

## NOTICE OF INTENT

### Department of Health Bureau of Health Services Financing

#### Home and Community-Based Services Providers Licensing Standards (LAC 48:I.Chapters 50 and 51)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapters 50 and 51 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2120.2. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 49:950 et seq.

The Department of Health, Bureau of Health Services Financing promulgated a Notice of Intent which proposed to amend the provisions governing the licensing standards for home and community-based services (HCBS) providers in order to further clarify and correct the formatting of these provisions to assure that these provisions were promulgated in a clear and concise manner in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 42, Number 12). As a result of comments received, the department determined that it was necessary to abandon the Notice of Intent published in the December 20, 2016 edition of the *Louisiana Register*.

The department now proposes to promulgate a revised Notice of Intent in order to further clarify and correct the formatting of the provisions governing the licensing standards for HCBS providers to assure that these provisions are promulgated in a clear and concise manner in the *Louisiana Administrative Code*.

## Title 48

### PUBLIC HEALTH-GENERAL

#### Part I. General Administration

#### Subpart 3. Licensing and Certification

### Chapter 50. Home and Community-Based Services Providers Licensing Standards

#### Subchapter A. General Provisions

#### §5001. Introduction

A. Pursuant to R.S. 40:2120.2, the Department of Health ~~and Hospitals~~ (LDH) ~~hereby has~~ establishe~~s~~d the minimum licensing standards for home and community-based services (HCBS) providers. These licensing provisions contain the core requirements for HCBS providers as well as the module-specific requirements, depending upon the services rendered by the HCBS provider. These regulations are separate and apart from Medicaid standards of participation or any other requirements established by the Medicaid Program for reimbursement purposes.

B. - C.8. ...

D. The following entities shall be exempt from the licensure requirements for HCBS providers:

1. - 1.a. ...

b. provides sitter services; ~~and/or~~

c. ...

d. provides home modifications/environmental accessibility adaptations and/or assessments; or

e. provides personal emergency response system/assistive technology/devices;

D.2. -4. ...

5. any person who is employed as part of a ~~Department of Health and Hospital's~~ departmentally authorized self-direction program; and

5.a. ...

6. any ~~individual direct service worker providing respite services pursuant to a contract with the Statewide Management Organization (SMO) in the Louisiana Behavioral Health Partnership~~ agency that provides residential orientation and adjustment programs for blind persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:63 (January 2012), amended LR 38:1410 (June 2012), LR 40:1007 (May 2014), LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

### **§5003. Definitions**

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*Activities of Daily Living* (ADLs)—the functions or basic self-care tasks which are performed by an individual in a typical day, either independently or with supervision/assistance. ~~that assist an individual~~ Activities of daily living may include, but are not

limited to ~~live in a community setting, or that provide assistance for mobility (i.e.,~~ bathing, dressing, eating, grooming, walking, transferring and /or toileting~~).~~

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Assistance with Activities of Daily Living-services that provide assistance with activities of daily living. Such assistance may be the actual performance of the tasks for the individual, hands-on assistance with the performance of the tasks, or supervision and prompting to allow the individual to self-perform such tasks.

*Branch*—an office from which in-home services such as personal care attendant (PCA), supervised independent living (SIL) and respite are provided within the same ~~DHH~~ LDH region served by the parent agency. The branch office shares administration and supervision.

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

Change in Health Status—a significant decline in the client's health that will not normally resolve itself without further assessment and/or intervention by staff or licensed medical practitioners.

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*Department*—the Louisiana Department of Health ~~and Hospitals~~ (~~DHH~~ LDH) or any of its sections, bureaus, offices or its contracted designee.

~~DHH-LDH~~ Region—the geographical administrative regions designated by the Department of Health~~and Hospitals~~.

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

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Geographical Location—the ~~DHH-LDH~~ region in which the primary business location of the provider agency operates from.

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

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Individual Service Plan—a service plan, person centered and developed for each client, that is based on a comprehensive assessment which identifies the individual's strengths and needs in order to establish goals and objectives so that outcomes to service delivery can be measured.

NOTE: For those clients receiving Medicaid reimbursed home and community-based services, a comprehensive plan of care prepared in accordance with policies and procedures established by Medicaid or by an LDH program office for reimbursement purposes may be substituted or used for the individual service plan.

Individuals with Disabilities Education Act (IDEA)—the law ensuring services to children with disabilities through the U.S. Department of Education which may include vocational training.

*Instrumental Activities of Daily Living (IADLs)*—the functions or tasks that are not necessary for fundamental functioning but assist an individual to be able to live in a community setting. These are activities such as light house-keeping, food preparation and storage, grocery shopping, laundry, reminders to take medication, scheduling medical appointments, arranging transportation to medical appointments and ~~accompanying~~ assistance attending the client to medical appointments if needed.

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

Mental Abuse—includes, but is not limited to abuse that is facilitated or caused by taking or using photographs or recordings in any manner that would demean or humiliate a client using any type of equipment (e.g., cameras, smart phones, and other electronic devices) and /or keeping or distributing them through multimedia messages or on social media sites.

