide criminal background checks are conducted as required in this Chapter and state law.

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

1. minutes of formal meetings and by-laws of the governing body;
2. documentation of the BHS provider's authority to operate under state law;
3. all leases, contracts and purchases-of-service agreements to which the BHS provider is a party;
4. insurance policies;

5. annual operating budgets;
6. a master list of all the community resources used by the BHS provider;
7. documentation of ownership of the BHS provider;
8. documentation of all accidents, incidents, and abuse/neglect allegations; and
9. daily census log of clients receiving services.

E. Service Agreements. The governing body of a BHS provider shall ensure the following with regards to agreements to provide services for the provider:

1. the agreement for services is in writing;
2. the provider reviews all written agreements at least once a year;
3. the deliverables are being provided as per the agreement;
4. the BHS provider retains full responsibility for all services provided by the agreement;
5. all services provided by the agreement shall:
  - a. meet the requirements of all laws, rules and regulations applicable to a BHS provider; and
  - b. be provided only by qualified providers and personnel in accordance with this Chapter; and
6. if the agreement is for the provision of direct care services, the written agreement specifies the party responsible for screening, orientation, ongoing training and development of and supervision of the personnel providing services pursuant to the agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1696 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1383 (July 2017).

### **§5635. Policies and Procedures**

A. Each BHS provider shall develop, implement and comply with provider-specific written policies and procedures related to compliance with this Chapter, including, but not limited to policies and procedures that address:

1. the protection of the health, safety, and well-being of each client;
2. the provision of treatment in order for clients to achieve recovery;
3. access to care that is medically necessary;
4. uniform screening for client placement and quality assessment, diagnosis, evaluation, and referral to appropriate level of care;
5. operational capability and compliance;

6. delivery of services that are cost-effective and in conformity with current standards of practice;
  7. confidentiality and security of client records and files and any prohibitions related to social media;
  8. client rights;
  9. grievance procedures;
  10. emergency preparedness;
  11. abuse, neglect and exploitation of clients;
  12. incidents and accidents, including medical emergencies and reporting requirements, if applicable;
  13. universal precautions and infection control;
  14. documentation of services;
  15. admission, including screening procedures, emergency care, client orientation, walk-in services or other brief or short-term services provided.
  16. transfer and discharge procedures;
  17. behavior management;
  18. transportation;
  19. quality improvement;
  20. medical and nursing services;
  21. research or non-traditional treatment approaches and approval thereof, in accordance with federal and state guidelines;
  22. access to and usage of laundry and kitchen facilities;
  23. the BHS provider's exterior location where smoking, if allowed, may occur;
  24. domestic animals, if permitted on premises that, at a minimum, include:
    - a. required animal vaccinations and updates, as indicated; and
    - b. management of the animals' care and presence consistent with the goals of the program and clients' needs, including those with allergies;
  25. privacy and security of laboratory testing and screenings, if performed on-site;
  26. what constitutes the authorized and necessary use of force and least restrictive measures by uniformed security as related to client behaviors and safety; and
  27. compliance with applicable federal and state laws and regulations.
- B. A BHS provider shall develop, implement and comply with written personnel policies that address the following:
1. recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of employees;

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

3. an employee grievance procedure;

4. abuse reporting procedures that require staff to report:

a. any allegations of abuse or mistreatment of clients according to state and federal laws; and

b. any allegations of abuse, neglect, exploitation or misappropriation of a client to the HSS;

5. a nondiscrimination policy;

6. the requirement that all employees report any signs or symptoms of a communicable disease or contagious illness to their supervisor or the clinical supervisor as soon as possible;

7. procedures to ensure that only qualified personnel are providing care within the scope of the core functions of the provider's services;

8. the governing of staff conduct and procedures for reporting violations of laws, rules, and professional and ethical codes of conduct;

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

10. procedure to obtain statewide criminal background checks, ensuring no staff is providing unsupervised direct care prior to obtaining the results of the statewide criminal background check and addressing the results of the background check, if applicable; and

11. a written policy to address 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 client information and preservation of client dignity and respect, including protection of client privacy and personal and property rights.

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1697 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1383 (July 2017).

## Subchapter D. Provider Operations

### §5637. Client Records

A. The BHS provider shall ensure that:

1. a client record is maintained for each client according to current professional standards;

2. policies and procedures regarding confidentiality, maintenance, safeguarding and storage of records are developed and implemented;

3. records are stored in a place or area where safeguards are in place to prevent unauthorized access, loss, and destruction of client records;

4. when electronic health records are used, the most current technologies and practices are used to prevent unauthorized access;

5. records are kept confidential according to federal and state law and regulations;

6. records are maintained at the provider where the client is currently active and for six months after discharge;

7. six months post-discharge, records may be transferred to a centralized location for maintenance;

8. client records are directly and readily accessible to the direct care staff caring for the client;

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

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

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

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

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

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

15. client records are maintained at least 6 years from discharge, and for minors, client records are maintained at least 10 years.

B. Contents. The provider shall ensure that a client record, at a minimum, contains the following:

1. the treatment provided to the client;

2. the client's response to the treatment;

3. all pertinent medical, psychological, social and other therapeutic information, including:

a. initial assessment;

b. admission diagnosis;

c. referral information;

d. client information/data such as name, race, sex, birth date, address, telephone number, social security number, school/employer, and authorized representative, if applicable;

e. screenings;

f. medical limitations such as major illnesses, allergies;

g. treatment plan that includes the initial treatment plan plus any updates or revisions;

h. lab work including diagnostic, laboratory and other pertinent information, when indicated;

i. legible written progress notes or equivalent documentation;

j. documentation of the services delivered for each client signed by the client or responsible person for services provided in the home or community;

k. documentation related to incidents;

l. consent forms;

m. physicians' orders;

n. a record of all medicines administered by the BHS provider or self-administered by the client, including medication name and type, dosage, frequency of administration, route and person who administered each dose;

o. discharge summary; and

p. other pertinent information related to client as appropriate;

4. progress notes that are documented in accordance with professional standards of practice and that:

a. document implementation of the treatment plan and results;

b. document the client's level of participation; and

c. are completed upon delivery of services by the direct care staff to document progress toward stated treatment plan goals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1697 (September 2015).

### **§5639. Quality Improvement Plan**

A. A BHS provider shall develop, implement and maintain a quality improvement (QI) plan that:

1. assures that the provider is in compliance with federal, state, and local laws;

2. meets the needs of the provider's clients;

3. is attaining the goals and objectives established by the provider;

4. maintains systems to effectively identify issues that require quality monitoring, remediation and improvement activities;

5. improves individual outcomes and individual satisfaction;

6. includes plans of action to correct identified issues that:

a. monitor the effects of implemented changes; and

b. result in revisions to the action plan;

7. is updated on an ongoing basis to reflect changes, corrections and other modifications.

B. The QI plan shall include:

1. a process for obtaining input from the client, or client's parents or legal guardian, as applicable, at least once a year that may include, but not be limited to:

a. satisfaction surveys conducted by a secure method that maintains the client's privacy;

b. focus groups; and

c. other processes for receiving input regarding the quality of services received;

2. a sample review of client case records on a quarterly basis to ensure that:

a. individual treatment plans are up to date;

b. records are accurate, complete and current;

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

d. the program involves all services and focuses on indicators related to improved health outcomes and the prevention and reduction of medical errors;

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

a. review and resolution of complaints;

b. review and resolution of incidents; and

c. incidents of abuse, neglect and exploitation;

4. a process to review and resolve individual client issues that are identified;

5. a process to review and develop action plans to resolve all system wide issues identified as a result of the processes above;

6. a process to correct problems that are identified through the program that actually or potentially affect the health and safety of the clients;

7. a process of evaluation to identify or trigger further opportunities for improvement, such as:

a. identification of individual care and service components;

b. application of performance measures; and

c. continuous use of a method of data collection and evaluation;

8. a methodology for determining the amount of client case records in the quarterly sample review that will involve all services and produce accurate data to guide the provider toward performance improvement.

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

1. collect necessary data to formulate a plan; and
2. hold quarterly committee meetings comprised of at least three individuals who:
  - a. assess and choose which QI plan activities are necessary and set goals for the quarter;
  - b. evaluate the activities of the previous quarter; and
  - c. implement any changes that protect the clients from potential harm or injury.

D. The QI plan committee shall:

1. be comprised of at least three persons, one of whom is a LMHP and the others are staff with the qualifying experience to contribute to the committee's purpose; and
2. develop and implement the QI plan.

E. The QI program outcomes shall be documented and reported to the administrator, clinical director and/or medical director for action, as necessary, for any identified systemic problems

F. The BHS provider shall maintain documentation of the most recent 12 months of the QI plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1698 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1383 (July 2017).

## Subchapter E. Personnel

### §5641. General Requirements

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

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

B. The direct care staff of a BHS provider shall:

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

C. The provider shall ensure that:

1. Qualified direct care staff members are present with the clients as necessary to ensure the health, safety and well-being of clients;

2. Staff coverage is maintained in consideration of:

- a. acuity of the clients being serviced;
- b. the time of day;
- c. the size, location, physical environment and nature of the provider;
- d. the ages and needs of the clients;
- e. ensuring the continual safety, protection, direct care and supervision of clients;

3. applicable staffing requirements in this Chapter are maintained;

4. mechanisms are developed for tracking staff attendance and hours worked during operational hours whether onsite or off-site;

5. there is adequate justification for the provider's assigned staffing patterns at any point in time.

### D. Criminal Background Checks

1. For any provider that is treating children and/or adolescents, the provider shall either:

a. obtain a statewide criminal background check by an agency authorized by the Office of State Police to conduct criminal background checks on all staff that was conducted within 90 days prior to hire or employment; or

b. request a criminal background check on all staff prior to hire or employment in the manner required by R.S. 15:587.1 et seq.

2. For any provider that is treating adults, the provider shall obtain a statewide criminal background check on all unlicensed direct care staff within 90 days prior to hire or employment by an agency authorized by the Office of State Police to conduct criminal background checks. The background check shall be conducted within 90 days prior to hire or employment.

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

E. Prior to hiring the unlicensed direct care staff member, and once employed, at least every six months thereafter or more often, the provider shall review the Louisiana state nurse aide registry and the Louisiana direct service worker registry to ensure that each unlicensed direct care staff member does not have a negative finding on either registry.

### F. Prohibitions

1. The provider is prohibited from knowingly employing or contracting with, or retaining the employment of or contract with, a member of the direct care staff who:

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

- i. abuse or neglect of a person;
  - ii. an alcohol or drug offense, unless the employee or contractor has:
    - (a). completed his/her court-ordered sentence, including community service, probation and/or parole; and
    - (b). been sober per personal attestation for at least the last 2 years;
  - iii. any crimes that requires the person to register pursuant to the Sex Offenders Registration Act;
  - iv. misappropriation of property belonging to another person when:
    - (a). the offense was within the last five years; or
    - (b). the employee/contractor has not completed his/her sentence, including, if applicable, probation or parole;
  - v. a crime of violence;
- b. has a finding placed on the Louisiana state nurse aide registry or the Louisiana direct service worker registry.

#### G. Orientation and Training

1. All staff shall receive orientation. All direct care staff shall receive orientation prior to providing direct client care without supervision.
2. All staff shall receive in-service training:
  - a. at least once a year;
  - b. that complies with the provider's policies and procedures;
  - c. that is necessary depending on the needs of the clients; and
  - d. that is specific to the age of the provider's population.
3. The content of the orientation and in-service training shall include the following:
  - a. confidentiality in accordance with federal and state laws and regulations;
  - b. grievance process;
  - c. fire and disaster plans;
  - d. emergency medical procedures;
  - e. organizational structure and reporting relationships;
  - f. program philosophy;
  - g. policies and procedures;
  - h. detecting and mandatory reporting of client abuse, neglect or misappropriation;
  - i. detecting signs of illness or dysfunction that warrant medical or nursing intervention;

- j. basic skills required to meet the health needs and challenges of the client;
- k. crisis intervention and the use of nonphysical intervention skills, such as de-escalation, mediation conflict resolution, active listening and verbal and observational methods to prevent emergency safety situations;
- l. telephone crisis mitigation for those staff members who provide such services;
- m. client's rights;
- n. duties and responsibilities of each employee;
- o. standards of conduct required by the provider;
- p. information on the disease process and expected behaviors of clients;
- q. maintaining a clean, healthy and safe environment;
- r. infectious diseases and universal precautions; and
- s. basic emergency care for accidents and emergencies until emergency medical personnel can arrive at provider.

