

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 16:971 (November 1990), LR 21:177 (February 1995), LR 29:2401 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1413 (June 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1074 (June 2023).

Stephen R. Russo, JD
Secretary

2306#051

RULE

Department of Health Bureau of Health Services Financing

Nursing Facilities—Licensing Standards (LAC 48:I.Chapter 97 and 9911)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.Chapter 97 and §9911 as authorized by R.S. 36:254 and 40:2009.1-2009.44. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 97. Nursing Facilities

Subchapter A. General Provisions

§9701. Definitions

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Local Office of Emergency Preparedness (OEP)—a parish office of homeland security and emergency preparedness established pursuant to R.S. 29:727.

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Nursing Facility—Repealed.

Nursing Home and/or Nursing Facility—a nursing home or nursing facility as defined in R.S. 40:2009.2 that is licensed by the Department of Health (LDH) in accordance with the requirements of R.S. 40:2009.3.

* * *

Unlicensed Sheltering Site—any location within or outside the state of Louisiana that is not licensed as a nursing facility by the LDH in accordance with the R.S. 40:2009.3, or not licensed as a nursing facility by another state, when such location is used for evacuation purposes.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1891 (November 2016), amended LR 46:1393 (October 2020), LR 49:1075 (June 2023).

§9727. Incident Reporting Requirements

A. A nursing facility shall have written procedures for the reporting and documentation of actual and suspected incidents of abuse, neglect, misappropriation of property/funds, and suspicious death. Major injuries of unknown origin (e.g., fractures, burns, suspicious

contusions, head injuries, etc.) for which the nursing facility is unable to determine the cause and could possibly be the result of abuse or neglect shall also be reported. Such procedures shall ensure that:

1. ...

2. all alleged violations involving abuse, neglect, exploitation, or mistreatment, including injuries of unknown origin and misappropriation of resident property, are reported immediately, but not later than two hours after the allegation is made or discovered, to the administrator of the facility and to other officials (including Health Standards Section (HSS) and law enforcement) where state law provides jurisdiction, if the events that caused the allegation involve abuse or result in a serious bodily injury; or not later than 24 hours after the events that caused an allegation which does not involve abuse or result in serious bodily injury, to the administrator of the facility and to other officials;

3. allegations of an event that do not involve abuse or result in serious bodily injury shall be reported to the administrator of the facility and HSS not later than 24 hours after the occurrence of or discovery of the incident. The nursing facility shall utilize the current department reporting database system to provide notification;

NOTE: Repealed.

4. - 5. ...

6. immediate attempts are made to notify other involved agencies and parties as appropriate;

7. immediate notification is made to the appropriate law enforcement authority whenever warranted; and

8. the nursing facility is required to maintain internet access and to keep the department informed of its active and monitored electronic mail address at all times.

B. - C. ...

D. A final report with the results of all investigations shall be reported to HSS within five working days of the incident through use of the current department reporting database system. The report shall include:

D.1. - F.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1900 (November 2016), amended LR 49:1075 (June 2023).

Subchapter B. Organization and General Services

§9761. Policies and Procedures

A. There shall be written policies and procedures that:

1. are available to staff, residents and legal representatives governing all areas of care and services provided by the nursing facility;

2. ensure that each resident receives the necessary care and services to promote the highest level of physical, medical, psychosocial functioning, and well-being of each resident;

3. are developed with the advice of a group of professional personnel consisting of at least a currently licensed physician, the administrator, and the director of nursing services;

4. are revised as necessary, but reviewed by the professional personnel group referenced in Paragraph A.3 of this Section at least annually;

5. are available to admitting physicians;

6. reflect an awareness of, and provisions for, meeting the total physical, medical, and psychosocial needs of residents, including admission, transfer and discharge planning, and the range of services available to residents, including frequency of physician visits by each type of similarly diagnosed resident admitted; and

7. are approved by the governing body.

B. The nursing facility shall develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property.

1. The nursing facility's personnel, visitors, and residents shall not use verbal, mental, sexual or physical abuse, corporal punishment, or involuntary seclusion.

2. The nursing facility shall develop and implement policies and procedures for screening and training employees, for protection of the residents, and for the preventing, identifying, investigating, and reporting of abuse.

C. The nursing facility shall develop and implement policies and procedures to prevent, respond to, report, and mitigate instances of healthcare workplace violence.

D. The nursing facility is not required to admit registered sex offenders; however, if the nursing facility admits a registered sex offender, then the nursing facility shall develop policies and procedures to ensure that residents, their family members, and/or their responsible parties or guardians are notified upon admission of sex offenders living in the facilities. Such policies and procedures must include provisions for addressing the safety and well-being of other residents, staff, and visitors. The requirement of notification shall continue for as long as the information is considered a public record.

E. The administrator or his designee is responsible, in writing, for the execution of such policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1903 (November 2016), amended LR 49:1075 (June 2023).

§9767. Emergency Preparedness

A. General Provisions

1. The nursing facility shall have an emergency preparedness plan that conforms to the format and specifications and the licensing regulations promulgated herein (see the Louisiana Model Nursing Home Emergency Plan). The plan shall be designed to manage the consequences of all hazards, declared disasters, or other emergencies that either have the potential to disrupt and/or actually disrupt the nursing facility's ability to provide care and treatment, or threatens the health, safety, and welfare of the residents. The nursing facility shall follow and execute its emergency preparedness plan in the event of a declared disaster or other emergency.

2. All nursing facilities shall submit their full, updated emergency preparedness plan to the department for approval on its current emergency preparedness webpage or electronic database. The emergency preparedness plan shall be signed by the nursing home's owner or owners, or any designee of such parties, and its administrator.

a. - d. Repealed.

3. The nursing facility's emergency preparedness plan shall include a shelter in place plan and an evacuation plan,

both of which shall be activated at least once annually, either in response to an emergency or in a planned drill.