1. Mental abuse may occur through either verbal or nonverbal conduct which causes or has the potential to cause the client to experience humiliation, intimidation, fear, shame,

agitation, or degradation, regardless of whether the client provided consent and regardless of the client's cognitive status. This may include, but is not limited to:

- a. photographs and recordings of clients that contain nudity;
- b. sexual and intimate relations;
- c. bathing, showering or toileting;
- d. providing perineal care such as after an incontinence episode;
- e. agitating a client to solicit a response;
- f. derogatory statements directed to the resident;
- g. showing a body part without the client's face, whether it is the chest, limbs or back;
- h. labeling a client's pictures and/or providing comments in a demeaning manner;
- i. directing a client to use inappropriate language; and /or
- j. showing a client in a compromised position.

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Non-operational-the HCBS provider location is not open for business operation on designated days and hours as stated on the licensing application and business location signage.

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*Respite Care*—an intermittent service designed to provide temporary relief to unpaid, informal caregivers of the elderly and/or ~~people~~ persons with disabilities.

*Satellite*—an alternate location from which center-based respite or adult day care services are provided within the same ~~DHH~~ LDH region served by the parent agency. The ~~branch~~ satellite office shares administration and supervision.

*Service Area*—the ~~DHH~~ LDH administrative region in which the provider's geographic business location is located and for which the license is issued.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:64 (January 2012), amended LR 40:1007 (May 2014), LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5005. Licensure Requirements**

A. All HCBS providers shall be licensed by the Department of Health ~~and Hospitals~~. It shall be unlawful to operate as a home and community-based service provider without a license issued by the department. ~~DHH~~ LDH is the only licensing authority for HCBS providers in Louisiana.

B. An HCBS license shall:



1. - 3. ...

4. enable the provider to render delineated home and community-based services within a ~~DHH~~-LDH region;

5. - 8. ...

C. An HCBS provider shall provide only those home and community-based services or modules:

1. ...

2. only to clients residing in the provider's designated service area, ~~DHH~~-LDH Region, or at the provider's licensed location.

D. An HCBS provider may apply for a waiver from the Health Standards Section (HSS) to provide services to a client residing outside of the provider's designated service area or ~~DHH~~-LDH Region only under the following conditions:

1. A waiver may be granted by the department if there is no other HCBS provider in the client's service area or ~~DHH~~-LDH Region that is licensed and that has the capacity to provide the required services to the client, or for other good cause shown by the HCBS provider and client.

2. The provider ~~must~~-shall submit a written waiver request to HSS prior to providing services to the client residing outside of the designated service area or ~~DHH~~-LDH Region.

D.3. - E. ...

1. Each HCBS provider shall have a business location which shall not be located in an occupied personal residence and

shall ~~conform to~~ be in accordance with the provisions of §5027 and §5031 of this Chapter.

a. The business location shall be part of the licensed location of the HCBS provider and shall be in the ~~DHH~~ LDH Region for which the license is issued.

b. The business location shall have at least one employee, either contracted or staff, on duty at the business location during ~~stated~~ the days and hours of operation as stated on the licensing application and business location signage.

c. ...

2. ~~Adult day care facilities shall have clearly defined days and hours of operation posted.~~ The ADC ~~must~~ shall be open at least five hours on days of operation. Center-based respite facilities shall have the capacity to provide 24 hour services.

3. There shall be ~~adequate~~ a sufficient number of trained direct care staff and professional services staff, either employed or contracted, ~~and~~ available to be assigned to provide services to persons in their homes as per the plan of care. ADC services and center-based respite services should be ~~adequately~~ sufficiently staffed during the facility's hours of operation.

E.4. - G. ...

H. ~~Upon promulgation of the final Rule governing these provisions~~ If applicable, ~~existing providers of the following home and community-based services shall be required to apply for an~~ each HCBS provider ~~license at the time of renewal of their current~~

~~license(s)~~ shall obtain facility need review approval prior to initial licensing.

1. ~~adult day care;~~ If an existing licensed HCBS provider who is not currently providing PCA, respite, MIHC or SIL services wants to begin providing these services, the provider shall be required to apply for facility need review approval for each of the requested services.

~~2. family support;~~

~~3. personal care attendant;~~

~~4. respite;~~

~~5. supervised independent living; and~~

~~6. supported employment.~~

~~I. If an existing provider currently has multiple licenses, such as PCA, respite and SIL, the provider shall be required to apply for an HCBS provider license at the time the first such license is due for renewal. The HCBS provider license shall include all modules for which the provider is currently licensed, and will replace all of the separate licenses.~~

~~J. If applicable, each HCBS provider shall obtain facility need review approval prior to licensing.~~

~~1. An existing licensed PCA, respite or SIL provider who is applying for an HCBS provider license at the time of license renewal shall not be required to apply for facility need review approval. However, if an existing licensed provider, who is not currently providing PCA, respite or SIL services wants to begin~~

~~providing these services, the provider shall be required to apply for facility need review approval for each of the requested services.~~

~~EXAMPLE: A currently licensed PCA provider with no Respite license is now applying for his HCBS provider license and wants to add the respite module. The PCA provider shall be required to apply for facility need review approval for the respite module.~~H.2. - J.1. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:65 (January 2012), amended LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5007. Initial Licensure Application Process**

A. ...

B. The initial licensing application packet shall include:

1. - 2. ...