#### 4. The orientation and in-service training shall:

- a. be provided only by staff who are qualified by education, training, and qualifying experience; and
  - b. includes documentation of demonstrated competency of direct care staff, ongoing and prior to providing services to clients.
5. The in-service trainings shall serve as a refresher for subjects covered in orientation or training as indicated through the QI process.

I. The provider shall document an annual staff performance evaluation of all employees.

J. The provider shall report violations of laws, rules, and professional and ethical codes of conduct by provider staff and volunteers to the appropriate professional board or licensing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1699 (September 2015).

### **§5643. Core Staffing Personnel Qualifications and Responsibilities**

A. All BHS providers shall abide by the following minimum core staffing requirements and shall meet the additional requirements. All BHS providers shall also meet the additional requirements for each specialized program or module pursuant to the provisions of this Chapter as applicable to each BHS provider.

B. Professional Staffing Standards. All BHS providers shall, at a minimum, have the following staff:

1. a medical director who:

a. is a physician, or an advanced practice registered nurse, or a medical psychologist, with a current, unrestricted license to practice in the state of Louisiana with two years of qualifying experience in treating psychiatric disorders;

EXCEPTION: Mental health rehabilitation providers exclusively providing the evidence-based practice multi-systemic therapy (MST), functional family therapy (FFT), or Homebuilders® are excluded from the requirement of having a medical director. Such shall have a clinical director in accordance with §5643.B.2.

b. has the following assigned responsibilities:

i. ensures that the necessary medical services are provided to meet the needs of the clients;

ii. provides oversight for provider policy/procedure, client plans of care (POCs) and staff regarding the medical needs of the clients according to the current standards of medical practice;

iii. directs the specific course of medical treatment for all clients;

iv. reviews reports of all medically related accidents/incidents occurring on the premises and identify hazards to the administrator;

v. participates in the development and implementation of policies and procedures for the delivery of services;

vi. periodically reviews delivery of services to ensure care meets the current standards of practice; and

vii. participates in the development of new programs and modifications;

c. has the following responsibilities or designates the duties to a qualified practitioner:

i. writes the admission and discharge orders;

ii. writes and approves all prescription medication orders;

iii. develops, implements and provides education regarding the protocols for administering prescription and non-prescription medications on-site;

iv. provides consultative and on-call coverage to ensure the health and safety of clients;

v. collaborates with the client's primary care physician and psychiatrists as needed for continuity of the client's care; and

d. may also fulfill the role of the clinical director, if the individual is qualified to perform the duties of both roles;

2. a clinical director who, for those mental health rehabilitation providers which exclusively provide the evidenced-based practice multi-systemic therapy (MST), functional family therapy (FFT) or Homebuilders®:

a. is a licensed psychiatrist, psychologist, clinical social worker, professional counselor (LPC) or marriage and family therapist (LMFT) with a minimum of two years qualifying experience in treating psychiatric disorders and

who maintains a current, unrestricted license to practice in the state of Louisiana;

b. has the following assigned responsibilities:

i. ensures that the necessary services are provided to meet the needs of the clients;

ii. provides oversight for provider policy/procedure, client plans of care (POCs) and staff regarding the clinical needs of the clients according to the current standards of clinical practice;

iii. directs the specific course of clinical treatment for all clients;

iv. reviews reports of all accidents/incidents occurring on the premises and identifies hazards to the administrator;

v. participates in the development and implementation of policies and procedures for the delivery of services;

vi. periodically reviews delivery of services to ensure care meets the current standards of practice; and

vii. participates in the development of new programs and modifications; and

c. has the following responsibilities or designates the duties to a qualified practitioner:

i. provides consultative and on-call coverage to ensure the health and safety of clients; and

ii. collaborates with the client's primary care physician and psychiatrist as needed for continuity of the client's care;

3. an administrator who:

a. has either a bachelor's degree from an accredited college or university or one year of qualifying experience that demonstrates adequate knowledge, experience and expertise in business management;

b. is responsible for the on-site day to day operations of the BHS provider and supervision of the overall BHS provider's operation commensurate with the authority conferred by the governing body; and

c. shall not perform any programmatic duties and/or make clinical decisions unless licensed to do so;

4. a clinical supervisor who, with the exception of opioid treatment programs:

a. is an LMHP that maintains a current and unrestricted license with its respective professional board or licensing authority in the state of Louisiana;

b. shall be on duty and on call as needed;

c. has two years of qualifying clinical experience as an LMHP in the provision of services provided by the provider;

d. shall have the following responsibilities:

- i. provide supervision utilizing evidenced-based techniques related to the practice of behavioral health counseling;
- ii. serve as resource person for other professionals counseling persons with behavioral health disorders;
- iii. attend and participate in care conferences, treatment planning activities, and discharge planning;
- iv. provide oversight and supervision of such activities as recreation, art/music or vocational education;
- v. function as client advocate in treatment decisions;
- vi. ensure the provider adheres to rules and regulations regarding all behavioral health treatment, such as group size, caseload, and referrals;
- vii. provide only those services that are within the person's scope of practice; and
- viii. assist the clinical director and/or medical director and governing body with the development and implementation of policies and procedures;

5. nursing staff who, for those BHS providers whose services include medication management and/or addiction treatment services,;

- a. provide the nursing care and services under the direction of a registered nurse necessary to meet the needs of the clients; and
- b. have a valid current nursing license in the State of Louisiana.

i. A BHS provider with clients who are unable to self-administer medication shall have a sufficient number of nurses on staff to meet the medication needs of its clients.

ii. Nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement

C. Other Staffing Requirements. The provider shall abide by the following staffing requirements that are applicable to its provider:

#### 1. Licensed Mental Health Professionals

a. The provider shall maintain a sufficient number of LMHPs, who are licensed to practice independently in the state of Louisiana to diagnose and treat mental illness and/or substance abuse, to meet the needs of the provider's clients.

b. The LMHP has the following responsibilities:

- i. provide direct care to clients utilizing the core competencies of addiction counseling and/or mental health counseling and may serve as primary counselor to specified caseload;
- ii. serve as resource person for other professionals in their specific area of expertise;

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

iv. provide on-site and direct professional supervision of any unlicensed professional or inexperienced professional;

v. function as the client's advocate in all treatment decisions affecting the client; and

vi. prepare and write notes or other documents related to recovery (e.g. assessment, progress notes, treatment plans, discharge, etc.).

#### 2. Unlicensed Professionals

a. The provider shall maintain a sufficient number of unlicensed professionals (UPs) to meet the needs of its clients.

b. The UP shall:

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

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

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

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

v. prepare and write notes or other documents related to recovery (e.g. assessment, progress notes, treatment plans, etc.).

#### 3. Direct Care Aides

a. A residential provider shall have a sufficient number of direct care aides to meet the needs of the clients.

b. A provider that provides outpatient services shall use direct care aides as needed.

c. Direct care aides shall meet the following minimum qualifications:

i. has obtained a high school diploma or equivalent;

ii. be at least 18 years old in an adult provider and 21 years old in a provider that treats children and/or adolescents.

d. Direct care aides shall have the following responsibilities:

- i. ensure a safe environment for clients;
- ii. exercise therapeutic communication skills;
- iii. take steps to de-escalate distressed clients;
- iv. observe and document client behavior;

- v. assist with therapeutic and recreational activities;
- vi. monitor clients' physical well-being;
- vii. provide input regarding client progress to the interdisciplinary team;
- viii. oversee the activities of the facility when there is no professional staff on duty;
- ix. possess adequate orientation and skills to assess situations related to relapse and to provide access to appropriate medical care when needed; and
- x. function as client advocate.

#### 4. Volunteers

a. If a BHS provider utilizes volunteers, the provider shall ensure that each volunteer is:

- i. supervised to protect clients and staff;
- ii. oriented to the provider, job duties, and other pertinent information;
- iii. trained to meet requirements of duties assigned;
- iv. given a written job description or written agreement;
- v. identified as a volunteer;
- vi. trained in privacy measures;
- vii. required to sign a written confidentiality agreement; and
- viii. required to submit to a statewide criminal background check by an agency authorized by the Office of the State Police to conduct criminal background checks prior to providing direct care.

b. If a BHS provider utilizes student volunteers, it shall ensure that each student volunteer:

- i. has current registration with the applicable Louisiana professional board, when required, and is in good standing at all times that is verified by the provider;
- ii. is actively pursuing a degree in a human service field or professional level licensure or certification at all times;
- iii. provides direct client care utilizing the standards developed by the professional board;
- iv. provides care only under the direct supervision of the appropriate supervisor; and
- v. provides only those services for which the student has been trained and deemed competent to perform.

c. A volunteer's duties may include:

- i. direct care activities only when qualified provider personnel are present;
- ii. errands, recreational activities; and

iii. individual assistance to support services.

d. The provider shall designate a volunteer coordinator who:

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

#### 5. Care Coordinator

a. The provider shall ensure that each care coordinator:

- i. has a high school diploma or equivalent;
- ii. is at least 18 years old in an adult provider and 21 years old in provider that treats children and/or adolescents; and
- iii. has been trained to perform assigned job duties.

E. Multiple Positions. If a BHS provider employs a staff member in more than one position, the provider shall ensure that:

- 1. the person is qualified to function in both capacities; and
- 2. one person is able to perform the responsibilities of both jobs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1700 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1383 (July 2017).

### §5645. Personnel Records

A. A BHS provider shall maintain a personnel file for each employee and direct care staff member. Each record shall contain:

- 1. the application for employment and/or resume, including contact information and employment history for the preceding five years, if applicable;
- 2. reference letters from former employer(s) and personal references or written documentation based on telephone contact with such references;
- 3. any required medical examinations or health screens;
- 4. evidence of current applicable credentials/certifications for the position;
- 5. annual performance evaluations;
- 6. personnel actions, other appropriate materials, reports and notes relating to allegations of abuse, neglect and misappropriation of clients' funds;
- 7. the employee's starting and termination dates;

8. proof of attendance of orientation, training and in-services;

9. results of statewide criminal background checks by an agency authorized by the Office of State Police to conduct criminal background checks on all direct care staff;

10. job descriptions and performance expectations;

11. prior to hiring the unlicensed direct care staff member, and once employed, at least every six months thereafter or more often, the provider shall have documentation of reviewing the Louisiana state nurse aide registry and the Louisiana direct service worker registry to ensure that each unlicensed direct care staff member does not have a negative finding on either registry; and

12. a written confidentiality agreement signed by the staff upon hire and subsequently per provider's policy.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1702 (September 2015).

## Subchapter F. Admission, Transfer and Discharge

### §5647. Admission Requirements

A. A BHS provider shall not refuse admission to any individual on the grounds of race, religion, national origin, sexual orientation, ethnicity or disability.

B. A BHS provider shall admit only those individuals whose behavioral health needs, pursuant to the Initial Admission Assessment, can be fully met by the provider.

#### C. Pre-Admission Requirements

1. Prior to admission, the provider shall either:

- a. conduct an initial admission assessment; or
- b. obtain a current assessment conducted within the past year that determines the individual's diagnosis and update the assessment to represent the client's current presentation.

2. If the client is disoriented due to psychological or physiological complications or conditions, the initial admission assessment shall be completed as soon as the client is capable of participating in the process.

3. The BHS provider shall include client participation in the assessment process to the extent appropriate.

4. The initial admission assessment shall contain the following:

- a. a screening to determine eligibility and appropriateness for admission and referral;
- b. a biopsychosocial evaluation that includes:

- i. circumstances leading to admission;
- ii. past and present behavioral health concerns;
- iii. past and present psychiatric and addictive disorders treatment;
- iv. significant medical history and current health status;
- v. family and social history;
- vi. current living situation;
- vii. relationships with family of origin, nuclear family, and significant others;
- viii. education and vocational training;
- ix. employment history and current status;
- x. military service history and current status;
- xi. legal history and current legal status;
- xii. emotional state and behavioral functioning, past and present; and
- xiii. strengths, weaknesses, and needs;

c. physical examination or appropriate referral within 72 hours if indicated by the physician, nursing assessment or screening process;

d. drug screening when history is inconclusive or unreliable;

e. appropriate assignment to level of care with referral to other appropriate services as indicated;

f. signature and date by the LMHP; and

g. for residential facilities, diagnostic laboratory tests or appropriate referral as required to prevent spread of contagious/communicable disease, or as indicated by physical examination or nursing assessment.

#### D. Admission Requirements

1. A provider shall establish admission requirements that include:

- a. availability of appropriate physical accommodations;
- b. legal authority or voluntary admission;
- c. availability of professionals to provide services needed as indicated by the initial assessment and diagnosis; and

d. written documentation that client and family, if applicable, consents to treatment and understands the diagnosis and level of care.