4. The nursing facility's emergency preparedness plan shall be individualized, site specific, current, and correct, and it shall comport with all requirements in Subsections C and D of this Section below.

5. The nursing facility's plan shall follow all applicable laws, standards, rules, or regulations, including R.S. 40:2009.25.

B. Emergency Preparedness Plan Approval Process

1. The review and approval of nursing home emergency preparedness plans by the department and each entity listed in Paragraph 3.a of this Subsection below shall be performed pursuant to each reviewing entities' respective areas of knowledge, expertise, or jurisdiction.

a. - d.iii. Repealed.

2. The departmental review and approval process required by this Subsection may include transmittal to any other local, parish, regional, or other state agencies or entities for consultation as the department deems appropriate. Each such agency or entity shall cooperate and contribute to the department's review and approval process, as required by state statute.

3. Departmental Review, Transmittal, and Approval of Emergency Preparedness Plan

a. The department shall conduct a review and, if appropriate, approval of each nursing home's emergency preparedness plan submitted to it via the current department emergency preparedness webpage or other electronic database. The departmental review and approval process required by this Subsection shall include transmittal of each nursing home's emergency preparedness plan to all of the following entities for review by those entities:

i. the Office of State Fire Marshal(OSFM);

ii. the Governor's Office of Homeland Security and Emergency Preparedness;

iii. the Department of Transportation and Development;

iv. the Louisiana Emergency Response Network;

v. the local office of emergency preparedness (OEP) of the parish in which the nursing home is located; and

vi. the local OEP of any parish in which an evacuation site, including any unlicensed sheltering site, as identified in the nursing home's emergency preparedness plan, is located.

b. After review of a nursing home emergency preparedness plan by the entities listed above, the department shall either issue final approval of the emergency preparedness plan or require changes, amendments, or other revisions to the emergency preparedness plan. The department shall notify the nursing home that submitted the plan of the department's decision.

i. - vi. Repealed.

NOTE: Repealed.

4. Emergency Preparedness Plan Review by Other Entities

a. Each entity listed in Paragraph 3.a above of this Subsection shall review each nursing home emergency preparedness plan submitted to it, and shall submit one of the following documents to the department within 90 days of receipt of the emergency preparedness plan from the department:

i. a letter of preliminary approval of the nursing home's emergency preparedness plan; or

ii. a letter detailing what changes, amendments, or revisions to the emergency preparedness plan are necessary.

b. any entity listed in Paragraph 3.a of this Subsection that does not respond to the department concerning a nursing home emergency preparedness plan within 90 days of receipt of the plan shall be deemed to have been granted preliminary approval to the plan.

5. Revision and Resubmission of Emergency Preparedness Plan

a. Within 15 days of receipt by the nursing home of an electronic notification from the department that the nursing home's emergency preparedness plan requires changes, amendments, or revisions, the nursing home shall update and revise its emergency preparedness plan to incorporate the required changes, amendments, or revisions, and shall return a copy of the updated and revised emergency preparedness plan to the department.

b. After receipt of the nursing home's updated and revised emergency preparedness plan within the 15 day time period, the department may, at its discretion, schedule a conference call with the nursing home to get clarification, information, or edits from the nursing home; such conference call may result in the nursing home submitting an additional updated or revised emergency preparedness plan.

c. The department shall review the nursing home's updated and revised emergency preparedness plan to confirm that all required changes, amendments, or revisions have been incorporated into the plan, and it shall approve the emergency preparedness plan and issue an approval letter to the nursing home. If the required changes, amendments, or revisions have not been incorporated, the department shall reject the emergency preparedness plan and issue a letter of rejection to the nursing home. The department shall not issue a license to or renew a license of a nursing home that has received a letter of rejection of its emergency preparedness plan.

6. Each nursing home shall transmit, if available, a copy of its final, approved emergency preparedness plan and a copy of the approval letter from the department to the OSFM and the applicable local office or OEP. If the nursing home received a letter of rejection from the department, the nursing home shall transmit a copy of that letter to the OSFM and the applicable local office or OEP.

7. Emergency Preparedness Plan Submission Deadlines for Nursing Facilities Located in Coastal Parishes

a. The following deadlines shall apply to each nursing home located in the parishes of Acadia, Ascension, Assumption, Calcasieu, Cameron, Iberia, Jefferson, Jefferson Davis, Lafayette, Lafourche, Orleans, Plaquemines, Saint Bernard, Saint Charles, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, and Vermilion.

b. Each nursing home located in a parish listed in this Paragraph shall develop its emergency preparedness plan on or before August 30, 2022, pursuant to Act 522 of the 2022 Regular Session of the Louisiana Legislature.

c. Each nursing home located in a parish listed in this Paragraph shall submit copies of its emergency preparedness plan to the department on or before September

1, 2022, pursuant to Act 522 of the 2022 Regular Session of the Louisiana Legislature.

d. The department shall transmit its notification letter approving or rejecting the emergency preparedness plan to all nursing homes located in a parish listed in this Paragraph on or before March 1, 2023.

e. The department shall either approve or reject all resubmitted emergency preparedness plans and transmit to the nursing homes located in a parish listed in this Paragraph an approval or rejection letter on or before May 15, 2023.

f. Each nursing home located in a parish listed in this Paragraph shall transmit a copy of its final, approved emergency preparedness plan and the approval letter from the department, or alternatively it shall transmit the rejection letter it received from the department, to the OSFM and the applicable local office or OEP on or before May 31, 2023.