3. a copy of the on-site inspection report for the adult day care module and the center-based respite module with approval for occupancy by the Office of the State Fire Marshal, ~~if~~ applicable;

4. ...

5. a copy of a statewide criminal background check, conducted by the Louisiana State Police, or its authorized agent,

including sex offender registry status, on all owners and administrators;

a. each owner shall be at least aged 18 years;

6. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000 that is:

i. current at the time of submission of the application for licensure; and

ii. issued to/in the name of the applicant at the geographic location shown on the application for licensure;

b. general and professional liability insurance in the amount of at least \$300,000 that is current and in effect at the time of license application; and

c. worker's compensation insurance that is current and in effect at the time of license application;

NOTE: The LDH Health Standards Section shall specifically be identified as the certificate holder on these policies pursuant to §5007.B.6.a-c and any certificates of insurance issued as proof of insurance by the insurer or producer (agent). The policy shall have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

7. a completed disclosure of ownership ~~and control~~  
~~information~~ form which includes any controlling interest or  
ownership in any other licensed agencies;

8. - 10. ...

C. ~~Any~~ person convicted of one or more of the following felonies is prohibited from being the owner or the administrator of an HCBS provider agency. For purposes of these provisions, the licensing application shall be rejected by the department for any felony conviction relating to:

C.1. - D.1. ...

2. If an initial licensing application is closed, an applicant who is still interested in becoming an HCBS provider ~~must~~  
shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process, subject to any facility need review approval.

E. Applicants for HCBS licensure shall be required to either attend a mandatory HCBS provider training class or complete the LDH online provider training when a completed initial licensing application packet has been received by the department.

F. Upon completion of the mandatory HCBS provider training class and written notification of satisfactory class completion from the department or upon submission of attestation of satisfactory completion of the LDH online provider training, an HCBS applicant shall be required to admit one client and contact the HSS field office to schedule an initial licensing survey.

1. Prior to scheduling the initial survey, applicants

~~must~~shall be:

a. - c. ...

2. If the applicant has not admitted one client or

~~called~~contacted the HSS field office to schedule ~~a~~an initial survey within 30 days of receipt of the written notification from the department, the application will be closed. If an applicant is still interested in becoming an HCBS provider, a new initial licensing packet with a new initial licensing fee ~~must~~shall be submitted to the department to start the initial licensing process, subject to any facility need review approval.

G. Applicants ~~must~~shall be in compliance with all appropriate federal, state, departmental or local statutes, laws, ordinances, rules, regulations and fees before the HCBS provider will be issued an initial license to operate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:66 (January 2012), amended LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5009. Initial Licensing Surveys**

A. - D.2. ...

E. The initial licensing survey of an HCBS provider shall be an announced survey. Follow-up surveys to the initial licensing survey~~s~~ are unannounced surveys.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:66 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5011. Types of Licenses and Expiration Dates**

A. - A.3. ...

B. The department, in its sole discretion, may issue a provisional license to an existing licensed HCBS provider for a period not to exceed six months. The department will consider the following circumstances in making a determination to issue a provisional license:

1. compliance history of the provider to include ~~the scope and severity~~ areas of deficiencies cited;

2. the ~~number and~~ nature and severity of ~~validated any~~ substantiated complaints~~;~~;

a. ~~A validated complaint is a complaint received by the Health Standards Section and found to be substantiated;~~ Repealed.

3. - 5. ...

C. When the department issues a provisional license to an existing licensed HCBS provider, the provider shall submit a plan of



correction to ~~DHH~~LDH for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct a follow-up survey, either on-site or by desk review, of the HCBS provider prior to the expiration of the provisional license.

C.1. - D.3. ...

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:67 January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5012. Change in License by Addition or Deletion of a Service Module or Modules from the HCBS License**

**A. Addition of a Service Module or Modules to existing HCBS License**

**1. An HCBS provider with an active HCBS license, current and in good standing, may submit a request to add a service module or modules. The following information shall be submitted for consideration of this request:**

**a. a completed HCBS license application which has "Add a Service" clearly marked;**

b. a facility need review approval letter, if seeking to add the PCA, SIL, MIHC, or respite service modules; and  
c. applicable fee for issuance of the new HCBS license.