2. Client/Family Orientation. Each provider shall ensure that a confidential and efficient orientation is provided to the client and the client's family, if applicable, concerning:

- a. visitation in a residential facility, if applicable;

- b. family involvement;
- c. safety;
- d. the rules governing individual conduct;
- e. authorization to provide treatment;
- f. adverse reactions to treatment;
- g. the general nature and goals of the program;
- h. proposed treatment to include treatment methodology, duration, goals and services;
- i. risks and consequences of non-compliance;
- j. treatment alternatives;
- k. clients rights and responsibilities; and
- l. all other pertinent information, including fees and consequences of non-payment of fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1702 (September 2015).

#### **§5649. Transfer and Discharge Requirements**

A. Each provider shall develop, implement and comply with policies and procedures that address:

- 1. discharge;
- 2. transition to another level of care; and
- 3. transfer to another licensed provider.

B. The BHS provider shall ensure that a client is discharged:

- 1. when the client's treatment goals are achieved, as documented in the client's treatment plan;
- 2. when the client's issues or treatment needs are not consistent with the services the provider is authorized or able to provide;
- 3. according to the provider's established written discharge criteria; or
- 4. when the voluntarily-admitted client, or client's parent or legal guardian, if applicable, requests discharge.

C. Discharge planning shall begin upon admission.

D. Discharge Plan. The provider shall submit a written discharge plan to each client upon discharge or, if unable to submit at discharge, within seven days after discharge. The discharge plan shall provide reasonable protection of continuity of services that includes:

- 1. the client's transfer or referral to outside resources, continuing care appointments, and crisis intervention assistance;
- 2. documented attempts to involve family or an alternate support system in the discharge planning process;
- 3. the client's goals or activities to sustain recovery;

4. signature of the client or, if applicable, the client's parent or guardian;

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

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

E. Discharge Summary. The BHS provider shall ensure that each client record contains a written discharge summary that includes:

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

F. When a request for discharge is received or when the client leaves the provider against the provider's advice, the provider shall:

- 1. have and comply with written procedures for handling discharges and discharge requests;
- 2. document the circumstances surrounding the leave; and
- 3. complete the discharge summary within 30 days of the client's leaving the program or sooner for continuity of care.

G. Transitions. When a client undergoes a transition to another level of care, the provider shall ensure that:

- 1. the transition to a different level of care is documented in the client's record by a member of the direct care staff;
- 2. the client is notified of the transition; and
- 3. if transitioning to a different provider, the staff coordinates transition to next level of care.

#### **H. Transfer Process**

1. If a residential provider decides to transfer a client, the provider shall ensure that there is an agreement with the receiving provider to provide continuity of care based on:

- a. the compilation of client data; or
- b. the medical history/examination/physician orders, psycho-social assessment, treatment plan, discharge summary and other pertinent information provided upon admission to inpatient or outpatient care.

2. The residential provider responsible for the transfer and discharge of the client shall:

a. request and receive approval from the receiving provider prior to the transfer;

b. notify the receiving provider prior to the arrival of the client of any significant medical and/or psychiatric conditions and complications or any other pertinent information that will be needed to care for the client prior to arrival;

c. transfer all requested client information and documents upon request; and

d. ensure that the client has consented to the transfer.

I. If a client is involuntarily committed to a provider, the provider shall:

1. maintain the care of the client until an appropriate level of care becomes available; and

2. comply with the transfer and discharge requirements in this Chapter.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1703 (September 2015).

## Subchapter G. Services

### §5651. Treatment Protocols

A. A BHS provider shall deliver all services according to a written plan that:

1. is age and culturally appropriate for the population served;

2. demonstrates effective communication and coordination;

3. provides utilization of services at the appropriate level of care;

4. is an environment that promotes positive well-being and preserves the client's human dignity; and

5. utilizes evidence-based counseling techniques and practices.

B. The provider shall make available a variety of services, including group and/or individual treatment.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1704 (September 2015).

### §5653. Treatment Plan

A. Each client of the BHS provider shall have a treatment plan linked to the assessment that contains:

1. documented input from the counselor and client within 72 hours after admission to a residential facility, with information from other disciplines added as the client is evaluated and treated;

2. client-specific, measurable goals that are clearly stated in behavioral terms;

3. the treatment modalities to be utilized;

4. realistic and specific expected achievement dates;

5. the strategies and activities to be used to help the client achieve the goals;

6. information specifically related to the mental, physical, and social needs of the client; and

7. the identification of staff assigned to carry out the treatment.

B. The BHS provider shall ensure that the treatment plan is in writing and is:

1. developed in collaboration with the client and when appropriate, the client's family and is signed by the client or the client's family, when appropriate;

2. reviewed and revised as required by this Chapter or more frequently as indicated by the client's needs;

3. consistently implemented by all staff members;

4. signed by the LMHP or physician responsible for developing the treatment plan; and

5. is in language easily understandable to the client and to the client's family, when applicable.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1704 (September 2015).

### §5655. Core Services

A. A BHS provider shall provide the following services to its clients when needed:

1. assessment;

2. orientation;

3. treatment;

4. client education;

5. consultation with professionals;

6. counseling services;

7. referral;

8. rehabilitation services;

9. crisis mitigation; and

10. medication management.

**EXCEPTION:** Mental health rehabilitation providers exclusively providing the evidence-based practice multi-systemic therapy (MST), functional family therapy (FFT) or Homebuilders® are excluded from the requirement of §5655.A.10.

B. A BHS provider that is a mental health rehabilitation provider exclusively providing the evidence-based practice multi-systemic therapy (MST), functional family therapy (FFT) or Homebuilders® shall:

1. provide services in accordance with §5655.A.1-9; and
2. develop policies and procedures to ensure:
  - a. screening of clients for medication management needs;
  - b. referral to appropriate community providers for medication management including assistance to the client/family to secure services; and
  - c. collaboration with the client's medication management provider as needed for coordination of the client's care.

#### C. Crisis Mitigation Services

1. The BHS provider's crisis mitigation plan shall:
  - a. identify steps to take when a client suffers from a medical, psychiatric, medication or relapse crisis; and
  - b. specify names and telephone numbers of staff or organizations to assist clients in crisis.
2. If the provider contracts with another entity to provide crisis mitigation services, the BHS provider shall have a written contract with the entity providing the crisis mitigation services.
3. The qualified individual, whether contracted or employed by the BHS provider, shall call the client within 30 minutes of receiving notice of the client's call.

#### D. Referral

1. The provider shall provide:
  - a. appropriate resource information regarding local agencies to client and family, if applicable, upon need or request; and
  - b. procedures to access vocational services, community services, transitional living services and transportation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1704 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1384 (July 2017).

### §5657. Laboratory Services

A. Each BHS provider that provides medication management and/or addiction treatment services shall:

1. have a written agreement for laboratory services off-site or provide laboratory services on-site;
2. ensure that the laboratory providing the services has current clinical laboratories improvement amendments (CLIA) certification when necessary;
3. ensure diagnostic laboratory services are available to meet the behavioral health needs of the clients; and
4. maintain responsibility for all laboratory services provided on-site or off-site via contractual agreement.

B. If collection is performed on-site, the provider shall develop, implement and comply with written policies and procedures for the collection of specimens in accordance with current standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1705 (September 2015).

### §5659. Medications

A. A BHS provider that stores stock medications of scheduled controlled dangerous substances shall maintain:

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

B. The provider, when applicable, shall develop, implement and comply with written policies and procedures that govern:

1. the safe administration and handling of all prescription and nonprescription medications;
2. identification of medications being brought into the premises when the provider is responsible for administering medications;
3. the storage, dispensing, if applicable, and recording and control of all medications;
4. The self-administration of all medications, that includes:
  - a. age limitations for self-administration;
  - b. order from the authorized licensed prescriber;
  - c. parental consent, if applicable; and
  - d. the manner in which the client is monitored by staff to ensure medication is taken as prescribed in the treatment plan;
5. the disposal of all discontinued and/or expired medications and containers with worn, illegible or missing labels in accordance with state and federal law and regulations;
6. the use of prescription medications including:
  - a. when medication is administered and monitoring of the effectiveness of the medication administered;
  - b. a procedure to inform clients, staff, and where appropriate, client's parent(s) or legal guardian(s) of each medication's anticipated results, the potential benefits and side-effects as well as the potential adverse reaction that could result from not taking the medication as prescribed;
  - c. involving clients and, when appropriate, their parent(s) or legal guardian(s) in decisions concerning medication; and

d. staff training to ensure the recognition of the potential side effects of the medication;

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

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

9. reconciliation of all controlled dangerous substances to guard against diversion.

C. The provider shall ensure that:

1. any medication administered to a client is administered as prescribed;

2. all medications are kept in a locked cabinet, closet or room and under recommended temperature controls;

3. all controlled dangerous substances shall be kept separately from other medications in a locked cabinet or compartment accessible only to individuals authorized to administer medications;

4. current and accurate records are maintained on the receipt and disposition of all scheduled drugs;

5. schedule II, III and IV of the provider's controlled dangerous substances are reconciled at least twice a day by different shifts of staff authorized to administer controlled dangerous substances;

6. medications are administered only upon receipt of written orders by paper, facsimile, or electronic transmission, or verbal orders from an authorized licensed prescriber;

7. all verbal orders are signed by the authorized licensed prescriber within 10 calendar days;

8. medications that require refrigeration are stored in a refrigerator or refrigeration unit separate from food, beverages, blood, and laboratory specimens;

9. all prescription medications are labeled to identify:

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

10. medication errors, adverse drug reactions, and interactions with other medications, food or beverages taken by the client are immediately reported to the medical director with an entry in the client's record; and

11. discrepancies in inventory of controlled dangerous substances are reported to the pharmacist.

D. BHS Providers that Dispense Medications

1. If the BHS provider dispenses medications to its clients, the provider shall:

a. provide pharmaceutical services on-site at the center; or

b. have a written agreement with a pharmaceutical provider to dispense the medications.

2. The provider shall ensure that all compounding, packaging, and dispensing of medications is:

a. accomplished in accordance with Louisiana law and Board of Pharmacy regulations; and

b. performed by or under the direct supervision of a registered pharmacist currently licensed to practice in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1705 (September 2015).

## Subchapter H. Client Rights

### §5661. Client Rights

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

1. protect its client's rights;
2. respond to questions and grievances pertaining to these rights;
3. ensure compliance with client's rights enumerated in R.S. 28:171; and
4. ensure compliance with minor's rights enumerated in the *Louisiana Children's Code* article 1409.

B. A BHS provider's client and, if applicable, the client's parent(s) or legal guardian, have the following rights:

1. to be informed of the client's rights and responsibilities at the time of admission or within 24 hours of admission;
2. to have a family member, chosen representative and/or his or her own physician notified of admission to the BHS provider at the request of the client;
3. to receive treatment and medical services without discrimination based on race, age, religion, national origin, gender, sexual orientation, or disability;
4. to maintain the personal dignity of each client;
5. to be free from abuse, neglect, exploitation and harassment;
6. to receive care in a safe setting;

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

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

9. to make informed decisions regarding the client's care by the client or the client's parent or guardian, if applicable, in accordance with federal and state laws and regulations;

10. to participate or refuse to participate in experimental research when the client gives informed, written consent to such participation, or when a client's parent or legal guardian provides such consent, when applicable, in accordance with federal and state laws and regulations;

11. for clients in residential facilities, to consult freely and privately with the client's legal counsel or to contact an attorney at any reasonable time;

12. to be informed, in writing, of the policies and procedures for filing a grievance and their review and resolution;

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

14. for clients in residential facilities, to possess and use personal money and belongings, including personal clothing, subject to rules and restrictions imposed by the BHS provider;

15. for clients in residential facilities, to visit or be visited by family and friends subject to rules imposed by the provider and to any specific restrictions documented in the client's treatment plan;

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

17. for clients in residential facilities, access to indoor and outdoor recreational and leisure opportunities;

18. for clients in residential facilities, to attend or refuse to attend religious services in accordance with his/her faith;

19. to be given a copy of the program's rules and regulations upon admission;

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

21. to not be restrained or secluded in violation of federal and state laws, rules and regulations;

22. to be informed in advance of all estimated charges and any limitations on the length of services at the time of admission or within 72 hours;

23. to receive an explanation of treatment or rights while in treatment;

24. to be informed of the:

- a. nature and purpose of any services rendered;
- b. the title of personnel providing that service;
- c. the risks, benefits, and side effects of all proposed treatment and medications;
- d. the probable health and mental health consequences of refusing treatment; and
- e. other available treatments which may be appropriate;

25. to accept or refuse all or part of treatment, unless prohibited by court order or a physician deems the client to be a danger to self or others or gravely disabled;

26. for children and adolescents in residential BH facilities, to access educational services consistent with the client's abilities and needs, relative to the client's age and level of functioning; and

27. to have a copy of these rights, which includes the information to contact HSS during routine business hours.

