

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

§10075. Witnesses and Subpoenas

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

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

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

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

1. give the name and address of the person or entity upon whom the subpoena is to be served;
2. precisely describe the material that is desired to be produced;
3. state the materiality thereof to the issue involved in the proceeding; and
4. include a statement that, to the best of the applicant's knowledge, the witness has such items in his possession or under his control.

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

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

§10077. Continuances or Further Hearings

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

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

1. continue the hearing to a later date and order the party(s) to produce additional evidence; or
2. close the hearing and hold the record open in order to permit the introduction of additional documentary evidence:
 - a. any evidence submitted shall be made available to both parties and each party shall have the opportunity for rebuttal.

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

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

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

§10079. Failure to Appear at Administrative Hearings

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

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

1. makes written application within 10 calendar days after the mailing of the dismissal notice; and
2. provides evidence of good cause for his/her failure to appear at the hearing.

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

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

Subchapter G. Medication Attendant Certified

§10080. Definitions

Abuse—

1. the willful infliction of injury;
2. unreasonable confinement;
3. intimidation; or
4. punishment with resulting physical harm, pain, or mental anguish.

Department—the Louisiana Department of Health (LDH).

LBP—the Louisiana Board of Pharmacy.

LSBN—the Louisiana State Board of Nursing.

LSBPNE—the Louisiana State Board of Practical Nurse Examiners.

Licensed Nurse—a licensed registered nurse or a licensed practical nurse or a RN or LPN practicing in the state under a multistate license from a compact state with a privilege to practice (PTP) in Louisiana in accordance with applicable state statutes and regulations.

Licensed Practical Nurse—a person licensed by the LSBPNE to practice practical nursing in Louisiana or a RN or LPN practicing in the state under a multistate license from a compact state with a PTP in Louisiana.

Medication Attendant Certified (MAC)—a person certified by LDH to administer medications to nursing facility residents, hereafter referred to as a MAC.

Nurse Aide—an individual who has completed a nurse aide training and competency evaluation program (NATCEP) approved by the state as meeting the requirements of 42 Code of Federal Regulations (CFR), §§483.151-483.154, or has been determined competent as provided in 42 CFR, §483.150(a) and (b), and is listed as certified and in good standing on Louisiana's nurse aide registry.

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

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

Registered Nurse (RN)—a person licensed by the LSBN to practice professional nursing in Louisiana or practicing in Louisiana under a PTP.

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

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

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

§10081. General Provisions

A. The Department of Health (LDH) establishes provisions for the use of medication attendants certified (MACs) in licensed nursing facilities. The department shall maintain a registry of individuals who have, at a minimum, successfully:

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

B. The MAC registry shall contain the following items:

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

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

- i. abuse;
- ii. neglect;
- iii. extortion;
- iv. exploitation and misappropriation of property;

and

v. an accurate summary of findings after action on findings are final and after any appeal is ruled upon or the deadline for filing an appeal has expired;

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

k. a current, monitored e-mail address.

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

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

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

F. Reciprocity. A person who holds a valid license, registration or certificate as a medication attendant issued by another state shall also be certified in Louisiana if the transferring state's training program is at least 120 hours or more and the applicant passes the state-approved MAC competency examination.

1. The applicant shall submit a request for reciprocity to the registry.

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

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

G. When issued, an initial certificate shall be valid for 12 months from the date of issue. The registry will renew the certificate if:

1. a certificate holder has completed four hours of state-approved continuing education administered by an approved institution focusing on medication administration prior to expiration of the certificate; and

2. a certificate holder has worked at least 400 hours per year in a licensed nursing facility.

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

I. A person whose certificate has expired shall not engage in activities that require a certificate until the certificate has been renewed.

J. A MAC shall function under the direct supervision of a licensed registered or practical nurse on duty at the nursing facility. Although the performance of selected medication administration tasks are delegated to the MAC by the registered nurse, the registered nurse retains the accountability for the total nursing care of the resident, regardless of whether the care is provided solely by the registered nurse or by the registered nurse in conjunction with other licensed or unlicensed assistive personnel. The MAC shall:

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

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

K. Persons employed as MACs in a nursing facility shall comply with the requirements relating to nurse aides as set forth in the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203 and minimum licensure standards for nursing facilities or subsequent amendments. Requirements are met if the individual is:

1. a student enrolled in an accredited school of practical nursing or program for the education of vocational nurses who is administering medications as part of the student's clinical experience; or

2. a trainee in a medication assistant training program approved by the department under this Chapter who is administering medications as part of the trainee's clinical experience.