B. Deletion of a Service Module or Modules to existing HCBS License

1. An HCBS provider with an active HCBS license may submit a request to delete a service module or modules. The following information shall be submitted for consideration of this request:

a. a completed HCBS license application which has "Delete a Service" clearly marked; and

b. applicable fee for issuance of the new HCBS license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5013. Changes in Licensee Information, Location, or Key Personnel**

A. - C.2.d. ...

D. ~~A change of ownership (CHOW) of~~ If the HCBS provider ~~shall be reported in writing~~ changes its name without a change in ownership, the HCBS provider shall report such change to the department ~~within~~ in writing five ~~working~~ days ~~subsequent prior~~ to

the change. The ~~license of a~~change in the HCBS provider ~~is not transferable or assignable and cannot be sold. The new owner shall submit~~ name requires a change in the ~~legal CHOW document, all documents required for a new~~ HCBS provider license. ~~and Payment of~~ the applicable ~~licensing fee. Once all application requirements are completed and approved by~~ is required to re-issue the ~~department, a new license shall be issued to the new owner.~~

~~1. An HCBS provider that is under license revocation may not undergo a CHOW.~~

~~2. If the CHOW results in a change of geographic address, an on-site survey may be required prior to issuance of the new license.~~D.1. - D.2. Repealed.

E. ~~If the HCBS provider changes its name without a change in ownership, the HCBS provider shall report such change to the department in writing five days prior to the change. The change in the HCBS provider name requires a change in the HCBS provider~~ Any request for a duplicate license. ~~Payment of~~ shall be accompanied by the applicable fee ~~is required to re-issue the license.~~

F. ~~Any request for~~ If the HCBS provider changes the physical address of its geographic location without a ~~duplicate~~ change in ownership, the HCBS provider shall report such change to LDH in writing at least five days prior to the change. Because the license of an HCBS provider is valid only for the geographic location of that provider, and is not transferrable or assignable, the provider

shall ~~be accompanied by the applicable fee~~ submit a new licensing application.

1. An on-site survey may be required prior to the issuance of the new license.

2. The change in the HCBS provider's physical address results in a new license renewal anniversary date and an additional full licensing fee shall be paid.

~~G. If the HCBS provider changes the physical address of its geographic location without a change in ownership, the HCBS provider shall report such change to DHH in writing at least five days prior to the change. Because the license of an HCBS provider is valid only for the geographic location of that provider, and is not transferrable or assignable, the provider shall submit a new licensing application.~~

~~1. An on-site survey may be required prior to the issuance of the new license.~~

~~2. The change in the HCBS provider's physical address results in a new anniversary date and the full licensing fee must be paid.~~  
G. - G.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:68 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5014. Change of Ownership of an HCBS Provider**

A. The license of an HCBS provider is not transferable or assignable and cannot be sold.

B. A change of ownership (CHOW) of the HCBS provider shall not be submitted at time of the annual renewal of the provider's license.

C. Before an initial license can be issued to the new owner, all licensing application requirements shall be:

1. completed by the applicant in accordance with the provisions of §5007; and

2. submitted to the department for approval.

D. The applicant shall submit the following licensing requirements to the department:

1. the completed HCBS license application and non-refundable fee;

2. disclosure of ownership documentation;

3. proof of financial viability to include:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000 that is current at the time of the application for licensure and is issued to/in the name of the applicant at the geographic location shown on the application for licensure;

b. general and professional liability insurance of at least \$300,000 that is current and in effect at the time of application for licensure; and

c. worker's compensation insurance that is current and in effect at the time of application for licensure.

NOTE: The LDH Health Standards Section shall specifically be identified as the certificate holder on these policies pursuant to §5014.D.3.a-c and any certificates of insurance issued as proof of insurance by the insurer or producer (agent). The policy shall have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

4. If center-based services such as adult day care or center-based respite are also being acquired in the change of ownership, the prospective new owner shall be required to submit approvals for occupancy from OPH and the State Fire Marshal. Such approvals shall be issued under the name of the center as given by the new owner.

E. An HCBS provider may not undergo a CHOW if any of the following conditions exist:

1. licensure is provisional, under revocation or denial of renewal;

2. is in a settlement agreement with the department;

3. has been excluded from participation from the Medicaid program;

4. has ceased to operate and does not meet operational requirements to hold a license as defined by §5031 Business Location and in accordance with §5026 Cessation of Business.

F. The department may deny approval of the CHOW for any of the reasons a license may be revoked or denied renewal pursuant to these licensing provisions.

G. If the CHOW results in a change of geographic address, an on-site survey may be required prior to issuance of the new license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5015. Renewal of License**

A. The HCBS provider shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet shall include:

1. - 2. ...

3. a current State Fire Marshal report for the adult day care module and the center-based respite module, ~~if applicable~~;

4. - 6. ...

7. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000 that is current at the time of the application for license renewal and is issued to/in the name of the applicant at the geographic location shown on the application for license renewal;

b. general and professional liability insurance of at least \$300,000 that is current and in effect at the time of application for license renewal and has been maintained and in effect throughout the term of the license; and

c. worker's compensation insurance that is current and in effect at the time of application for license renewal and has been maintained and in effect throughout the term of the license.