C. The residential or outpatient clinic provider shall

1. post a copy of the clients' rights on the premises that is accessible to all clients; and
2. give a copy of the clients' rights to each client upon admission and upon revision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1706 (September 2015).

### **§5663. Grievances**

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

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

B. The provider shall ensure that:

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1707 (September 2015).

## Subchapter I. Physical Environment

### §5665. Exterior Space Requirements

A. The provider shall maintain its exterior areas that are accessible to the clients, including the grounds and structures on the grounds, in good repair and free from potential hazards to health or safety.

B. The provider shall ensure the following:

1. garbage stored outside is secured in noncombustible, covered containers and removed on a regular basis;
2. trash collection receptacles and incinerators are separate from recreation areas;
3. unsafe areas have safeguards to protect clients from potential hazards;
4. fences are in good repair;
5. exterior areas are well lit; and
6. the provider has signage that indicates the provider's:
  - a. legal or trade name;
  - b. address;
  - c. hours of operation; and
  - d. telephone number(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1707 (September 2015).

### §5667. Interior Space for Residential Facilities and Outpatient Clinics

A. The BHS provider that provides services on-site shall:

1. have a physical environment that ensures the health, safety and security of the clients;
2. have routine maintenance and cleaning services;
3. be well-lit, clean, safe and ventilated;
4. maintain its physical environment, including, but not limited to, all equipment, fixtures, plumbing, electrical, furnishings, doors and windows, in good order and safe condition and in accordance with manufacturer's recommendations; and
5. maintain heating, ventilation and cooling systems in good order and safe condition to ensure a temperature controlled environment.

B. The provider shall have designated space for the secure storage of the staff's personal belongings.

C. Furnishings. The BHS provider shall ensure that the provider's furnishings for all living and treatment areas are designed to meet the needs of the clients.

D. Medication Storage and Preparation. The provider shall have an area for medication preparation, administration and storage that meets one of the following:

1. a secured medication room that contains sufficient space for a work counter, sink, refrigerator, locked storage for controlled dangerous substances; or
2. a secured self-contained medication distribution unit located in a clean workroom, alcove or other staff work area with an easily accessible hand washing station.

E. Administrative and Counseling Area

1. The provider shall provide a space that is distinct from the client living and/or treatment areas that serves as an administrative office.
2. The provider shall have a designated space(s) to allow for private and group discussions and counseling sessions.

F. Smoking. The provider shall prohibit smoking in the interior of its licensed space.

G. Bathrooms

1. There shall be at least one bathroom for use by clients and staff and meets the requirements of the Louisiana *Sanitary Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1707 (September 2015).

### §5669. Interior Space for Residential Facilities

A. The provider shall evaluate each client's physical, emotional and medical needs and the physical environment of the facility in order to ensure the safety and well-being of all admitted clients.

B. Common Area. The facility's physical environment shall have a designated space accessible to the clients:

1. to be used for group meetings, dining, visitation, leisure and recreational activities;
2. that is at least 25 square feet per client and no less than 150 square feet, exclusive of bedrooms or sleeping areas, bathrooms, areas restricted to staff, laundry rooms and office areas; and
3. that contains a sufficient number of tables and chairs for eating meals.

C. The facility's physical environment shall have a designated room(s) or area(s) to allow for private and group discussions and counseling sessions that:

1. safely accommodates the clients being served;
2. has adequate space to meet the client's needs in the therapeutic process; and
3. is exclusive of bedrooms, bathrooms and common areas.

D. Client Bedrooms. The provider shall ensure that each client bedroom in the facility:

1. contains at least 80 square feet for single bedrooms, exclusive of fixed cabinets, fixtures, furniture and equipment;

2. contains at least 60 square feet per bed for multi-bedrooms, exclusive of fixed cabinets, fixtures, and equipment;

3. has at least a 7 1/2 foot ceiling height over the required area except in a room with varying ceiling height, only portions of the room with a ceiling height of at least 7 1/2 feet are allowed in determining usable space;

4. has at least 2 foot minimum clearance at the foot of each bed; and

5. contains no more than four beds;

EXCEPTION: Providers licensed as substance abuse/addiction treatment residential facilities at the time this Rule is promulgated that have more than four clients per bedroom, may maintain the existing bedroom space that allows more than four clients per bedroom provided that the bedroom space has been previously approved by a LDH waiver. This exception applies only to the currently licensed physical location.

6. has at least three feet between beds;

7. has designated storage space for the client's:

- a. clothes;
- b. toiletries; and
- c. personal belongings;

8. has a screened window that opens to the outside;

9. has sheets, pillow, bedspread and blankets for each client that are clean and in good repair and discarded when no longer usable;

10. has sufficient headroom to allow the occupant to sit up; and

11. contains a bed(s) that:

- a. is longer than the client is tall;
- b. is no less than 30 inches wide;
- c. is of solid construction;
- d. has a clean, comfortable, nontoxic fire retardant mattress; and
- e. is appropriate to the size and age of the client.

E. The provider shall:

1. prohibit any client over the age of five years to occupy a bedroom with a member of the opposite sex who is not in the client's immediate family;

2. require separate bedrooms and bathrooms for adults, and children/adolescents, except in the Mothers with Dependent Children Program, and for males and females;

3. prohibit adults and children/adolescents from sharing the same space, except in the Mothers with Dependent Children Program;

4. require sight and sound barriers between adult area/wing and the adolescent area/wing;

5. for facilities with child/adolescent clients, ensure that the age of clients sharing bedroom space is not greater than four years in difference unless contraindicated based on diagnosis, the treatment plan or the behavioral health assessment of the client;

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

7. prohibit mobile homes from being used as client sleeping areas; and

8. prohibit bunk beds in the following programs:

- a. clinically managed residential detoxification (ASAM level III.2D);

- b. Clinically Managed High Intensity Residential Program (ASAM level III.5);

- c. medically monitored intensive residential treatment (ASAM level III.7); and

- d. medically monitored residential detoxification (ASAM level III.7D).

F. Bathrooms

1. In accordance with the Louisiana state *Sanitary Code*, a provider shall have bathrooms equipped with lavatories, toilets, tubs and/or showers for use by the clients located within the provider and the following:

- a. shatterproof mirrors secured to the walls at convenient heights; and

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

2. The provider shall have the ratio of lavatories, toilets, tubs and/or showers to clients required by the Louisiana state *Sanitary Code*.

3. A provider shall have at least one separate toilet, lavatory, and bathing facility for the staff located within the provider.

4. In a multi-level facility, there shall be at least one a full bathroom with bathing facility reserved for client use on each client floor.

5. Each bathroom shall be located so that it opens into a hallway, common area or directly into the bedroom. If the bathroom only opens directly into a bedroom, it shall be for the use of the occupants of that bedroom only.

6. The provider shall ensure that each client has personal hygiene items, such as a toothbrush, toothpaste, shampoo, and soap as needed.

H. Kitchen

1. If a BHS provider prepares meals on-site, the BHS provider shall have a full service kitchen that meets the requirements of the Louisiana state *Sanitary Code* and:

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

2. A BHS provider that does not prepare meals on-site shall have a nourishment station or a kitchenette, that includes:

- a. a sink;
- b. a work counter;
- c. a refrigerator;
- d. storage cabinets;
- e. equipment for preparing hot and cold nourishments between scheduled meals; and
- f. space for trays and dishes used for nonscheduled meal service.

I. Laundry. The provider shall have a laundry space complete with a ratio of 1:20 washers and dryers to meet the needs of the clients.

J. Staff Quarters. The provider utilizing live-in staff shall provide adequate, separate living space with a private bathroom for staff usage only.

K. The provider shall ensure that all closets, bedrooms and bathrooms are equipped with doors that can be readily opened from both sides.

L. The provider shall ensure that outside doors and windows prohibit an outsider from gaining unauthorized ingress.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1707 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1385 (July 2017).

## Subchapter J. Safety and Emergency Preparedness

### §5671. Safety Provisions for Outpatient Clinics and Residential Facilities

A. The provider shall provide additional supervision when necessary to provide for the safety of all individuals.

B. The provider shall:

1. prohibit weapons of any kind on-site unless possessed by security or law enforcement official or hired security while in uniform and on official business;

2. ensure that its equipment, furnishings, accessories and any other items that are in a state of disrepair or defects are removed and inaccessible until replaced or repaired;

3. ensure that all poisonous, toxic and flammable materials are:

a. maintained in appropriate containers and labeled as to the contents;

b. securely stored in a separate and locked storage area that is inaccessible to clients;

c. maintained only as necessary; and

d. are used in such a manner as to ensure the safety of clients, staff and visitors;

4. ensure that supervision and training is provided to any staff member or client exposed to or that may come in contact with potentially harmful materials such as cleaning solvents and/or detergents;

5. ensure that a first aid kit is readily available in the provider and in all vehicles used to transport clients.

C. Required Inspections. The provider shall be in compliance with all required inspections and shall have documentation to demonstrate compliance with applicable laws and regulations.

D. The provider shall have an on-going safety program in any facility where clients, staff and others may be, that includes:

1. continuous inspection of the provider for possible hazards;

2. continuous monitoring of safety equipment and maintenance or repair when needed;

3. investigation and documentation of all accidents or emergencies; and

4. fire control and evacuation planning with documentation of all emergency drills.

E. Required BHS Provider Reporting. The provider shall report the following incidents in writing to HSS on the HSS approved form within 24 hours of discovery:

1. any disaster or emergency or other unexpected event that causes significant disruption to program operations and an inability to provide services for greater than 24 hours;

2. any death or serious injury of a client that:

a. may potentially be related to program activities; or

b. at the time of his/her death or serious injury, was on-site at the BHS provider's premises or a resident of the provider's facility; and

3. allegations of client abuse, neglect and/or exploitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1709 (September 2015).

### **§5673. Infection Control**

A. The provider shall provide a sanitary environment to avoid source(s) and transmission of infections and communicable diseases.

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

1. reporting of infectious disease in accordance with CDC and state OPH guidelines;
2. monitoring of:
  - a. the spread of infectious disease;
  - b. hand washing;
  - c. staff and client education; and
  - d. incidents of specific infections in accordance with OPH guidelines;
3. corrective actions; and
4. a designated infection control coordinator who:
  - a. develops and implements policies and procedures related to infection control; and
  - b. has training and/or experience in infection control;
5. universal precautions; and
6. strict adherence to all sanitation requirements.

C. The provider shall maintain a clean and sanitary environment and shall ensure that:

1. supplies and equipment are available to staff;
2. consistent ongoing monitoring and cleaning of all areas of the provider;
3. methods used for cleaning, sanitizing, handling and storing of all supplies and equipment prevent the transmission of infection;
4. procedures are posted for sanitizing kitchen, kitchen, bathroom and laundry areas in accordance with the *Louisiana Sanitary Code*; and
5. storage, handling, and removal of food and waste will not spread disease, cause noxious odor, or provide a breeding place for pests.

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

E. The provider shall have an effective pest control plan.

F. After discharge of a client, the residential provider shall:

1. clean the bed, mattress, cover, bedside furniture and equipment;
2. ensure that mattresses, blankets and pillows assigned to clients are in sanitary condition; and
3. ensure that the mattress, blankets and pillows used for a client with an infection is sanitized before assigned to another client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1709 (September 2015).

### **§5675. Emergency Preparedness**

A. The BHS provider shall have written disaster and emergency preparedness plans which are based on a risk assessment using an all hazards approach for both internal and external occurrences, developed and approved by the governing body and updated annually:

1. to maintain continuity of the provider's operations in preparation for, during and after an emergency or disaster;
2. to manage the consequences of all disasters or emergencies that disrupt the provider's ability to render care and treatment, or threaten the lives or safety of the clients; and
3. that are prepared in coordination with the provider's local and/or parish Office of Homeland Security and Emergency Preparedness (OHSEP) and include provisions for persons with disabilities.

B. The BHS provider shall develop and implement policies and procedures based on the emergency plan, risk assessment and communication plan which shall be reviewed and updated at least annually. Such policies shall include a system to track on duty staff and sheltered clients, if any, during the disaster or emergency.

C. The BHS provider shall develop and maintain a disaster and emergency preparedness plan that complies with both federal and state laws. Client care shall be well-coordinated within the BHS provider, across health care providers and with state and local public health departments and emergency systems.

D. The BHS provider shall develop and maintain training and testing programs, including initial training in policies and procedures and demonstrate knowledge of disaster and emergency procedures. Such training shall be provided at least annually.