8. Emergency Preparedness Plan Submission Deadlines for Nursing Facilities Located in Non-Coastal Parishes

a. The following deadlines shall apply to each nursing home located in the parishes of Allen, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberville, Jackson, LaSalle, Lincoln, Livingston, Madison, Morehouse, Natchitoches, Ouachita, Pointe Coupee, Rapides, Red River, Richland, Sabine, Saint Helena, Saint Landry, Tensas, Union, Vernon, Washington, Webster, West Baton Rouge, West Carroll, West Feliciana, and Winn.

b. Each nursing home located in a parish listed in this Paragraph shall develop its emergency preparedness plan on or before August 30, 2023.

c. Each nursing home located in a parish listed in this Paragraph shall submit copies of its emergency preparedness plan to the department on or before September 1, 2023.

d. The department shall transmit its notification letter approving or rejecting the emergency preparedness plan to all nursing homes located in a parish listed in this Paragraph on or before March 1, 2024.

e. The department shall either approve or reject all resubmitted emergency preparedness plans and transmit to nursing homes located in a parish listed in this Paragraph an approval or rejection letter on or before May 15, 2024.

f. Each nursing home located in a parish listed in this Paragraph shall transmit a copy of its final, approved emergency preparedness plan and the approval letter from the department, or alternatively it shall transmit the rejection letter it received from the department, to the OSFM and the applicable local office or OEP on or before May 31, 2024.

9. Annual Review of Emergency Preparedness Plan

a. On or before October 31, 2023, and annually thereafter each nursing home located in the parishes listed in Subsection B.7 above shall review its emergency preparedness plan.

b. On or before October 31, 2024, and annually thereafter, each nursing home located in the parishes listed in Subsection B.8 above shall review its emergency preparedness plan.

c. In conducting the annual review required by this Paragraph, a nursing home shall review any changes in the

state licensing rules and regulations and any changes in federal rules and regulations for nursing homes that have been adopted since the date of its last review of its emergency preparedness plan.

d. If a nursing home conducts a review and determines that no changes, modifications, or amendments to its emergency preparedness plan are necessary, then the nursing home shall notify all of the following entities of this determination on or before November 1 of the current review period:

i. the local OEP of the parish in which the nursing home is located;

ii. the local OEP of any parish in which a sheltering site, alternative sheltering site, or evacuation site, as identified in the nursing home's emergency preparedness plan, is located;

iii. the OSFM; and

iv. the department.

e. Each notification required by Subparagraph 9.d above shall be in the form of a written attestation signed by the owner or owners, or any designee of such parties, and the administrator of the nursing home submitting the notification. A nursing home may submit an attestation provided for in this Subparagraph for no more than four consecutive years.

f. If the nursing home conducting the annual review determines that any changes, modifications, or amendments are necessary, or if the nursing home has previously submitted an attestation, as provided for in Subparagraph 9.e above, for four consecutive years, then the nursing home shall furnish a full emergency preparedness plan, prepared in accordance with the requirements and procedures provided in Subsections A through D of Section 9767, to the department on or before November 1 of the current review period.

i. Following review of the full emergency preparedness plan submitted in accordance with Subparagraph 9.f above, the department shall notify the nursing home of its decision to either approve the plan or to require changes, amendments, or revisions to the plan on or before March 1 of the current review period.

ii. In the event that the department requires changes, amendments, or revisions to the nursing home's emergency preparedness plan, the nursing home shall update and revise the plan to incorporate the required changes, amendments, or revisions, and it shall resubmit the plan to the department within 15 days of its receipt of the electronic notification from the department that changes, amendments, or revisions are required.

iii. After receipt of the nursing home's amended plan within the 15 day time period, the department may, at its discretion, schedule a conference call with the nursing home to get clarification, information, or edits from the nursing home; such conference call may result in the nursing home submitting an additional updated or revised emergency preparedness plan.

iv. The department shall review the nursing home's updated and revised emergency preparedness plan to confirm that the required changes have been incorporated into the updated plan and it shall issue an approval or rejection letter to the nursing home on or before May 15 of the current review period.

(a). The department shall not issue a license to or renew a license of a nursing home that has received a letter of rejection of its emergency preparedness plan.

v. The nursing home shall transmit a copy of its final, approved emergency preparedness plan and a copy of the approval letter, or in the alternative, a copy of the rejection letter it received from the department, to the OSFM and the applicable local office or OEP on or before May 31 of the current review period.

(a). The nursing home shall submit the final, approved emergency preparedness plan to the above recipients in electronic format, if available.

C. Contents of Emergency Preparedness Plan

1. Each nursing home's written emergency preparedness plan shall identify, at a minimum, a primary evacuation site location and a secondary evacuation site location for emergencies or disasters. Such evacuation site locations may include the premises of other nursing homes, unlicensed sheltering sites, or both. Each such plan shall include and identify, at a minimum, all of the following:

a. the procedures and criteria used for determining when the nursing facility will evacuate, including a listing of specific evacuation determinations for those procedures and criteria;

b. the procedures and criteria used for determining when the nursing facility will shelter in place, including a listing of specific sheltering in place determinations for those procedures and criteria;

c. a primary evacuation site and a secondary evacuation site, as well as any other alternative evacuation sites that the nursing home may have;

i. these evacuation sites shall be evidenced by written agreements or contracts that have been signed and dated by all parties; and

ii. a nursing facility shall accept only the number of residents for which it is licensed unless prior written approval has been secured from the department or if the nursing facility is acting as an evacuation site during a declared or non-declared emergency;

d. the policies and procedures for mandatory evacuations, which shall provide that if the state, parish, or local office of emergency preparedness (OEP) orders a mandatory evacuation of the parish or area in which the nursing facility is located, the nursing facility shall evacuate unless the nursing facility receives a written exemption from the ordering authority prior to the mandated evacuation;

e. a plan for monitoring emergency alerts or notifications, including weather warnings and watches, as well as evacuation orders from local and state emergency preparedness officials;