NOTE: The LDH Health Standards Section shall specifically be identified as the certificate holder on these policies pursuant to §5015.A.7.a-c and any certificates of insurance issued as proof of insurance by the insurer or producer (agent). The policy shall have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

B. ...

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license ~~will~~ shall result in the voluntary non-renewal of the HCBS license.

NOTE: Upon expiration of the current license, the HCBS provider shall cease providing services in accordance with R.S. 40:2120.6 and shall meet the requirements of §5026 Cessation of Business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:68 (January



2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5016. Deemed Status through Accreditation**

A. - A.1. ...

2. all services provided under the HCBS license ~~must~~ shall be accredited; and

A.3. - B. ...

C. The following ~~set of circumstances can~~ may cause the state agency to perform a full licensing survey on an accredited HCBS provider:

1. any ~~valid~~ substantiated complaints in the preceding 12-month period;

2. addition of services ~~s~~ module or modules;

3. ...

4. issuance of a ~~provisions~~ provisional license in the preceding 12-month period;

5. serious violations of licensing standards or professional standards of practice that were ~~identified~~ cited in the preceding 12-month period that resulted in or had the potential for negative outcomes to clients served; or

6. ~~reports~~ allegations of inappropriate client treatment or services to a client resulting in death or serious injury.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:68 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5017. Survey Activities**

A. - B. ...

C. The department shall require an acceptable plan of correction from a provider for any survey where deficiencies have been cited, regardless of whether the department takes other action against the facility for the deficiencies cited in the survey. The acceptable plan of correction shall be ~~approved by~~ submitted within the prescribed timeframe to the department for approval.

D. ...

E. The department may issue appropriate sanctions for noncompliance, deficiencies and violations of law, rules and regulations. Sanctions include, but are not limited to:

1. civil ~~monetary penalties~~ fines;
2. directed plans of correction; ~~and~~
3. license revocation~~;~~ and/or
4. denial of license renewal.

F. ~~DHH~~ LDH surveyors and staff shall be:

1. given access to all areas of the provider agency, ~~as necessary,~~ and to all relevant administrative and/or clinical files during any survey as necessary or required to conduct the survey and/or investigation; and

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:69 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5019. Statement of Deficiencies**

A. - C.1. ...

2. The informal reconsideration of the deficiencies shall be requested in writing within 10 [calendar](#) days of receipt of the statement of deficiencies, unless otherwise provided in these standards.

3. The request for informal reconsideration of the deficiencies shall be made to the department's Health Standards Section and will be considered timely if received by HSS within 10 [calendar](#) days of the provider's receipt of the statement deficiencies.

4. ...

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

5. ...

6. Except as provided for complaint surveys pursuant to R.S. 40:2009.13 et seq., and as provided in these licensing provisions for [initial](#) license denials, revocations and [denial of](#)

license ~~non~~-renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies.

a. ~~There is no administrative appeal right of such deficiencies.~~ Repealed.

7. ~~Pursuant to R.S. 40:2009.13 et seq., for complaint surveys in which the Health Standards Section determines that the complaint involves issues that have resulted in or are likely to result in serious harm or death, as defined in the statute, the determination of the~~ The request for an informal reconsideration ~~may be appealed administratively to the Division of Administrative Law or its successor. The hearing before the Division of Administrative Law, or its successor, is limited only to whether the~~ of any deficiencies cited as a result of a survey or investigation ~~or complaint survey was conducted properly or improperly. The Division of Administrative Law shall~~ does not delete or remove deficiencies ~~as a result~~ delay submission of ~~such hearing~~ the required plan of correction within the prescribed timeframe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:69 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5021. Denial of ~~License~~Initial Licensure, Revocation of License,  
Denial of License Renewal

A. - B.1. ...

2. The department ~~shall~~may deny an initial license for any of the reasons a license may be revoked or ~~non-renewed~~denied renewal pursuant to these licensing provisions.

3. If the department denies an initial license, the applicant for an HCBS provider license shall discharge the client(s) receiving services.

C. ...

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

1. - 4. ...

5. failure to protect a client from a harmful act of an employee,either contracted or staff, or ~~other~~by another client including, but not limited to:

5.a. - 7.e. ...

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

9. - 15. ...

16. ~~cessation of business~~failure to repay an identified overpayment to the department or ~~non-operational status~~failure to enter into a payment agreement to repay such overpayment;

17. failure to ~~repay an identified overpayment to the department~~ timely pay outstanding fees, fines, sanctions or ~~failure to enter into a payment agreement to repay such overpayment~~ other debts owed to the department; or

18. failure to ~~timely pay outstanding fees, fines, sanctions or other debts owed to~~ maintain current, and in effect, required insurance policies in accordance with the ~~department~~ provisions of this Chapter.