E. Additional Requirements. The residential facility or outpatient clinic shall:

1. post floor plans with diagrams giving clear directions on how to exit the building safely and in a timely manner at all times;
2. post emergency numbers by all telephones;

3. have a separate floor plan or diagram with designated safe zones or sheltering areas for non-fire emergencies;

4. train its employees in emergency or disaster preparedness. Training shall include orientation, ongoing training and participation in planned drills for each employee and on each shift; and

5. ensure that emergency equipment and supplies are:

a. immediately available for use during emergency situations;

b. appropriate for the BHS provider's client population;

c. maintained by appropriate personnel; and

d. are specified by the medical staff and approved by the governing body for treatment of all age groups serviced by the BHS provider.

F. The residential BHS provider's disaster and emergency preparedness plans shall include, at a minimum:

1. in the event of a disaster or an emergency, an assessment of all clients to determine the clients:

a. who continue to require services and should remain in the care of the provider; or

b. who may be discharged to receive services from another provider;

2. the determination as to when the provider will shelter in place and when the provider will evacuate for a disaster or emergency and the conditions that guide these determinations in accordance with local or parish OHSEP;

3. provisions for when the provider shelters-in-place that include:

a. the decision to take this action is made after reviewing all available and required information on the emergency/disaster, the provider, the provider's surroundings, and consultation with the local or parish OHSEP;

b. provisions for seven days of necessary supplies to be provided by the provider prior to the emergency, including drinking water or fluids and non-perishable food; and

c. the delivery of essential services to each client;

4. provisions for when the provider evacuates with clients:

a. the delivery of essential provisions and services to each client, whether the client is in a shelter or other location;

b. the provider's method of notifying the client's family or caregiver, including:

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

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

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

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

d. the procedure or methods that will be used to ensure that identification accompanies the client. The identification shall include the following information:

i. current and active diagnosis;

ii. all medication, including dosage and times administered;

iii. allergies;

iv. special dietary needs or restrictions; and

v. legal representative, if applicable, including contact information;

e. transportation or arrangements for transportation for an evacuation that is adequate for the current census;

5. provisions for staff to maintain continuity of care during an emergency; and

6. staff distribution and assignment of responsibilities and functions during an emergency.

G. The outpatient clinic's disaster and emergency preparedness plan shall include, at a minimum:

1. in the event of an emergency or disaster, an assessment of all clients to determine the clients:

a. who continue to require services; or

b. who may be discharged to receive services from another provider;

2. a plan for each client to continue to receive needed services during a disaster or emergency either by the provider or referral to another program; and

3. measures to be taken to locate clients after an emergency or disaster and determine the need for continued services and/or referral to other programs.

H. The provider shall:

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

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

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

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

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

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

7. upon request by the department, submit a written summary attesting how the emergency plan was followed and executed. The summary shall contain, at a minimum:

- a. pertinent plan provisions and how the plan was followed and executed;
- b. plan provisions that were not followed;
- c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
- d. contingency arrangements made for those plan provisions not followed; and
- e. a list of all injuries and deaths of clients that occurred during execution of the plan, evacuation or temporary relocation including the date, time, causes and circumstances of the injuries and deaths.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1710 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1385 (July 2017).

#### **§5677. Inactivation of License due to a Declared Disaster or Emergency**

A. A licensed BHS provider located in a parish which is the subject of an executive order or proclamation of emergency or disaster issued, may seek to inactivate its license for a period not to exceed one year, provided that the provider:

1. submits written notification to HSS within 60 days of the date of the executive order or proclamation of emergency or disaster that:
  - a. the BHS provider has experienced an interruption in the provisions of services and an inability to resume services as a result of events that are the subject of such executive order or proclamation of emergency or;
  - b. the BHS provider intends to resume operation as a BHS provider in the same service area;
  - c. includes an attestation that the emergency or disaster is the sole casual factor in the interruption of the provision of services;
  - d. includes an attestation that all clients have been properly discharged or transferred to another provider; and
  - e. lists the clients and the location of the discharged or transferred clients;

2. submits documentation of the provider's interruption in services and inability to resume services as a result of the emergency or disaster;

3. resumes operating as a BHS provider in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with state statute;

4. continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil fines; and

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

B. Upon receiving a completed request to inactivate a BHS provider license, the department may issue a notice of inactivation of license to the BHS provider.

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

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

- a. the anticipated date of opening, which is within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with state statute;
- b. a request to schedule a licensing survey; and
- c. a completed licensing application with appropriate licensing fees and other required documents, if applicable;

2. submit written approvals for occupancy from OSFM and OPH.

D. Upon receiving a completed written request to reinstate a BHS provider license, the department shall conduct a licensing survey.

E. If the BHS provider meets the requirements for licensure and the requirements under this subsection, the department shall issue a notice of reinstatement of the BHS provider license.

F. During the period of inactivation, the department prohibits change of ownership of the provider.

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

H. Failure to request inactive status when the license becomes nonoperational due to a disaster or emergency and/or failure to comply with any of the provisions of this subsection shall be deemed a voluntary surrender of the BHS provider license.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1711 (September 2015).

### **§5678. Inactivation of License due to a Non-Declared Emergency or Disaster**

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

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

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

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

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

2. the licensed BHS provider 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 BHS provider continues to submit required documentation and information to the department, including but not limited to cost reports.

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

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

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

EXCEPTION: If the provider requires an extension of this timeframe due to circumstances beyond the provider's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the provider's active efforts to complete construction or repairs and the reasons for request for extension of the provider'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 facility, a BHS provider 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 BHS provider 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 a BHS provider license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the provider has met the requirements for licensure including the requirements of this Subsection.

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

H. The provisions of this Subsection shall not apply to a BHS provider 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 BHS provider license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1386 (July 2017).

## **Subchapter K. Additional Requirements for Children/Adolescent Programs**

NOTE: In addition to the requirements applicable to all Behavioral Health Service providers, programs that treat children and/or adolescents shall meet the applicable requirements below.

### **§5679. General Provisions**

A. The BHS provider that provides services to children and/or adolescents shall:

1. provide program lectures and written materials to the clients that are age-appropriate and commensurate with their education and skill-level;

2. involve the client's family or an alternate support system in the process or document why this is not appropriate;

3. prohibit staff from:

a. providing, distributing or facilitating access to tobacco products, alcohol or illegal drugs; and

b. using tobacco products in the presence of adolescent clients;

4. prohibit clients from using tobacco products on the program site or during structured program activities;

5. address the special needs of its clients and comply with all applicable standards, laws and protocols to protect their rights;

6. develop and implement policies and procedures for obtaining consent in accordance with state statutes; and

7. prohibit adults and children/adolescents from attending the same group counseling sessions and activities unless it is therapeutically indicated.

#### B. Staffing

1. All direct care employees shall have training in adolescent development, family systems, adolescent psychopathology and mental health, substance use in adolescents, and adolescent socialization issues.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1711 (September 2015).

### **§5681. Residential Programs for Children and/or Adolescents**

#### A. Staffing

1. While the clients are on-site, the staff shall:

a. directly supervise and be readily available within hearing distance of the clients at all times; and

b. conduct visual checks, including bed checks, at least once every hour, or more frequently as indicated in the treatment plan.

2. The clients who are off-site but under the responsibility of the provider shall be within eyesight of the staff at all times. While off-site, there shall be a ratio of one staff member to five clients.

B. Educational Resources. The provider shall provide a Department of Education-approved opportunity for clients to maintain grade level and continuity of education during any treatment lasting longer than 14 days unless the treatment occurs during school vacation.

C. Family Communications. The provider shall allow regular communication between a client and the client's family and shall not arbitrarily restrict any communications without clear, written, individualized clinical justification documented in the client record.

D. Recreational Space. Clients shall have access to safe, suitable outdoor recreational space and age appropriate equipment that is located, installed and maintained to ensure the safety of the clients.

E. The provider shall provide a tobacco cessation program to assist client's with nicotine dependency.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1712 (September 2015).

## **Subchapter L. Additional Requirements for Mental Health Programs**

**NOTE:** In addition to the requirements applicable to all BHS providers, a provider that provides mental health services shall meet the requirements of Subchapter L.

### **§5683. Staffing Requirements**

A. Medical Director. The provider with a mental health program shall ensure that its medical director, when the provider is required to have a medical director, holds a current, unrestricted license to practice in the state of Louisiana in accordance with the practitioner's state licensing board, and meets the requirements of §5643.B.1.a Exception.

**NOTE:** The medical director may fulfill the role of the clinical director if the individual is qualified to perform the duties of the clinical director.

B. Clinical Director. The provider with a mental health program shall ensure that its clinical director holds a current, unrestricted license to practice in the state of Louisiana in accordance with the practitioner's state licensing board and meets the requirements of §5643.B.2.a.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1712 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1387 (July 2017).

### **§5685. Psychosocial Rehabilitation Services**

A. The provider that provides psychosocial rehabilitation services (PSR) shall:

1. provide PSR either individually or in a group setting;

2. provide services in community locations where the client lives, works, attends school and/or socializes in addition to or instead of at the licensed entity;

3. assist the client in developing social and interpersonal skills to:

a. increase community tenure;

b. enhance personal relationships;

c. establish support networks;

d. increase community awareness; and

e. develop coping strategies and effective functioning in the individual's social environment;

4. assist the client with developing daily living skills to improve self-management of the negative effects of

psychiatric or emotional symptoms that interfere with a person's daily living;

5. implement learned skills so the client can remain in a natural community location and achieve developmentally appropriate functioning; and

6. assist the client with effectively responding to or avoiding identified precursors or triggers that result in functional impairments.

B. Staffing. The provider shall ensure that:

1. the unlicensed professionals providing PSR receive regularly scheduled clinical supervision from an LMHP;

2. the size of group therapy does not exceed 15 adults or 8 adolescents or children;

3. its staff providing PSR services:

a. is at least 18 years old;

b. has a high school diploma or equivalent; and

c. is at least three years older than any individual served under the age of 18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1712 (September 2015).

#### **§5687. Crisis Intervention**

A. Crisis intervention services may occur in a variety of locations including a health care provider or the community.

B. The provider shall ensure that:

1. a preliminary screening of risk, mental status and stability and the need for further evaluation or other mental health services is conducted by an UP that:

a. includes contact with the client, family members or other collateral sources with pertinent information; and

b. includes a referral to other alternative mental health services at an appropriate level if necessary;

2. an assessment of risk, mental status and psychiatric stability is conducted by a LMHP.

C. Staffing

1. Unlicensed Professionals

a. Unlicensed professionals (UPs) shall:

i. be at least 20 years old and be at least three years older than a client under the age of 18; and

ii. have either:

(a). an associate's degree in social work, counseling, psychology or a related human services field;

(b). two years of course work in a human services field; or

(c). two years of qualifying experience working with clients who have behavioral health disorders.

b. The responsibilities of the UP include:

i. performing the preliminary screening;

ii. assisting the program's LMHP in conducting the assessment;

iii. developing and implementing an individualized written crisis plan from the assessment that provides procedures to reduce the risks of harm to the client and others as well as follow-up procedures;

iv. consulting with physician or the program's LMHP when necessary;

v. providing short term crisis intervention, including crisis resolution and debriefing with the client;

vi. contacting family members when necessary; and

vii. following up with the client and as necessary, with family members and/or caretaker.

2. Licensed Mental Health Professionals

a. The licensed mental health professional (LMHP) shall have experience in administering crisis intervention techniques that work to minimize the risk of harm to self or others.

b. The responsibilities of the LMHP are:

i. to conduct the assessment of risk, mental status and medical stability;

ii. to be available for consultation and support; and

iii. to supervise the development and implementation of each crisis plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1712 (September 2015).

#### **§5689. Community Psychiatric Support and Treatment**

A. The provider that provides community psychiatric support and treatment (CPST) services shall:

1. provide services in community locations where the client lives, works, attends school and/or socializes in addition to or instead of at the licensed entity;

2. provide CPST services with the client present;

3. provide services to minimize the negative effects of the symptoms, emotional disturbances or associated environmental stressors which interfere with the client's daily living;

4. provide individual supportive counseling, solution-focused interventions, emotional and behavioral management and problem behavior analysis with the client;

5. participates in and utilizes strengths-based planning and treatments, that includes identifying strengths and needs, resources, natural supports and developing goals and

objectives to address functional deficits associated with the client's mental illness; and

6. provides restoration, rehabilitation and support to develop skills to locate, rent and keep a home.