i. this monitoring plan shall identify the staff position who will perform the monitoring, what equipment will be used for monitoring, and who should be contacted if needed; and

ii. the nursing facility shall have plans for monitoring during normal daily operations and when sheltering in place or during evacuations;

f. the policies and procedures for the delivery of essential care and services to residents, whether the residents are housed in the nursing facility, at an off-site location, or when additional residents are housed in the nursing facility during an emergency;

g. the policies and procedures for inspection by the nursing facility, for any damage to its entire facility during and post-event;

h. the provisions for the management of staff, including sufficient and competent staffing, and the distribution and assignment of staff responsibilities and functions, either within the nursing facility or at another location;

i. an executable plan for coordinating transportation services that are sufficient to accommodate the resident census and staff. The vehicles required for evacuating residents to another location shall be equipped with temperature controls. The plan shall include the following information:

i. a system to identify residents who require specialized transportation and medical needs, including the number of residents who will be classified as:

(a). red—high risk residents who will need to be transported by advanced life support ambulance due to dependency on mechanical or electrical life sustaining devices or very critical medical condition;

(b). yellow—residents who are not dependent on mechanical or electrical life sustaining devices, but cannot be transported using normal means (buses, vans, cars), and may need to be transported by a BLS ambulance. However, in the event of inaccessibility of medical transport, buses, vans, or cars may be used as a last resort; or

(c). green—residents who need no specialized transportation and may be transported by car, van, bus, or wheelchair accessible transportation;

j. a copy of the primary and secondary written transportation agreements for the evacuation of residents and staff that is signed and dated by all parties. Vehicles that are owned by, or are at the disposal of the nursing facility, shall have written usage agreements that are signed, dated and shall include verification of ownership, which shall include a copy of the vehicle's title or registration and the following information:

i. the number and type of vehicles;

ii. the capacity of each vehicle;

iii. a statement that each vehicle is equipped with temperature controls; and

iv. a statement that each vehicle is in good working condition;

k. policies and procedures outlining how the facility will prevent and treat heat-related medical illnesses due to the failure of temperature controls or due to other circumstances during transport;

l. the nursing facility's procedures for notifying the evacuation host site(s) local OEP, and the resident's family, legal representative or designated contact, and the department when the facility initiates its evacuation plan. The nursing facility shall have a staff position designated who is responsible for generating and documenting all attempts of notifications to the local OEPs, resident's family or responsible representative, and the department.

m. policies and procedures to ensure that an identification is directly attached to the nursing facility resident. The nursing facility shall designate a staff position to be responsible for this procedure and documentation. This identification shall remain directly attached to the resident

during all phases of an evacuation and shall include, but not be limited to, the following information:

i. current and active diagnosis;

ii. medications, including dosage and times administered;

iii. allergies;

iv. special dietary needs or restrictions;

v. advanced directive, if applicable; and

vi. next of kin or responsible party, including contact information and relationship to resident;

n. policies and procedures, as well as a designated staff position who is responsible for ensuring, documenting, and certifying that a sufficient supply of the following items accompanies residents on buses or other transportation during all phases of an evacuation:

i. water;

ii. food;

iii. nutritional supplies and supplements;

iv. medication(s); and

v. other necessary supplies;

o. staffing patterns for evacuation and the procedures for ensuring that all residents have access to licensed nursing staff and that appropriate nursing services are being provided during all phases of the evacuation, including transport of residents. For buses or vehicles transporting 15 or more residents, licensed nursing staff shall accompany the residents on the bus or vehicle. A licensed therapist who is BLS certified, or paramedic, may substitute for licensed nursing staff;

p. a plan for sheltering in place if the nursing facility determines that sheltering in place is appropriate, which shall include:

i. policies and procedures to ensure that seven days of necessary supplies are on hand for the duration of the shelter in place, or including any written agreements, with timelines, for how supplies will be delivered prior to the emergency event. The plan shall include a staff position responsible for ensuring and documenting that the necessary supplies are available. Supplies shall include, but are not limited to:

(a). drinking water or fluids, a minimum of one gallon per day, per person;

(b). water for sanitation, a minimum of three gallons per day, per person;

(c). non-perishable food, including special diets;

(d). medications;

(e). medical supplies;

(f). personal hygiene supplies; and

(g). sanitary supplies;

ii. policies and procedures for maintaining and posting a communications plan for contacting emergency services. The nursing facility shall designate a staff position to be responsible for documenting and contacting emergency services. The communication plan shall include:

(a). the type of equipment to be used;

(b). back-up equipment to be used if available;

(c). the equipment's testing schedule; and

(d). the power supply for the equipment being used;

iii. policies and procedures addressing the supply of emergency electrical power, including but not limited to a

generator, in instances when primary electrical power in the nursing home is lost, but evacuation from the nursing home is not required. The plan shall include the type(s), size(s) and location(s) of the generator(s), if applicable. Such plan shall also include a statement indicating whether the nursing facility has a generator for sheltering in place. If the nursing facility has such a generator, the plan shall provide for fuel, either on hand or delivered prior to the emergency event. Such nursing facilities shall have fuel delivery agreements in place that will extend the uninterrupted operation of the generator or alternative electrical power source under full load to a total period of 168 hours for a single emergent event. Nursing facilities may interrupt operation of the generator or alternative electrical power source to conduct routine maintenance as recommended by manufacturer's specifications. If the nursing facility has such a generator, the plan shall also provide a list of the generator's capabilities including:

- (a). its ability to provide cooling or heating for all or designated areas in the nursing facility;
- (b). its ability to power an Office of Public Health (OPH)-approved sewerage system;
- (c). its ability to power an OPH-approved water system;
- (d). its ability to power medical equipment;
- (e). its ability to power refrigeration;
- (f). its ability to power lights; and
- (g). its ability to power communications;
- iv. an assessment of the nursing facility's building to include, but not be limited to:
 - (a). wind load or ability to withstand wind;
 - (b). flood zone and flood plain information;
 - (c). possible causes and probability of power failure;
 - (d). age of building and type of construction; and
 - (e). determinations of, and locations of interior safe zones;
 - v. policies and procedures for preventing and treating heat related medical illnesses due to the failure of or the lack of air conditioning, or due to other circumstances, while sheltering in place;
 - vi. staffing patterns for sheltering in place and for evacuation;
 - q. the nursing facility's location, physical street address with longitude and latitude, and current nursing facility contact information;
 - r. a risk assessment to determine the nursing facility's physical integrity. The physical integrity of the nursing facility and all relevant and available information shall be used in determining whether sheltering in place is appropriate. All elevations shall be given in reference to sea level or adjacent grade, as appropriate. If the facility has an unlicensed sheltering site(s) as an evacuation location, it shall also perform a risk assessment of each unlicensed sheltering site. The assessment(s) shall be reviewed annually and updated as necessary. The risk assessment shall include the nursing facility's determinations and the following information:
 - i. the nursing facility's latitude and longitude as well as the latitude and longitude for any unlicensed sheltering site;

ii. the flood zone determination for the nursing facility and any unlicensed sheltering site and base flood elevation for each, and the nursing facility shall evaluate how these factors will affect the building(s);

iii. the elevations of the building(s), heating ventilation and air conditioning (HVAC) system(s), generator(s), fuel storage, electrical service, water system and sewer motor. If applicable, the nursing facility shall evaluate how these factors will affect the viability of a site considering projected flood and surge water depths;

iv. an evaluation of the building to determine its ability to withstand wind and flood hazards to include:

- (a). the construction type and age;
- (b). the roof type and wind load;
- (c). the windows, shutters, and wind load;
- (d). the wind load of shelter building; and
- (e). the location of interior safe zones;

v. an evaluation of each generator's fuel source(s), including refueling plans, fuel consumption rate and a statement that the output of the generator(s) will meet the electrical load or demand of the required (or designated) emergency equipment;

vi. the determinations based upon an evaluation of surroundings, including lay-down hazards or objects that could fall on the building and hazardous materials, such as:

- (a). trees;
- (b). towers;
- (c). storage tanks;
- (d). other buildings;
- (e). pipe lines;
- (f). chemical and biological hazards; and
- (g). fuels;

vii. the sea, lake and overland surge from hurricanes (SLOSH) modeling using the maximum's of the maximum envelope of waters (MOM) for the nursing facility's specific location and the findings for all categories of hurricanes. The nursing facility's plan shall include an evaluation of how this will or will not affect the nursing facility;

s. the nursing facility's plan shall provide for an evaluation of security risks and corresponding security precautions that will be taken for protecting residents, staff and supplies during and after an emergency event;

t. the nursing facility's plan shall include clearly labeled and legible floor plan(s) of the nursing facility's building(s). The nursing facility's plan shall include the following:

- i. the areas being used as shelter or safe zones;
- ii. the supply and emergency supply storage areas;
- iii. the emergency power outlets;
- iv. the communications center;
- v. the location of the posted emergency floor plan, which shall be easily accessible to staff; and
- vi. a pre-designated command post.

2. - 17.f. Repealed.

D. Unlicensed Sheltering Sites

1. Additional plan requirements for unlicensed sheltering sites shall include documentation of the following for review and approval:

a. a detailed floor plan of the sheltering site, which shall include the bed layout of the sleeping area, and copies of any contracts or documentation related to the unlicensed shelters;

b. required approvals from the OSFM and the OPH as a shelter site;

c. a covered area at the entrance of the building to afford protection from the weather;

d. adequate parking area for transportation needs;

e. adequate driveway(s) to allow for easy ingress and egress of transportation;

f. that building and equipment are maintained in good repair and free of hazards;

g. the accessibility for all occupants, including those in wheelchairs or on crutches in accordance with the Americans with Disabilities Act;

h. the installment of, or a contract to provide, an alternate power source onsite which shall be sufficient to power HVAC, lighting, refrigeration, and adequate power outlets with a minimum fuel supply for 72 hours;

i. contract(s) for fuel supply deliveries;

j. a designated area for isolation;

k. an operational HVAC that maintains a comfortable temperature;

l. adequate ventilation, i.e., facility well ventilated and free of air hazards (e.g., smoke, fumes, etc.);

m. adequate space per person in sleeping area, a minimum of 60 square feet per person;

n. a kitchen area that meets OPH requirements for meal preparation or a food service contract to provide at least three meals daily per person onsite;

o. contract(s) for waste removal, including but not limited to bio-hazard;

p. adequate onsite or contracted laundry services that shall have separate areas for soiled and clean laundry;

q. adequate onsite or contracted number of working hand-washing stations, minimum one per 15 persons;

r. adequate onsite or contracted number of permanently fixed and/or portable working toilets, minimum one per 20 persons;

s. adequate onsite or contracted number of permanently fixed and/or portable working showers/bathing facilities, minimum one per 15 persons.

2. For the requirements in D.1.q, r, and s in this Subsection, an environmental waiver for the unlicensed shelter site may be granted, at the discretion of the department, if the department determines that the waiver does not jeopardize the health, safety, and welfare of the evacuated facility's residents. The facility must submit a request in writing which must include the following:

i. which specific environmental requirement waiver is being requested and why;

ii. how the facility plans to mitigate their inability to meet the requirement; and

iii. an explanation as to why the environmental requirement waiver would not endanger the health, safety, and welfare of the evacuated facility's residents.