E. In the event an HCBS provider license is revoked, renewal is denied ~~(other than for cessation of business or non-operational status)~~ or the license is surrendered in lieu of an adverse action, any owner, board member, director or administrator, and any other person named on the license application of such HCBS provider is prohibited from owning, managing, directing or operating another HCBS agency for a period of two years from the date of the final disposition of the revocation, denial action or surrender.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:69 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5023. Notice and Appeal of Initial License Denial, License Revocation and Denial of License ~~Non~~-Renewal**

A. Notice of an initial license denial, license revocation or ~~license non-renewal (i.e. denial of license renewal)~~ shall be given to the provider in writing.

B. The HCBS provider has a right to an ~~informal~~ administrative reconsideration of the initial license denial, license revocation or denial of license ~~non~~-renewal. There is no right to an ~~informal~~ administrative reconsideration of a voluntary non-renewal or surrender of a license by the provider.

1. The HCBS provider shall request the ~~informal~~ administrative reconsideration within 15 calendar days of the receipt of the notice of the initial license denial, license revocation or denial of license ~~non~~-renewal. The request for ~~informal~~ administrative reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section. The request for ~~informal~~ administrative reconsideration shall be considered timely if received by the Health Standards Section within 15 days from the provider's receipt of the notice.

2. The request for ~~informal~~ administrative reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an ~~informal~~ administrative reconsideration is received by HSS, an ~~informal~~ administrative reconsideration shall be scheduled and the provider will receive written notification of the date of the ~~informal~~ administrative reconsideration.

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

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

6. The ~~informal~~-administrative reconsideration process is not in lieu of the administrative appeals process.

7. The provider will be notified in writing of the results of the ~~informal~~-administrative reconsideration.

C. The HCBS provider has a right to an administrative appeal of the initial license denial, license revocation or denial of license ~~non~~-renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the provider.

1. The HCBS provider shall request the administrative appeal within 30 days of the receipt of the results of the ~~informal~~-administrative reconsideration.

a. The HCBS provider may forego its rights to an ~~informal~~-administrative reconsideration, and if so, shall request the administrative appeal within 30 calendar days of the receipt of the written notice of the initial license denial, revocation or denial of license ~~non~~-renewal.

2. ...



3. If a timely request for an administrative appeal is received by the Division of Administrative Law, or its successor, the administrative appeal of the license revocation or denial of license ~~non~~-renewal shall be suspensive, and the provider shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

a. If the secretary of the department determines that the violations of the provider pose an imminent or immediate threat to the health, welfare or safety of a client, the imposition of the license revocation or denial of license ~~non~~-renewal may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the provider will be notified in writing.

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

D. ...

E. If a timely administrative appeal has been filed by the provider on an initial license denial, denial of license ~~non~~-renewal or license revocation, the Division of Administrative Law, or its successor, shall conduct the hearing ~~within 90 calendar days of~~ in accordance with ~~the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by~~ the ~~Division of~~

Administrative Procedure Act ~~Law, or its successor, if good cause is shown.~~

1. If the final agency decision is to reverse the initial license denial, denial of license ~~non~~-renewal or license revocation, the provider's license will be re-instated or granted upon the payment of any licensing fees, outstanding sanctions or other fees due to the department.

2. If the final agency decision is to affirm the denial of license ~~non~~-renewal or license revocation, the provider shall discharge any and all clients receiving services according to the provisions of this Chapter.

a. Within 10 calendar days of the final agency decision, the provider ~~must~~ shall notify HSS, in writing, of the secure and confidential location where the client records will be stored and the name and contact information of the person(s) responsible for the client records.

F. There is no right to an ~~informal~~ administrative reconsideration or an administrative appeal of the issuance of a provisional initial license to a new HCBS provider, or the issuance of a provisional license to an existing HCBS provider. A provider who has been issued a provisional license is licensed and operational for the term of the provisional license. The issuance of a provisional license is not considered to be a denial of initial ~~license~~ licensure, denial of license renewal or license revocation.

G. A provider with a provisional initial license or an existing provider with a provisional license that expires due to noncompliance or deficiencies cited at the follow-up survey, shall have the right to an informal reconsideration and the right to an administrative appeal, solely as to the validity of the deficiencies.

1. - 2. ...

3. The provider shall request the informal reconsideration in writing, which shall be received by the Health Standards Section within five calendar days of receipt of the written notice of the results of the follow-up survey from the department.

4. The provider shall request the administrative appeal within 15 calendar days of receipt of the written notice of the results of the follow-up survey from the department. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law, or its successor.

5. - 5.a. ...