#### B. Staffing Requirements

##### 1. Unlicensed Professionals Providing CPST Services

a. The program's UPs that provide CPST, except counseling, shall have one of the following:

i. a bachelor's degree in social work, counseling, psychology or a related human services field;

ii. four years of equivalent education in a human service field; or

iii. four years of qualifying experience working with clients who have behavioral health disorders.

b. The program's UPs that provide counseling services shall have a master's degree in social work, counseling, psychology or a related human services field.

c. The responsibilities of the UPs, when providing CPST services include:

i. assisting the client with effectively responding to or avoiding identified precursors or triggers that would risk the client remaining in a natural community location;

ii. assisting in the development of daily living skills specific to managing a home; and

iii. assisting the client and family members to identify strategies or treatment options associated with the client's mental illness.

##### 2. Licensed Mental Health Professionals

a. The LMHP shall have experience in CPST services.

b. The LMHP is responsible for providing clinical supervision of the CPST staff.

3. The provider shall ensure that the direct care staff's caseload size:

a. is based on the needs of the clients and their families with emphasis on successful outcomes and individual satisfaction; and

b. meets the needs identified in the individual treatment plan.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1713 (September 2015).

#### **§5691. Behavioral Health Service Providers with a Mental Health Program that Provide Services Only in the Home and Community**

A. The BHS provider with only a home and community-based mental health program shall notify HSS of the

parishes in the state of Louisiana in which it will provide services. The parishes shall be contiguous.

B. Business Office. The provider offering behavioral health services only in the home or community shall have a business location that:

1. is part of the licensed location of the BHS provider;

2. is located in a parish where the provider offers services;

3. has at least one employee on duty in the business office during hours of operation listed on the approved license application;

4. stores the administrative files, including governing body documents, contracts to which the provider is a party, insurance policies, budgets and audit reports, personnel files, client records, policies and procedures, and other files or documents the BHS provider is required to maintain; and

5. is not located in an occupied personal residence.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1713 (September 2015).

### **Subchapter M. Additional Requirements for Substance Abuse/Addiction Treatment Programs**

**NOTE:** In addition to the requirements applicable to all BHS providers, a provider that provides substance abuse/addiction treatment services shall meet the requirements of Subchapter M.

#### **§5693. General Requirements**

A. The BHS provider shall provide, either directly or through referral:

1. access to HIV counseling and testing services;

2. access to testing for pregnancy, tuberculosis and sexually transmitted diseases; and

3. appropriate follow-up referral and care.

#### B. Staffing

##### 1. Medical Director

a. The provider shall ensure that its medical director is a licensed physician who:

i. is an addictionologist; or

ii. meets all of the following:

(a). is board-eligible or board-certified;

(b). has two years of qualifying experience in treating addictive disorders; and

(c). maintains a consulting relationship with an addictionologist.

b. A PA may perform duties as designated by the supervising physician in accordance with the Louisiana State Board of Medical Examiners.

c. The APRN shall have a collaborative practice agreement with a physician in accordance with the Louisiana State Board of Nursing.

2. LMHPs. The LMHP providing addiction treatment services shall have documented credentials, experience and/or training in working with clients who have addictive disorders.

3. UPs. A UP providing addiction treatment services shall meet one of the following qualifications:

a. a master's-prepared behavioral health professional that has not obtained full licensure privileges and is participating in ongoing professional supervision. When working in addiction treatment settings, the master's prepared UP shall be supervised by a LMHP who meets the requirements of this Section;

b. be a registered addiction counselor;

c. be a certified addiction counselor; or

d. be a counselor in training (CIT) that is registered with ADRA and is currently participating in a supervisory relationship with a ADRA-registered certified clinical supervisor (CCS).

C. Policies and Procedures. The BHS provider shall have a policy and procedure that addresses drug screen tests and collections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1714 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1387 (July 2017).

#### **§5695. Addiction Outpatient Treatment Program (ASAM Level I)**

A. The BHS provider shall:

1. only admit clients clinically appropriate for ASAM level I into this program;

2. provide fewer than nine contact hours per week for adults and fewer than six hours per week for children/adolescents; and

3. review and update the treatment plan in collaboration with the client as needed or at a minimum of every 90 days.

B. Staffing. The provider shall ensure that:

1. there are physician services available as needed for the management of psychiatric and medical needs of the clients;

a. physician services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The

BHS provider shall maintain documentation of such arrangement;

2. there is a clinical supervisor available on site for supervision as needed, and available on call at all times;

3. there is at least one LMHP or UP on-site when clinical services are being provided;

4. each LMHP/UP's caseload does not exceed 1:50 active clients; and

5. there are nursing services available as needed to meet the nursing needs of the clients.

a. Nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1714 (September 2015).

#### **§5697. Intensive Outpatient Treatment Programs (ASAM Level II.1)**

A. The provider shall:

1. only admit clients clinically appropriate for ASAM level II.1 into this program;

2. maintain a minimum of 9 contact hours per week for adults, at a minimum of three days per week, with a maximum of 19 hours per week;

3. maintain a minimum of 6 hours per week for children/adolescents, at a minimum of three days per week, with a maximum of 19 hours per week; and

4. review and update the treatment plan in collaboration with the client as needed or at a minimum of every 30 days.

B. Staffing. The provider shall ensure that:

1. a physician is on site as needed for the management of psychiatric and medical needs and on call 24 hours per day, seven days per week;

2. there is a clinical supervisor on-site 10 hours a week and on call 24 hours per day, seven days per week;

3. there is at least one LMHP or UP on site when clinical services are being provided;

4. each LMHP/UP caseload does not exceed 1:25 active clients; and

5. there are nursing services available as needed to meet the nursing needs of the clients.

a. Nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1714 (September 2015).

**§5698. Partial Hospitalization Services (substance abuse only) (ASAM Level II.5)**

A. The provider shall:

1. only admit clients clinically appropriate for ASAM level II.5 into this program;

a. services may be offered during the day or evening hours, before or after work or on weekends, while also allowing the patient to apply their new skills and strategies in the community;

2. maintain a minimum of 20 contact hours per week for adults, at a minimum of three days per week;

3. maintain a minimum of 20 hours per week for children/adolescents, daily or as specified in the patient's treatment plan and may occur during school hours;

a. adolescents shall have access to educational services; or

b. the provider shall be able to coordinate with the school system to ensure that the adolescent's educational needs are met; and

4. review and update the treatment plan in collaboration with the client as needed or at a minimum of every 30 days.

B. Staffing. The provider shall ensure that:

1. a licensed physician is on site as needed for the management of psychiatric and medical needs and on call 24 hours per day, seven days per week;

2. there is a clinical supervisor on-site 10 hours a week and on call 24 hours per day, seven days per week;

3. there is at least one LMHP or UP on site when clinical services are being provided;

4. each LMHP/UP caseload does not exceed 1:25 active clients; and

5. there are nursing services available as needed to meet the nursing needs of the clients.

a. Nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1387 (July 2017).

**§5699. Ambulatory Detoxification with Extended On-Site Monitoring (ASAM Level II-D) (Adults Only)**

A. The BHS provider shall:

1. only admit clients clinically appropriate for ASAM level II-D into this program;

2. review and update the treatment plan in collaboration with the client as needed or at a minimum of every 30 days; and

3. ensure that level II-D services are offered in conjunction with intensive outpatient treatment services (ASAM level II.1);

B. Staffing. The provider shall ensure that:

1. a physician is on-site at least 10 hours per week during operational hours and on-call 24 hours per day, seven days per week;

2. there is a LMHP or UP on site 40 hours per week;

3. each LMHP/UP caseload does not exceed 1:25 active clients;

4. there is a licensed nurse on call 24 hours per day, seven days per week and on site no less than 40 hours a week; and

5. there is a RN on-site as needed to perform nursing assessments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1715 (September 2015).

**§5701. Clinically Managed Low-Intensity Residential Treatment Program (ASAM Level III.1)**

A. The BHS provider shall:

1. only admit clients clinically appropriate for ASAM level III.1 into its Clinically Managed Low-Intensity Residential Treatment Program;

2. offer at least five hours per week of a combination of low-intensity clinical and recovery focused services, including:

- a. individual therapy;
- b. group and family therapy;
- c. medication management; and
- d. medication education;

3. ensure that the treatment plan is reviewed in collaboration with the client at least every 90 days;

4. provide case management that is:

a. provided by a care coordinator who is on duty as needed; or

b. assumed by the clinical staff.

## B. Staffing

1. The provider shall have a clinical supervisor available for clinical supervision and by telephone for consultation.

2. There shall be at least one LMHP or UP on duty at least 40 hours a week.

### 3. Adult Staffing Patterns

a. The LMHP/UP caseload shall not exceed 1:25 active clients.

b. There shall be at least one direct care aide on duty during each shift.

### 4. Children/Adolescent Staffing Patterns

a. The UP caseload shall not exceed 1:8 active clients.

b. The provider shall have at least two direct care aides on duty during each shift.

c. There shall be a ratio of 1:8 direct care aides during all shifts and a ratio of 1:5 direct care aides on therapy outings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1715 (September 2015).

## **§5703. Clinically Managed Residential Detoxification (Social Detoxification) (ASAM Level III.2D)**

### A. The provider shall:

1. only admit clients clinically appropriate for ASAM level III.2D into its Clinically Managed Residential Detoxification Program;

2. screen each client upon arrival for at least the following to ensure proper placement:

- a. withdrawal potential;
- b. biomedical conditions; and
- c. cognitive/emotional complications;

3. have at least one staff member on each shift trained in cardiopulmonary resuscitation (CPR);

4. develop and implement an individualized stabilization/treatment plan in collaboration with the client that:

- a. shall be reviewed and signed by the UP and the client; and
- b. shall be filed in the client's record within 24 hours of admission;

5. provide case management that is:

- a. provided by a care coordinator who is on duty as needed; or
- b. assumed by the clinical staff.

## B. Emergency Admissions

1. If a client is admitted under emergency circumstances, the admission process may be delayed until the client can be interviewed, but no longer than 24 hours unless assessed and evaluated by a physician.

2. The provider shall orient the direct care staff to monitor, observe and recognize early symptoms of serious illness associated with detoxification and to access emergency services promptly.

### C. Staffing. The provider shall ensure that:

1. there is a physician on call 24 hours per day, seven days per week and on duty as needed for management of psychiatric and medical needs of the clients;

2. there is a clinical supervisor available for clinical supervision when needed and by telephone for consultation;

3. there is at least one LMHP or UP available on site at least 40 hours per week; and

4. for adults:

a. each LMHP/UP's caseload shall not exceed 1:25;

b. there is at least one direct care aide per shift with additional as needed;

5. for children/adolescents:

a. each LMHP/UP's caseload shall not exceed 1:16;

b. there are at least two direct care aides per shift with additional as needed; and

c. the ratio of aides to clients shall not exceed 1:10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1715 (September 2015).

## **§5705. Clinically Managed Medium-Intensity Residential Treatment (ASAM Level III.3) (Adult Only)**

### A. The provider shall:

1. only admit clients clinically appropriate for ASAM level III.3 into its Clinically Managed Medium-Intensity Residential Program;

2. offer at least 20 hours per week of a combination of medium-intensity clinical and recovery-focused services;

3. ensure that the treatment plan is reviewed in collaboration with the client as needed or at a minimum of every 90 days and documented accordingly; and

4. provide case management that is:

- a. provided by a care coordinator who is on duty as needed; or
- b. assumed by the clinical staff.

### B. Staffing. The provider shall ensure that:

1. there is a physician on call 24 hours per day and on duty as needed for management of psychiatric and medical needs;

2. there is a clinical supervisor available for clinical supervision when needed and by telephone for consultation;

3. there is 24 hour on-call availability by an RN plus a licensed nurse on duty whenever needed to meet the professional nursing requirements;

4. there is a LMHP or UP on site 40 hours a week to provide direct client care;

5. each LMHP/UP caseload shall not exceed 1:12; and

6. there is at least one direct care aide on duty for each shift plus additional aides as needed.

#### C. Mothers with Dependent Children Program (Dependent Care Program)

1. A provider's Mothers with Dependent Children Program shall:

a. meet the requirements of ASAM level III.3;

b. provide weekly parenting classes where attendance is required;

c. address the specialized needs of the parent;

d. provide education, counseling, and rehabilitation services for the parent that further addresses:

i. the effects of chemical dependency on a woman's health and pregnancy;

ii. parenting skills; and

iii. health and nutrition;

e. regularly assess parent-child interactions and address any identified needs in treatment; and

f. provide access to family planning services.