L. Restriction. While on duty, a MAC's sole function shall be to administer medications to residents. Persons employed as medication attendants in a nursing facility may not be assigned additional responsibilities. If medication administration has been completed, they may assist in other areas.

M. Nursing facilities may count the MAC in required nursing hours.

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

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

§10082. General Requirements

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

1. be proficient in reading, writing, speaking, and understanding the English language at a minimum eighth

grade level as evidenced by the MAC training program's required entry placement test scores.

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

3. be at least 18 years of age;

4. complete a required health and physical examination;

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

6. be currently employed in a facility as a certified nurse aide (CNA) on the first official day of an applicant's medication attendant training program or be a graduate of a nursing program;

7. have a minimum of one year experience in a nursing home as a CNA or be a graduate of a nursing program; and

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

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

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

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

C. All medication attendant training and competency evaluation programs must be approved by the department.

D. Each training and competency evaluation program shall:

1. maintain qualified, approved registered nurses and licensed practical nurses for classroom and clinical instruction;

2. protect the integrity of the competency evaluations by keeping them secure;

3. utilize a pass rate of at least 80 percent for each individual student; and

4. assure the curriculum meets state requirements.

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

F. Training programs that do not meet the minimum standards and cannot provide an acceptable plan for

correcting deficiencies shall be eliminated from participation.

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

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

§10083. Coordinators, Instructors, and Trainers

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

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

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

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

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

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

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

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

1. Such experience may be obtained through employment in:

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

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

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

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

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

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

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

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

D. Trainees

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1415 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1249 (May 2012), amended by the Department of

Health, Bureau of Health Services Financing, LR 46:31 (January 2020).

§10084. Training Curriculum

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

1. communicate and interact competently on a one-to-one basis with residents as part of the team implementing resident care;
2. demonstrate sensitivity to the resident's emotional, social and mental health needs through skillful, directed interactions;
3. exhibit behavior to support and promote the rights of residents; and
4. demonstrate proficiency in the skills related to medication administration.

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

1. an explanation of the facility's organizational structure;
2. the facility's policies and procedures;
3. discussion of the facility's philosophy of care;
4. a description of the resident population; and
5. employee policies and procedures.

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

1. The core curriculum shall be a minimum of 120 hours in length with a minimum of 45 clinical hours.
2. Each unit objective shall be behaviorally-stated for each topic of instruction. Each objective must state performance criteria which are measurable and will serve as the basis for the competency evaluation.

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

1. the basic principles of medication administration and the responsibilities of the medication attendant including:
 - a. the role and functions of a MAC;
 - b. the professional relationship between the MAC and the residents and their families; and
 - c. prohibited functions or duties;

2. definition of nurse delegation;
3. definition of the basic terms used in medication administration, including identification of the abbreviations used in medication orders and on the medication administration records;
4. review of the various forms of medications;
5. methods of medication administration including:
 - a. proper positioning of resident for various medication administrations; and
 - b. the value of good body alignment prior to and after medication administration;
6. requirements for proper storage and security of medications;
7. proper methods for disposal of drugs;
8. infection control;
9. basic anatomy and physiology;
10. the functions of the gastrointestinal, musculoskeletal, integumentary, nervous, sensory, renal and urinary, reproductive, cardiovascular, respiratory, and endocrine systems;
 - a. description of the common disorders associated with these systems; and
 - b. the effect of aging on these systems;
11. definition of pharmacology including:
 - a. medication classifications,
 - b. a description of a controlled drug and how administration of these drugs differ;
 - c. the cycle of a drug in the body; and
 - d. side effects of medications;
12. the safe administration of all forms of oral medication including:
 - a. a description of the difference among all forms of oral medication; and
 - b. special precautions observed when administering timed-release capsules, enteric-coated tablets and oral suspensions;
13. appropriate procedures to follow when the resident is NPO "nothing by mouth", dysphagic, refuses the medication, vomits the medication, or has allergies;
14. application of topical medications and the standard precautions utilized in administering a topical medication;
15. the safe instillation of ophthalmic drops and ointments;
16. the safe administration of nose drops;
17. proper technique for administration of inhalant medications including:

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

18. the safe administration of a rectal suppository;

19. the safe administration of a vaginal medication;

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

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

22. the importance of the "chain of command;"

23. developing effective communication and interpersonal skills;

24. maintaining communication with the licensed nurse including:

a. a description of the situations that must be reported to the nurse;

25. the purpose of the clinical record and the importance of timely, clear and complete documentation in the medication administration record;

26. methods for avoiding medication errors:

a. reporting and documentation requirements when medication errors occur;

27. a resident's rights related to medication administration;

28. a discussion of the "rights" of medication administration;

29. the application and certification; and

30. violations of the laws and rules that may result in disciplinary action and/or loss of certification.

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

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

§10085. Competency Evaluation

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

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

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

after a MAC has successfully completed the training and competency evaluation, the training entity shall notify the registry.

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

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

§10086. Authorized Duties

A. The MAC may perform certain duties and functions under the direct supervision of a licensed nurse. These authorized duties shall apply to medication attendant trainees under the supervision of the clinical instructor. The ratio of MACs to licensed nurses shall not exceed two medication attendants to one licensed nurse at any given time.

B. MACs may:

1. observe and report to the licensed nurse a resident's adverse reaction to a medication;

2. administer medications which require vital signs only with direct authorization from the licensed nurse prior to administration;

3. take and record vital signs prior to the administration of medication that could affect or change the vital signs;

4. in an emergency only, administer oxygen at 2 liters per minute per nasal cannula and immediately after the emergency, verbally notify the licensed nurse on duty and appropriately document the action and notification;

5. administer regularly prescribed medication only after personally preparing (setting up) the medications to be administered;

6. deliver and administer certain prescribed medications ordered by an authorized prescriber by the following methods:

a. orally;

b. topically (to intact skin only);

c. drops and sprays for the eye, ear or nose;

d. vaginally;

e. rectally;

f. transdermally;

g. by metered dose oral inhalation; or

h. sublingually;

7. record medications administered in the resident's chart and/or medication administration record;

8. chart medication effects and side effects;

9. administer medications which require vital signs, only with direct authorization from the licensed nurse prior to administration:

a. the results of the vital signs must be documented in the clinical record;

10. administer pro re nata (prn), as needed medications only with direct authorization of the licensed nurse;

11. measure prescribed liquid medication only if verified by the licensed nurse prior to administration; and

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

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

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

§10087. Prohibited Duties

A. Medication attendants certified shall not:

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

2. administer any medications by the following parenteral routes:

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

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

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

5. calculate medication doses for administration;

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

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

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

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

10. steal, divert or otherwise misuse medication;

11. violate any provision of this Chapter;

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

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

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

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

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

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

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

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

§10088. Provider Participation and Responsibilities

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

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

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

D. The following information shall be provided prior to acceptance in the program:

- 1. the number of beds for the entire nursing facility and beds per unit;
- 2. the type of nursing facility;
- 3. the plan for orientation and utilization of MACs, including orientation of all staff to the role of MACs;

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

5. a statement that the nursing facility will utilize the MACs in accordance with the department's rules and regulation and will provide evaluation information as indicated.

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

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

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

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

§10089. Allegations of Medication Attendant Certified Wrong-Doing

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

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

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

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

C. Through the formal hearing process, determinations will be made on both the certificate for medication attendant and the certificate for nurse aide practice.

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

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

§10090. Suspension, Revocation or Denial of Renewal

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

B. The following are grounds for disciplinary actions:

1. stealing, diverting or otherwise misusing medication;
2. procuring or attempting to procure a certificate by fraudulent means; or
3. violating any provision of this Chapter.

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

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

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

1. determines that the reason for suspension no longer exists;
2. revokes the certificate; or
3. determines not to renew the certificate.

F. The department shall investigate prior to making a final determination on a suspended certificate. During the time of suspension, the suspended certificate holder shall return his certificate to the department.

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

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

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

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

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

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Department of Health and Hospitals, Bureau of Health Services
Financing, LR 38:1250 (May 2012), amended by the Department

of Health, Bureau of Health Services Financing, LR 46:33 (January
2020).