6. If a timely administrative appeal has been filed by a provider with a provisional initial license that has expired, or by an existing provider whose provisional license has expired under the provisions of this Chapter, the Division of Administrative Law, or its successor, shall conduct the hearing ~~within 90 calendar days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by~~ in accordance with the ~~Division of~~

Administrative ~~Law Procedure Act, or its successor, if good cause is shown.~~

a. ...

b. If the final agency decision is to uphold the deficiencies ~~and~~ thereby affirming the expiration of the provisional license, the provider shall ensure an orderly discharge and transition of any and all clients receiving services in accordance with the provisions of this Chapter.

i. Within 10 calendar days of the final agency decision, the provider ~~must~~ shall notify HSS in writing of the secure and confidential location where the client records will be stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:70 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5024. Inactivation of License due to a Declared Disaster or Emergency**

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

1. the licensed provider shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the HCBS provider has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

b. the licensed HCBS provider intends to resume operation as an HCBS provider in the same service area;

c. includes an attestation that the emergency or disaster is the sole casual factor in the interruption of the provision of services;

d. includes an attestation that all clients have been properly discharged or transferred to another provider; and

e. provides a list of each client and where that client is discharged or transferred to;

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

3. the licensed HCBS provider continues to pay all fees and cost due and owed to the department including, but not limited

to, annual licensing fees and outstanding civil monetary penalties;  
and

4. the licensed HCBS provider continues to submit  
required documentation and information to the department.

B. Upon receiving a completed written request to inactivate a  
HCBS provider license, the department shall issue a notice of  
inactivation of license to the HCBS provider.

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

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

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

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

2. The provider resumes operating as an HCBS provider in  
the same service area within one year.

D. Upon receiving a completed written request to reinstate an  
HCBS provider license, the department shall conduct a licensing  
survey. If the HCBS provider meets the requirements for licensure

and the requirements under this Section, the department shall issue a notice of reinstatement of the HCBS provider license.

1. The licensed capacity of the reinstated license shall not exceed the licensed capacity of the adult day care and center-based respite provider at the time of the request to inactivate the license.

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

F. The provisions of this Section shall not apply to an HCBS provider which has voluntarily surrendered its license and ceased operation.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5025. Inactivation of License due to a Non-Declared Disaster or Emergency**

~~A. An HCBS provider licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster~~

~~issued in accordance with R.S. 29:724 or R.S. 29:766, may seek to~~  
~~inactivate its license for a period not to exceed one year~~A licensed  
HCBS in an area or areas which have been affected by a non-declared  
emergency or disaster may seek to inactivate its license, provided  
that the following conditions are met:

1. the licensed ~~provider shall submit written~~  
~~notification to the Health Standards Section within 60 days of the~~  
~~date of the executive order or proclamation of emergency or disaster~~  
~~that~~HCBS shall submit written notification to the Health Standards  
Section within 30 days of the date of the non-declared emergency or  
disaster stating that:

a. the HCBS ~~provider~~ has experienced an  
interruption in the provisions of services as a result of events  
that are ~~the subject of such executive order or proclamation of~~  
~~emergency or disaster issued in accordance with R.S. 29:724 or R.S.~~  
~~29:766~~due to a non-declared emergency or disaster;

b. the licensed HCBS ~~provider~~ intends to resume  
operation as an HCBS provider in the same service area;

c. ~~includes an attestation that the emergency or~~  
~~disaster is the sole casual factor in the interruption of the~~  
~~provision of services~~the licensed HCBS attests that the emergency or  
disaster is the sole causal factor in the interruption of the  
provision of services; and

d. ~~includes an attestation that all clients have~~  
~~been properly discharged or transferred to another provider; and~~the



licensed HCBS's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility.

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

e. ~~provides a list of each client and where that client is discharged or transferred to;~~Repealed.

2. the licensed HCBS ~~provider resumes operating as a HCBS provider in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766~~ continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines; and

3. the licensed HCBS ~~provider~~ continues to ~~pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and~~ submit required documentation and information to the department, including but not limited to cost reports.

4. ~~the licensed HCBS provider continues to submit required documentation and information to the department~~Repealed.

B. Upon receiving a completed written request to temporarily inactivate a HCBS ~~provider~~ license, the department shall issue a notice of inactivation of license to the HCBS ~~provider~~.

C. ~~Upon completion of repairs, renovations, rebuilding or replacement, an HCBS provider which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met~~ 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, if applicable, to the OSFM and the OPH as required.

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

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

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

~~2. The provider resumes operating as an HCBS provider in the same service area within one year.~~ C.1. - C.2. Repealed.

D. ~~Upon receiving a completed written request to reinstate an HCBS provider license, the department shall conduct a licensing survey. If the HCBS provider meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the HCBS provider license~~ The licensed HCBS shall resume operating as an HCBS in the same service area

within one year of the approval of renovation/construction plans by the OSFM and the OPH as required.

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

1. ~~The licensed capacity of the reinstated license shall not exceed the licensed capacity of the HCBS provider at the time of the request to inactivate the license.~~Repealed.

E. ~~No change of ownership in the HCBS provider shall occur until such HCBS provider has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as an HCBS provider.~~Upon completion of repairs, renovations, rebuilding or replacement of the facility, an HCBS which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:-

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

2. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing or physical environment survey, where applicable; and

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

~~F. The provisions of this Section shall not apply to an HCBS provider which has voluntarily surrendered its license and ceased operation~~Upon receiving a completed written request to reinstate an HCBS license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the facility has met the requirements for licensure including the requirements of this Subsection.