#### 2. Child Supervision

a. The provider shall ensure that it provides child supervision appropriate to the age of each child when the mother is not available to supervise her child.

b. The provider shall ensure that its child supervision is provided by either:

i. the provider's on-site program with all staff members who:

(a). are at least 18 years old;

(b). have infant CPR certification; and

(c). have at least eight hours of training in the following areas prior to supervising children independently:

(i). chemical dependency and its impact on the family;

(ii). child development and age-appropriate activities;

(iii). child health and safety;

(iv). universal precautions;

(v). appropriate child supervision techniques;

and

(vi). signs of child abuse; or

ii. a licensed day care provider pursuant to a written agreement with the provider.

c. The provider shall maintain a staff-to-child ratio that does not exceed 1:3 for infants (18 months and younger) and 1:6 for toddlers and children.

d. Child Specialist. The provider shall have a child specialist who:

i. is available to provide staff training, evaluate effectiveness of direct care staff, and plan activities, for at least one hour per week per child;

ii. has 90 clock hours of education and training in child development and/or early childhood education; and

iii. has one year of documented experience providing services to children.

e. Clients shall not supervise another parent's child or children without written consent from the legal guardian and staff approval.

f. Staff shall check all diapers frequently and change as needed, dispose of the diapers in a sealed container and sanitize the changing area.

#### 3. Clinical Care for Children. The provider shall:

a. address the specialized and therapeutic needs and care for the dependent children and develop an individualized plan of care to address those needs, to include goals, objectives and target dates;

b. provide age-appropriate education, counseling, and rehabilitation services for children that address or include:

i. the emotional and social effects of living with a chemically dependent care-giver;

ii. early screening and intervention of high risk behavior and when indicated provide or make appropriate referrals for services;

iii. screening for developmental delays; and

iv. health and nutrition;

c. ensure that all children have access to medical care when needed;

d. ensure that children are administered medication according to the label by the parent or licensed staff qualified to administer medications; and

e. ensure that if licensed staff will be administering medications, the provider:

i. obtains written consent from the parent to administer the prescribed and over the counter medications, including identifying information relative to dosage, route, etc.;

ii. assumes full responsibility for the proper administration and documentation of the medications; and

iii. ensures original labeled medication containers with name, dosage, route, etc. are obtained prior to medication administration.

f. maintain current immunization records and allergy records for each child at the program site; and

g. obtain consent for emergency medical care for each child at admission.

#### 4. Child Services

a. The daily activity schedule for the children shall include a variety of structured and unstructured age-appropriate activities.

b. School age children shall have access to school.

c. The health, safety, and welfare of the children shall be protected at all times.

d. Behavior management shall be fair, reasonable, consistent, and related to the child's behavior. Physical discipline is prohibited.

e. The children shall be well-groomed and dressed weather-appropriate.

f. An adequate diet for childhood growth and development, including two snacks per day, shall be provided to each child.

5. The program shall develop, implement and comply with written policies and procedures that:

a. address abuse and/or neglect of a child;

b. prohibit children under the age of 18 months from sleeping in bed with their mothers;

c. require a current schedule showing who is responsible for the children at all times;

d. address isolating parents and children who have communicable diseases and providing them with appropriate care and supervision; and

e. identify those persons authorized to remove a child from the facility other than legal guardian or parent.

#### 6. Safety and Emergency Preparedness

a. The program shall develop and implement an emergency preparedness plan that includes provisions and services for the clients and children.

b. The program shall ensure that all toys and equipment are age appropriate, in good order and safe condition, and in accordance with manufacturer's recommendations.

c. Staff, volunteers, and parents shall use universal precautions at all times.

d. The provider shall ensure that only the legal guardian or a person authorized by the legal guardian may remove a child from the provider.

e. If an individual shows documentation of legal custody, staff shall record the person's identification before releasing the child.

#### 7. Physical Environment

a. The program shall provide potty chairs for small children and sanitize them after each use.

b. The program shall provide age-appropriate bathing facilities. Infants shall not be bathed in sinks.

c. Each child shall be provided with his/her own bed.

d. Infants up to 18 months shall sleep in either a bassinet or cribs appropriate to the size of the child.

e. The provider shall provide a variety of age-appropriate equipment, toys, and learning materials for the children/adolescents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1716 (September 2015).

### **§5707. Clinically Managed High-Intensity Residential (ASAM Level III.5)**

#### A. The provider shall:

1. admit only clients clinically appropriate for ASAM level III.5 into its Clinically Managed High Intensity Residential Treatment Program;

2. the treatment plan is reviewed in collaboration with the client as needed, or at a minimum of every 30 days and documented accordingly;

3. provide case management that is:

a. provided by a care coordinator who is on duty as needed; or

b. assumed by the clinical staff.

#### B. Staffing. The provider shall ensure that:

1. there is a physician on call 24 hours per day, seven days per week, and on duty as needed for management of psychiatric and medical needs of the clients;

2. there is a clinical supervisor available for clinical supervision when needed and by telephone for consultation;

3. the provider shall have one licensed RN on call 24/7 to perform nursing duties for the provider; and

4. there shall be at least one LMHP or UP on duty at least 40 hours per week;

5. for adult staffing patterns:

a. each LMHP/UP's caseload shall not exceed 1:12;

b. there shall be at least one direct care aide on duty on all shifts with additional as needed; and

c. there shall be at least one licensed nurse on duty during the day and evening shifts to meet the nursing needs of the clients. Nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement;

6. for children/adolescent staffing patterns:

a. each LMHP/UP's caseload shall not exceed 1:8; and

b. there shall be at least two direct care aides on duty during all shifts with additional as needed. The ratio of aides to clients shall not exceed 1:8. On therapy outings, the ratio shall be at least 1:5;

c. there shall be a psychologist available when needed; and

d. there shall be a licensed nurse on duty to meet the nursing needs of the clients.

i. Nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1717 (September 2015).

**§5709. Medically Monitored Intensive Residential (ASAM Level III.7) (Adults Only)**

A. The provider shall:

1. admit only clients clinically appropriate for ASAM level III.7 into its Medically Monitored Intensive Residential Treatment Program; and

2. the treatment plan is reviewed and updated in collaboration with the client as needed, or at a minimum of every 30 days and documented accordingly;

3. provide case management that is:

a. provided by a care coordinator who is on duty as needed; or

b. assumed by the clinical staff.

B. Staffing. The provider shall ensure that:

1. there is a physician on call 24 hours per day, seven days per week, and on duty as needed for management of psychiatric and medical needs;

2. there is a clinical supervisor available for clinical supervision when needed and by telephone for consultation;

3. there is at least one LMHP or UP on duty at least 40 hours/week;

4. there is at least one RN on call 24 hours per day, seven days per week to perform nursing duties and at least one licensed nurse is on duty during all shifts with additional licensed nursing staff to meet the nursing needs of the clients;

5. its on-site nursing staff is solely responsible for III.7 program and does not provide services for other levels of care at the same time;

6. each LMHP/UP caseload shall not exceed 1:10;

7. there is at least one direct care aide on duty on all shifts with additional as needed;

8. there is an activity or recreational therapist on duty at least 15 hours per week.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1718 (September 2015).

**§5711. Medically Managed Residential Detoxification (Medical Detoxification) (ASAM Level III.7D) (Adults Only)**

A. The provider shall:

1. admit only clients clinically appropriate for ASAM level III.7D into its Medically Managed Residential Detoxification Program;

2. ensure that:

a. a physical examination is conducted by a physician, PA or APRN within 24 hours of admission; or

b. the provider's admitting physician reviews and approves a physical examination conducted by a physician, PA or APRN within 24 hours prior to admission;

3. ensure that each client's progress is assessed at least daily;

4. ensure that each client's physical condition, including vital signs, is assessed at least daily, or more frequently as indicated by physician's order or change in the client's status;

5. have a reliable, adequately sized emergency power system to provide power during an interruption of normal electrical service;

6. provide case management that is conducted:

a. by a care coordinator who is on duty as needed; or

b. by the clinical staff.

B. Emergency Admissions

1. If a client is admitted under emergency circumstances, the admission process may be delayed until

the client can be interviewed, but no longer than 24 hours unless seen by a physician.

2. The provider shall orient the direct care staff to monitor, observe and recognize early symptoms of serious illness and to access emergency services promptly.

### C. Staffing

1. The provider shall have a physician on call 24 hours per day, seven days per week, and on duty as needed for management of psychiatric and medical needs of the clients.

### 2. Nursing

a. The provider shall have at least one RN on call 24 hours per day, seven days per week to perform nursing duties.

b. There shall be at least one licensed nurse on duty during all shifts with additional as needed based upon the provider's census and the clients' acuity levels.

c. There shall be a RN on-site no less than 40 hours per week who is responsible for conducting nursing assessments upon admission and delegating staffing assignments to the nursing staff based on the assessments and the acuity levels of the clients.

d. The provider shall ensure that its on-site nursing staff is solely responsible for III.7D program and does not provide services for other levels of care at the same time.

e. The nursing staff is responsible for:

- i. monitoring client's progress; and
- ii. administering medications in accordance with physician orders.

### 3. Clinical Supervisor and Unlicensed Professionals

a. The provider shall have a clinical supervisor available for clinical supervision when needed and by telephone for consultation.

b. The LMHP/UP caseload shall not exceed 1:10.

4. There shall be at least one direct care aide on all shifts with additional as needed based upon the provider's census and the clients' acuity levels.

5. The provider shall have at least one employee on duty certified in CPR.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1718 (September 2015).

## Subchapter N. Additional Requirement for Substance Abuse/Addictive Residential Treatment Programs

**NOTE:** In addition to the requirements applicable to all BHS providers, residential programs that treat substance abuse/addiction shall meet the applicable requirements below.

### §5713. Client Funds and Assets

A. If a BHS provider manages clients' personal funds accounts, the BHS provider shall develop and implement written policies and procedures governing the maintenance and protection of the client fund accounts that include, but are not limited to:

- 1. the maximum amount each client may entrust with the provider;
- 2. the criteria by which clients can access money;
- 3. the disbursement procedure, including the maximum amount that may be disbursed to the client;
- 4. staff members who may access such funds; and
- 5. the method for protecting and maintaining the funds.

B. The BHS provider that manages a client's personal funds shall:

- 1. furnish a copy of the provider's policy and procedures governing the maintenance and protection of client funds to the client or the client's parents or legal guardian, if applicable;
- 2. obtain written authorization from the client or the client's parent or legal guardian, if applicable, for the safekeeping and management of the funds;
- 3. provide each client with an account statement upon request with a receipt listing the amount of money the provider is holding in trust for the client;
- 4. maintain a current balance sheet containing all financial transactions to include the signatures of staff and the client for each transaction;
- 5. provide a list or account statement regarding personal funds upon request of the client; and
- 6. be prohibited from commingling the clients' funds with the provider's operating account.

C. If the BHS provider manages funds for a client, the provider shall ensure that:

- 1. any remaining funds shall be refunded to the client or his/her legal guardian within five business days of notification of discharge; and
- 2. in the event of the death of a client, any remaining funds are refunded to the client's legal representative within five business days of the client's death.

D. The BHS provider shall develop, implement and comply with a policies and procedures that address:

1. the maintenance and safeguard of client possessions, including money, brought to the provider by its clients;
2. maintaining an inventory of each client's possessions from the date of admission;
3. returning all possessions to the client upon the client's discharge; and
4. requiring the client and one staff member to sign documentation indicating that the client's possessions have been placed with the provider and the return of possessions to the client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1719 (September 2015).

#### **§5715. Dietary Services**

A. The residential BHS provider shall ensure that:

1. all dietary services are provided under the direction of a Louisiana licensed dietician;
2. menus are approved by a licensed dietician;
3. meals are of sufficient quantity and quality to meet the nutritional needs of clients, including religious and dietary restrictions;
4. meals are in accordance with FDA dietary guidelines and the orders of the authorized licensed prescriber;
5. at least three meals plus an evening snack are provided daily with no more than 14 hours between any two meals;
6. all food is stored, prepared, distributed, and served under safe and sanitary conditions in accordance with the Louisiana state *Sanitary Code*;
7. all equipment and utensils used in the preparation and serving of food are properly cleaned, sanitized and stored in accordance with the LAC 51, *Public Health—Sanitary Code*; and
8. if meals are prepared on-site, they are prepared in an OPH approved kitchen.

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

1. maintain responsibility for ensuring compliance with this Chapter;
2. ensure that the outside food management company possesses a valid OPH retail food permit; and
3. ensure that, if the provider does not employ or directly contract with a licensed dietician, the food

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

C. The licensed dietician shall:

1. approve therapeutic menus; and
2. be available for consultation when necessary.

D. If the BHS provider has a program that allows menu planning and preparation by clients, the provider shall develop and implement a policy with guidelines for the participating clients that:

1. ensures that meal preparation/service, with client participation, meets all requirements listed above; and
2. defines client's participation in writing and has written instructions posted or easily accessible to clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1719 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1388 (July 2017).