3. On an annual basis, the department, in conjunction with the OSFM and other entities, shall inspect and survey unlicensed sheltering sites identified in nursing home emergency preparedness plans. Any refusal by an unlicensed

sheltering site to allow an inspection or survey of the site by the department may result in rejection of the unlicensed sheltering site, and the emergency preparedness plan as a whole. If such a refusal to allow an inspection or survey occurs when nursing home residents are being sheltered at the site, the facility shall cooperate with the department for orderly evacuation of residents and staff. The department may revoke the license of the nursing home that refuses to allow an inspection or survey.

4. If any unlicensed sheltering site is located outside of Louisiana, including nursing homes, the department shall coordinate with their state agency counterparts in the state in which the site is located for inspection, review, approval, and surveys of the site.

5. The local OEP of the parish in which an unlicensed sheltering site is located shall inspect the site prior to October 15, 2022, and annually thereafter. The office shall inspect any new unlicensed sheltering site identified after May 31, 2023, in a nursing home emergency preparedness plan within 30 days of receiving the plan and annually thereafter, as required by statute. The local OEP may inspect the unlicensed sheltering site at such other times as the director of the local OEP deems necessary or appropriate.

E. Emergency Preparedness Notifications and Reports

1. A nursing facility shall enter current nursing facility information into the current department emergency preparedness webpage or electronic database for reporting.

a. The following information shall be entered or updated into the current department emergency preparedness webpage or electronic database for reporting before the fifteenth day of each month:

i. operational status;

ii. current census and number of licensed beds;

iii. emergency contact and evacuation location(s);

iv. emergency evacuation transportation needs categorized by the following types:

(a). number of red—high risk residents who will need to be transported by advanced life support ambulance due to dependency on mechanical or electrical life sustaining devices or very critical medical condition;

(b). number of yellow—residents who are not dependent on mechanical or electrical life sustaining devices, but cannot be transported using normal means (buses, vans, cars), may need to be transported by a basic life support (BLS) ambulance. However, in the event of inaccessibility of medical transport, buses, vans, or cars may be used as a last resort; or

(c). number of green—residents who need no specialized transportation and can be transported by car, van, bus, or wheelchair accessible transportation.

b. A nursing facility shall also enter or update the nursing facility's information upon request, or as required following notification of an emergency declared by the secretary. Emergency events include, but are not limited to hurricanes, floods, fires, chemical or biological hazards, power outages, tornados, tropical storms, freezing temperatures, and other severe weather.

c. Upon notification of a declared emergency, and as required by the department, nursing facilities shall file an electronic report on the current department emergency preparedness webpage or electronic database for reporting.

i. the electronic report shall be filed as required by the department, but at least daily, throughout the duration of the emergency declaration.

ii. the electronic report shall include, but not be limited to, the following:

- (a). status of operation;
- (b). availability of beds;
- (c). generator status;
- (d). evacuation status;
- (e). shelter in place status;
- (f). utility status; and
- (g). other information requested by the

department.

iii. the electronic report shall not be used to request resources.

F. Emergency Plan Activation

1. Shelter in Place

a. A shelter in place notification shall be sent within one hour of the facility's decision to shelter in place to the local OEP where the provider is located and to the department.

b. A shelter in place notification shall be sent to the resident's family, or responsible representative as far in advance as possible, but at least within 12 hours of the determination.

2. Evacuation and Temporary Relocation

a. The following applies to any nursing facility that evacuates, temporarily relocates or temporarily ceases operation at its licensed location due to an emergency:

i. the nursing facility shall immediately give written notice to HSS by hand delivery, facsimile or electronically of the following information:

(a). the date and approximate time of the evacuation;

(b). the sheltering evacuation site(s) to which the nursing facility is evacuating; and

(c). a list of residents being evacuated, which shall indicate the evacuation site for each resident;

ii. the evacuation sites' local OEP shall be provided the following within one hour of the decision to evacuate:

(a). the contact name and the telephone number that the evacuation sites' local OEP can call for information regarding the nursing facility's evacuation;

(b). the number of residents being evacuated to that location(s);

(c). the date and approximate time that the nursing facility is evacuating, and date and approximate time of arrival to the location(s);

(d). the site place or location to which the nursing facility is evacuating, including the:

(i). name of the site(s);

(ii). address(es); and

(iii). telephone number(s).

iii. an evacuation notification shall also be sent to the resident's family, or responsible representative, and made as far in advance as possible, but at least within 12 hours of the determination to evacuate or after evacuation when communication is available. The notifications shall include:

(a). a telephone number that the family, or responsible representative, can call for information regarding the nursing facility's evacuation;

(b). name of the site(s); and

(c). address(es).

iv. the nursing facility shall notify the department within one hour of its decision regarding whether the nursing facility's residents will return to its licensed location from an unlicensed sheltering site, be placed in alternate licensed nursing facility beds, or request an extension to remain at the unlicensed sheltering site;

v. the nursing facility shall notify the current HSS emergency preparedness manager, or designee, as well as, the local OEP of the parish(es) in which nursing facility residents will be relocated to. Included in this notice, the nursing facility shall provide HSS with a list of all residents' names, dates of birth, and their locations within 48 hours of the decision to relocate from the unlicensed sheltering site.

vi. upon receipt of a nursing facility evacuation notification that includes unlicensed sheltering site(s), HSS and the OPH shall immediately conduct a site visit at the unlicensed sheltering site unless time, weather conditions, or other factors do not allow for such visit. The department may conduct onsite inspections of the unlicensed shelter site at any time deemed necessary or appropriate by the secretary of the department. If deemed to be necessary, HSS will conduct daily on-site visits while the unlicensed shelter site is occupied. The department's authority to conduct such visits will be in accordance with its authority to conduct onsite surveys of the nursing home, regardless of location.

3. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operations at its licensed location due to an emergency event, the nursing facility shall be allowed to remain at an unlicensed sheltering site for a maximum of five days. A nursing facility may request one 15 day extension, not to exceed a total of 20 days to remain at the unlicensed sheltering site.

a. By noon on the fifth day of evacuation, the nursing facility shall submit a written request for extension to HSS if it desires to remain at the unlicensed sheltering site. The request shall include the reasons that the facility is unable to return to their facility and why their residents cannot be placed in an alternate nursing facility(ies). The request shall also include a written plan with timeline to either return residents to the licensed location or be placed in an alternate nursing facility(ies) within the extension period requested, if such is granted.

b. The extension shall only be granted for good cause shown and for circumstances beyond the control of the nursing facility. If extension is not granted, the facility must cooperate with the department for an orderly evacuation of residents and staff to the alternate location.

c. This extension shall be granted only if essential care and services to residents are ensured to continue at the current sheltering facility.

d. Upon expiration of the five days or upon expiration of the written extension granted to the nursing facility, all residents shall be relocated to a nursing facility and HSS, and the local OEP shall be informed of the residents' new location(s).

G. Reopening of Nursing Facility and Repatriation of Residents

1. The evacuated nursing facility shall conduct and document an inspection of their entire facility for damages

prior to submitting a written request to HSS to reopen at the licensed location. That request shall include:

- a. damage report;
- b. extent and duration of any power outages;
- c. re-entry census;
- d. staffing availability; and
- e. information regarding access to the community service infrastructure, such as hospitals, transportation, physicians, professional services, and necessary supplies, such as food, water, medical supplies, and medications.

2. Upon receipt of a reopening request, the department shall review and determine if reopening will be appropriate. The department may request additional information from the nursing facility as necessary to make determinations regarding reopening.

3. After review of all documentation, the department shall issue a notice of one of the following determinations:

- a. approval of reopening without survey;
- b. surveys required before approval to reopen will be granted. This may include surveys by the OPH, OSFM, and HSS; or
- c. denial of reopening.

H. After Action Written Summary

1. Upon request by the department, the nursing facility shall submit a written summary attesting how the nursing facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

- a. pertinent plan provisions and how the plan was followed and executed;
 - i. - iii. Repealed.
- 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
 - i. - vi. Repealed.
- e. a list of all injuries and deaths of residents that occurred during execution of the plan, evacuation and temporary relocation including the date, time, causes, and circumstances of the injuries and deaths.

2. - 5.e.Repealed.

I. Inactivation of License Due to Declared Disaster or Emergency

1. A nursing facility in an area or areas that has been affected by a declared disaster or emergency and included in an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed two years, provided that the following conditions are met:

a. the nursing facility shall submit written notification to HSS within 60 days of the date of the executive order or proclamation of emergency or disaster that:

- i. the nursing facility has experienced an interruption in the delivery of services at its licensed facility as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

ii. the nursing facility intends to resume operation as a nursing facility in the same service area;

iii. includes an attestation that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

iv. pursuant to these provisions, an extension of the 60-day deadline may be granted at the discretion of the department;

b. the nursing facility resumes operating as a nursing facility in the same service area within two years of issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766, unless an extension has been granted;

i. a nursing facility may request one extension, not to exceed an additional one year for good cause shown by the facility. This request for an extension may be granted at the sole discretion of the department;

c. the nursing facility 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

d. the nursing facility continues to submit required documentation and information to the department, including but not limited to cost reports.

e. Repealed.

2. Upon receiving a completed written request to inactivate a nursing facility license, if the department determines that all of the requirements have been met, the department shall issue a notice of inactivation of license to the nursing facility.

3. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a nursing facility, 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:

a. the nursing facility shall submit a written license reinstatement request to HSS within two years of the executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766, unless an extension has been granted;

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

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

4. Upon receiving a completed written request to reinstate a nursing facility license, the department shall conduct a licensing survey. If the nursing facility meets the requirements for licensure and the requirements provided for in Paragraph I.3 above, the department shall issue a notice of reinstatement of the nursing facility license. The licensed bed capacity of the reinstated license shall not exceed the licensed bed capacity of the nursing facility at the time of the request to inactivate the license.

5. No change of ownership in the nursing facility shall occur until such nursing facility has completed repairs, renovations, rebuilding, or replacement construction and has resumed operations as a nursing facility.

6. The provisions of this Subsection shall not apply to a nursing facility that has voluntarily surrendered its license and ceased operation.

7. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the nursing facility license.

J. Inactivation of License Due to Non-Declared Emergency or Disaster

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

a. the nursing facility shall submit written notification to the HSS within 30 days of the date of the non-declared emergency or disaster stating that:

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

ii. the nursing facility intends to resume operation as a nursing facility in the same service area;

iii. the nursing facility attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services;

iv. the nursing facility's initial request to inactivate does not exceed two years from the date of the non-declared emergency or disaster for the completion of repairs, renovations, rebuilding, or replacement of the facility; and

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

b. the nursing facility 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;

c. the nursing facility continues to submit required documentation and information to the department, including but not limited to cost reports, and;

d. if major alterations are to be completed in areas where beds have been placed in alternate use, those beds shall be removed from alternate use and relicensed and re-enrolled as nursing facility beds at the time of request.

2. Upon receiving a completed written request to temporarily inactivate a nursing facility license, the department shall issue a notice of inactivation of license to the nursing facility.

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

4. The nursing facility shall resume operating as a nursing facility in the same service area within two years from the non-declared emergency or disaster, unless an extension has been granted.

5. A nursing facility may request one extension, not to exceed an additional six months for good cause shown by the facility. This request for an extension may be granted at the sole discretion of the department.

6. Upon completion of repairs, renovations, rebuilding, or replacement of the facility, a nursing facility that 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:

a. the nursing facility shall submit a written license reinstatement request to HSS;

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

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

7. Upon receiving a completed written request to reinstate a nursing facility license, the department may conduct a licensing survey. The department may issue a notice of reinstatement if the facility has met the requirements for licensure including the requirements of this Subsection. The licensed bed capacity of the reinstated license shall not exceed the licensed bed capacity of the nursing facility at the time of the request to temporarily inactivate the license.