#### **§5717. Transportation**

A. A residential BHS provider shall assist in arranging for or provide transportation necessary for implementing the client's treatment plan, including but not limited to, court-ordered hearings and medically necessary appointments with a health care provider.

B. The BHS provider may provide transportation pursuant to a written agreement with an outside transportation service. If provided pursuant to a written agreement, the provider shall maintain responsibility for ensuring compliance with this Chapter.

C. Any vehicle used to transport a BHS provider's client shall be:

1. properly licensed and inspected in accordance with state law;
2. maintained in a safe condition;
3. operated at a climate controlled temperature that does not compromise the health, safety or needs of the client; and
4. operated in conformity with all of the applicable motor vehicle laws, including but not limited to, utilization of seat belts and vehicular child restraint systems.

D. The provider shall ensure that it or its contracted transportation service:

1. has documentation of current liability insurance coverage for all owned and non-owned vehicles used to transport clients. The personal liability insurance of a provider's employee shall not be substituted for the required coverage;

2. utilizes only drivers who are properly licensed and insured to operate that class of vehicle in accordance with state laws, rules and regulations;

3. obtains a driving history record from the state Office of Motor Vehicles for each employee upon hire and annually thereafter;

4. prohibits the number of persons in any vehicle used to transport clients to exceed the number of available seats with seatbelts in the vehicle; and

5. determines the nature of any need or problem of a client which might cause difficulties during transportation. This information shall be communicated to agency staff responsible for transporting clients.

E. The provider shall comply with the following when transporting disabled non-ambulatory clients in a wheelchair:

1. a ramp to permit entry and exit of a client from the vehicle;

2. wheelchairs used in transit shall be securely fastened inside the vehicle utilizing approved wheelchair fasteners; and

3. the client is securely fastened in the wheelchair.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1719 (September 2015).

#### **§5719. Staffing**

A. The provider shall ensure that there are at least two staff persons on site at all times when a client is present.

B. House Manager

1. A residential provider shall have a house manager.

2. The house manager shall:

a. be at least 21 years old;

b. have at least two years qualifying experience working for a provider that treats clients with mental illness and/or addiction disorders;

c. supervise the activities of the facility when the professional staff is not on duty;

d. perform clinical duties only if licensed to do so;

e. report incidents of abuse, neglect and misappropriation to the medical director;

f. identify and respond to and report any crisis situation to the clinical supervisor when it occurs; and

g. coordinate and consult with the clinical staff as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 41:1720 (September 2015).

#### **§5721. Policies and Procedures**

A. House Rules and Regulations. A residential provider shall:

1. have a clearly written list of house rules and regulations governing client conduct and behavior management;

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

3. post the rules and regulations in an easily accessible location in the provider and make them available when requested; and

4. have a policy and procedure that pertains to the bedroom assignment of its clients, with consideration given to age, client's diagnosis and severity of client's medical condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1720 (September 2015).

## **Subchapter O. Additional Requirements for Opioid Treatment Programs**

NOTE: In addition to the requirements applicable to all BHS providers, opioid treatment programs shall also meet the requirements of Subchapter O.

#### **§5723. General Provisions**

A. A provider with an opioid treatment program shall:

1. meet the requirements of the protocols established by OBH/state opioid authority;

2. update the Louisiana methadone central registry daily and as needed;

3. upon the death of a client:

a. report the death of a client enrolled in their clinic to the SOA within 24 hours of the discovery of the client's death;

b. report the death of a client to HSS within 24 hours of discovery if the death is related to program activity;

c. submit documentation on the cause and/or circumstances to SOA and to HSS, if applicable, within 24 hours of the provider's receipt of the documentation; and

d. adhere to all protocols established by LDH on the death of a client; and

4. conduct at least eight random monthly drug screen tests on each client per year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1720 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1388 (July 2017).

### **§5725. Treatment**

A. Client Admission Criteria. The program shall only admit clients that:

1. are at least 18 years old, unless the client has consent from a parent, or legal guardian, if applicable;
2. meet the federal requirements regarding the determination that the client is currently addicted to opiates and has been addicted to opiates for at least one year prior to admission or the exceptions;
3. are verified by a physician that treatment is medically necessary;
4. have had a complete physical evaluation by the client's or program's physician before admission to the opioid treatment program;
5. have had a full medical exam, including results of serology and other tests, completed within 14 days of admission; and
6. have a documented history of opiate addiction.

#### **B. Treatment Phases**

1. Initial Treatment. During the initial treatment phase that lasts from three to seven days in duration, the provider shall:

- a. conduct client orientation;
- b. provide individual counseling; and
- c. develop the initial treatment plan including initial dose of medication and plan for treatment of critical health or social issues.

2. Early Stabilization. In the early stabilization period that begins on the third to seventh day following initial treatment through 90 days duration, the provider shall:

- a. conduct weekly monitoring by a nurse of the client's response to medication;
- b. provide at least four individual counseling sessions;
- c. revise the treatment plan within 30 days to include input by all disciplines, the client and significant others; and
- d. conduct random monthly drug screen tests.

3. Maintenance Treatment. In the maintenance treatment phase that follows the end of early stabilization and lasts for an indefinite period of time, the provider shall provide:

a. random monthly drug screen tests until the client has negative drug screen tests for 90 consecutive days as well as random testing for alcohol when indicated;

b. thereafter, monthly testing to clients who are allowed six days of take-home doses, as well as random testing for alcohol when indicated;

c. continuous evaluation by the nurse of the client's use of medication and treatment from the program and from other sources;

d. documented reviews of the treatment plan every 90 days in the first 2 years of treatment by the treatment team; and

e. documentation of response to treatment in a progress note at least every 30 days.

4. Medically Supervised Withdrawal from Synthetic Narcotic with Continuing Care. Medically supervised withdrawal is provided if and when appropriate. If provided, the provider shall:

a. decrease the dose of the synthetic narcotic to accomplish gradual, but complete withdrawal, as medically tolerated by the client;

b. provide counseling of the type and quantity determined by the indicators and the reason for the medically supervised withdrawal from the synthetic narcotic; and

c. conduct discharge planning with continuity of care to assist client to function without support of the medication and treatment activities.

5. Required Withdrawal. The provider shall provide medically-approved and medically-supervised assistance to withdrawal from the synthetic narcotic when:

- a. the client requests withdrawal;
  - b. quality indicators predict successful withdrawal;
- or
- c. client or payer source suspends payment of fees.

#### **C. Counseling. The provider shall ensure that:**

1. counseling is provided when requested by the client or client's family;

2. written criteria are used to determine when a client will receive additional counseling;

3. the type and quantity of counseling is based on the assessment and recommendations of the treatment team;

4. written documentation supports the decisions of the treatment team, including indicators such as positive drug screens, maladjustment to new situations, inappropriate behavior, criminal activity, and detoxification procedure; and

5. all counseling is provided individually or in homogenous groups, not to exceed 12 clients.

D. Physical Evaluations/Examinations. The provider shall ensure that each client has a documented physical

evaluation and examination by a physician or advanced practice registered nurse as follows:

1. upon admission;
2. every other week until the client becomes physically stable;
3. as warranted by client's response to medication during the initial stabilization period or any other subsequent stabilization period;
4. after the first year and annually thereafter; and
5. any time that the client is medically unstable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1721 (September 2015).

#### **§5727. Additional Staffing Requirements**

A. The provider's opioid treatment program shall have the following staff in addition to the general staffing requirements.

##### **1. Pharmacist or Dispensing Physician**

a. An opioid treatment program that dispenses prescription medication on-site shall employ or contract with a pharmacist or dispensing physician to assure that any prescription medication dispensed on-site meets the requirements of applicable state statutes and regulations.

b. The pharmacist or dispensing physician shall have a current, valid unrestricted license to practice in the state of Louisiana.

c. The provider's pharmacist or dispensing physician shall:

- i. provide on-site services;
- ii. dispense all medications;
- iii. consult with the provider as needed;
- iv. evaluate medication policy and procedure of provider to dispense medications;
- v. reconcile inventories of medications that were dispensed and/or administered at least every 30 days;
- vi. maintain medication records for at least three years in accordance with state laws, rules and regulations; and
- vii. approve all transport devices for take-home medications in accordance with the program's diversion control policy.

##### **2. Nursing**

a. The provider shall maintain a nursing staff sufficient to meet the needs of the clients.

b. Each nurse shall have a current unrestricted license to practice nursing in the state of Louisiana.

c. The responsibilities of the nurse(s) include but are not limited to:

- i. administering medications; and
- ii. monitoring the client's response to medications.

##### **3. Licensed Mental Health Professionals**

a. The provider shall maintain a sufficient number of LMHPs to meet the needs of its clients and there is at least one LMHP or UP on site when clinical services are being provided.

b. The provider shall ensure that:

- i. the caseload of the LMHP shall not exceed 75 active clients; and
- ii. there is an LMHP on site at least five hours/week.

##### **4. Unlicensed Professionals**

a. The provider shall have UPs sufficient to meet the needs of the clients.

b. The caseload of the UP shall not exceed 75 active clients.

5. Physician or APRN. There shall be a physician or APRN who is on-site as needed or on-call as needed during hours of operation.

B. Training. All direct care employees shall receive orientation and training for and demonstrate knowledge of the following, including, but not limited to:

1. symptoms of opiate withdrawal;
2. drug screen testing and collections;
3. current standards of practice regarding opiate addiction treatment;
4. poly-drug addiction; and
5. information necessary to ensure care is provided within accepted standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1721 (September 2015).

#### **§5729. Medications**

A. The provider shall ensure that all medications are administered by a nurse, pharmacist or other practitioner licensed under state law and authorized by federal and state law to administer or dispense opioid drugs.

##### **B. Take-Home Dose(s)**

1. The provider shall ensure that:

a. determinations for take-home dose(s) and the factors considered are made by the client's treatment team and are documented in the client's record when each take-home dose is authorized;

b. date and recommended dosage are documented in the client's record; and

c. take-home dose(s) are ordered by the medical director.

2. The provider shall ensure that the following factors are considered by the medical director and treatment team before a take-home dose is authorized by the treatment team:

a. a negative drug/alcohol screen for at least 30 days;

b. documented regularity of clinic attendance relative to treatment plan;

c. absence of serious behavioral problems;

d. absence of known criminal activity;

e. absence of known drug related criminal activity during treatment;

f. stability of home environment and social relationships;

g. assurance that take-home medication can be safely stored; and

h. whether the benefit to the client outweighs the risk of diversion.

3. Standard Schedule. The provider shall abide by the following schedule of take-home, therapeutic doses when a take-home dose is authorized:

a. after the first 30 days of treatment, and during the remainder of the first 90 days of treatment, one take-home, therapeutic dose per week;

b. in the second 90 days of treatment, two doses, consisting of take-home, therapeutic doses, may be allowed per week;

c. in the third 90 days of treatment, three doses consisting of take-home, therapeutic doses may be allowed per week;

d. in the final 90 days of treatment during the first year, four doses consisting of take-home, therapeutic doses may be allowed per week;

e. after one year in treatment, a six-day dose supply consisting of take-home, therapeutic doses may be allowed once a week;

f. after two years in treatment, a 13-day dose supply consisting of take-home, therapeutic doses may be allowed once every two weeks.

4. Loss of Privilege. Positive drug screens at any time for any drug other than those prescribed shall require a new determination to be made by the treatment team regarding take-home doses.

5. Exceptions to the Standard Schedule. The provider shall request and obtain approval for an exception to the standard schedule from the state opioid authority. Any

exception shall be for an emergency or severe travel hardship.

C. Temporary Transfers or Guest Dosing. The providers involved in a temporary transfer or guest dosing shall ensure the following:

1. the receiving provider shall verify dosage prior to dispensing and administering medication;

2. the sending provider shall verify dosage and obtain approval and acceptance from receiving provider prior to client's transfer; and

3. that documentation to support all temporary transfers and guest dosing is maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1722 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1388 (July 2017).

### **§5731. Client Records**

A. In addition to the general requirements for client records, each client record shall contain:

1. recording of medication administration and dispensing in accordance with federal and state requirements;

2. results of five most recent drug screen tests with action taken for positive results;

3. physical status and use of additional prescription medication;

4. monthly or more frequently, as indicated by needs of client, contact notes and progress notes which include employment/vocational needs, legal and social status, and overall individual stability;

5. documentation and confirmation of the factors to be considered in determining whether a take-home dose is appropriate;

6. documentation of approval of any exception to the standard schedule of take-home doses and the physician's justification for such exception; and

7. any other pertinent information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1723 (September 2015).