8. No change of ownership in the nursing facility shall occur until such nursing facility has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a nursing facility.

9. The provisions of this Subsection shall not apply to a nursing facility that has voluntarily surrendered its license and ceased operation.

10. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the nursing facility license.

K. Temporary Inactivation of Licensed Nursing Facility Beds Due to Major Alterations

1. A nursing facility, which is undergoing major alterations to its physical plant, may request a temporary inactivation of a certain number of licensed beds provided that:

a. the nursing facility submits a written request to HSS seeking temporary inactivation of a certain number of its licensed bed capacity. Such written request shall include the following:

i. that the nursing facility has experienced or will experience a temporary interruption in the provision of services to its licensed bed capacity as a result of major alterations;

ii. an attestation that the renovations are the sole causal factor in the request for temporary inactivation of a certain number of its licensed beds;

iii. the anticipated start date of the temporary inactivation of a certain number of licensed beds;

NOTE: Repealed.

iv. the anticipated end date of the temporary inactivation of a certain number of licensed beds; and

v. the number of licensed beds requested to be inactivated temporarily;

b. the nursing facility ensures the health, safety, and welfare of each resident during the major alterations;

i. Repealed.

c. the nursing facility continues to provide, and each resident continues to receive, the necessary care and services to attain or maintain the resident's highest practicable physical, medical and psychosocial well-being, in accordance with each resident's comprehensive assessment and plan of care; and

d. if major alterations are to be completed in areas where beds have been placed in alternate use, those beds shall be removed from alternate use and relicensed and re-enrolled as nursing facility beds at the time of request.

2. Upon receiving a completed written request for temporary inactivation of a certain number of the licensed bed capacity of a nursing facility, if appropriate the department shall issue a notice of temporary inactivation of a certain number of the nursing facility's licensed beds.

3. No change of ownership in the nursing facility shall occur until such nursing facility has completed the major alterations and has resumed operating at prior approved licensed bed capacity.

a. - c. Repealed.

4. Upon completion of the major alterations and receiving a completed written request to reinstate the number of licensed beds of a nursing facility, the department may conduct a licensing survey. If the nursing facility meets the requirements for licensure and the requirements under this Subsection, the department may issue a notice of reinstatement of the nursing facility licensed bed capacity.

5. The licensed bed capacity after major alterations are completed shall not exceed the licensed bed capacity of the nursing facility at the time of the request to temporarily inactivate a certain number of its licensed bed capacity prior to renovations.

6. The provisions of this Subsection shall not apply to a nursing facility that has voluntarily surrendered its license and ceased operation.

K.7. - M.5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1905 (November 2016), amended LR 48:1290 (May 2022), LR 49:1076 (June 2023).

Chapter 99. Nursing Facilities

Subchapter B. Physical Environment

§9911. General Provisions

A. - D. ...

E. No later than June 30, 2023, nursing facilities shall have a generator or other department approved alternate electrical power source in the event of the loss of primary electrical power. The department may grant a one-time extension, not to exceed six months, upon written application by a nursing facility that compliance has been delayed due to extraordinary and unforeseen circumstances. No extension shall be granted if the nursing facility fails to provide sufficient evidence of substantial compliance or good faith efforts to comply with the requirement deadline.

1. The generator or alternate electrical power source shall have a simultaneous capability of providing sufficient electrical power for all of the following:

- a. life safety systems;
- b. lighting in patient care areas;
- c. medical equipment in patient care areas;
- d. electrical components of the approved potable water system;
- e. electrical components of the approved sewer systems;

f. operation of the nursing facility's medication dispensing and medication refrigeration systems;

g. operation of the nursing facility's dietary services and related refrigeration; and

h. operation of the nursing facility's laundry services.

2. For nursing facilities built or whose construction plans have been approved by the department:

a. prior to August 1, 2022, HVAC systems or portions of systems are required to maintain a safe indoor temperature and to be powered at a minimum 50 percent of the air conditioning systems and 50 percent of the heating systems in the facility.

b. on or after August 1, 2022, HVAC systems or portions of systems are required to maintain a safe indoor temperature and to be powered at a minimum 90 percent of the air conditioning systems and 90 percent of the heating systems in the facility.

3. The generator or alternate electrical power source shall be permanently installed onsite at the nursing facility and shall have fuel stored onsite at the nursing facility or delivered prior to an emergency event, in the following quantities:

a. for nursing facilities built or whose construction plans have been approved by the department prior to August 1, 2022, in an amount sufficient to operate the generator or alternative electrical power source under full load for 48 hours.

b. for nursing facilities approved for construction and built on or after August 1, 2022, in an amount sufficient to operate the generator or alternative electrical power source under full load for 72 hours.

4. Natural gas is an allowable fuel source and meets the onsite fuel requirement as long as there is an onsite propane tank sufficient in size to meet the fuel requirements, in the event a natural gas disruption occurs.

5. For nursing facilities built or whose construction plans have been approved by the department prior to August 1, 2022, the department may provide a waiver for the permanently installed generator or alternative electrical power source required by this Subsection if it is determined by the department that there is not sufficient physical space available or a governmental ordinance exists that makes it impossible to place a generator or alternative electrical power source and the fuel required by this Subsection on the premises of the nursing facility. Each nursing facility that receives a waiver pursuant to this Paragraph shall annually submit to the department for review and approval a plan to provide for the health and safety of the facility's residents in the event of power loss. The annual plan may incorporate, but is not limited to mobile generators, chillers, or evacuation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2009.1-2009.44.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1926 (November 2016), amended LR 49:1082 (June 2023).

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