~~G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the HCBS provider license and any applicable facility need review approval for licensure~~No change of ownership in the HCBS shall occur until such HCBS has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as an HCBS.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:72 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5026. Cessation of Business**

A. Except as provided in §5024 and §5025 of these licensing regulations, a license shall be immediately null and void if an HCBS provider becomes non-operational.

B. A cessation of business is deemed to be effective the date on which the HCBS provider ceased offering or providing services to the community and/or is considered non-operational in accordance with §5005.E.1.b.

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

D. Cessation of business is deemed to be a voluntary action on the part of the provider. The HCBS provider does not have a right to appeal a cessation of business.

E. Prior to the effective date of the closure or cessation of business, the HCBS provider shall:

1. give 30 days' advance written notice to:

a. each client or client's legal representative, if applicable;

b. each client's physician;

c. HSS;

d. OCDD;

e. OAAS;

f. support coordination agency for waiver participants;

g. state contractor for state plan LT-PCS services.

2. provide for a safe and orderly discharge and transition of all of the HCBS provider's clients.

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

1. The effective date of the closure.

2. Provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed provider's client services related records;

3. The name and contact information for the appointed custodian(s) who shall provide the following:

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

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

## **Subchapter B. Administration and Organization**

### **§5027. Governing Body**

A. - A.3. ...

B. The governing body of an HCBS provider shall:

1. - 8. ...

9. ~~inform Health Standards prior to initiating any substantial changes in the nature~~ensure statewide criminal background checks on all unlicensed persons providing direct care and ~~scope of services provided by the provider to clients in~~

accordance with R.S. 40:1203.2 or other applicable state law upon hire; and

NOTE: Upon request of the employer with approval of the governing body, each applicant for employment may be fingerprinted in accordance with applicable state law to be used to obtain the criminal history record.

10. ensure ~~statewide criminal background checks on all~~ that the provider does not hire unlicensed persons ~~providing direct care and services to clients~~ who have a conviction that bars employment in accordance with R.S. ~~40:1300.52~~40:1203.3 or other applicable state law; and

a. the provider shall have documentation on the final disposition of all charges that bars employment pursuant to applicable state law; and

11. ensure that direct support staff comply with R.S. ~~40:1300.52~~40:1203.2 or other applicable state law.

NOTE: It is not acceptable for a provider to have a client, family member or legal representative sign a statement that they acknowledge the direct support worker has a conviction that bars employment but they still choose to have that individual as the worker. The provider is expected to be in compliance with statutory requirements at all times.

C. An HCBS provider shall maintain an administrative file that includes:



1. ~~documents identifying~~ a list of members and officers of the governing body, along with their addresses and terms of membership;
2. ~~a list~~ minutes of ~~members and officers~~ formal meetings and by-laws of the governing body, ~~along with their addresses and terms of membership~~ if applicable;
3. ~~minutes~~ a copy of ~~formal meetings and by-laws of the governing body, if applicable~~ current license issued by HSS;
4. ~~a copy~~ an organizational chart of the ~~current license issued by Health Standards~~ provider which clearly delineates the line of authority;
5. ~~an organizational chart of~~ all leases, contracts and purchases-of-service agreements to which the provider ~~which clearly delineates the line of authority~~ is a party;
6. ~~all leases, contracts and purchases-of-service agreements to which the provider is a party~~ insurance policies;
7. ~~insurance policies~~ annual budgets and audit reports;  
and
8. ~~annual budgets and audit reports~~ a master list of all the community resources used by the provider. ~~and~~
9. ~~a master list of all the community resources used by the provider.~~ Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:72 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5029. Policy and Procedures**

A. ~~An~~ The HCBS provider shall ~~provide supervision and services~~ develop, implement and comply with provider-specific written policies and procedures related to compliance with this Chapter, including, but not limited to policies and procedures that:

1. - 2. ...

3. provide for the ~~full~~ protection of clients' rights;

and

4. promote the highest practicable social, physical and mental well-being of clients;

B. ~~An~~ The HCBS provider shall ~~make any required information or records,~~ have written policies and ~~any information reasonably related to assessment of compliance with these requirements,~~ available to procedures approved by the department owner or governing body, which shall be implemented and followed, that address at a minimum the following:

1. confidentiality and confidentiality agreements;

2. security of files;

3. publicity and marketing, including the prohibition of illegal or coercive inducement, solicitation and kickbacks;

4. personnel;

5. client rights;

6. grievance procedures;

7. client funds;

8. emergency preparedness;

9. abuse, neglect, exploitation and extortion;

10. incidents and accidents, including medical emergencies;

11. universal precautions;

12. documentation;

13. admission and discharge procedures; and

14. safety of the client while being transported by an agency employee, either contracted or directly employed, to include a process for evaluation of the employee's driver's license status inquiry report which may prohibit an employee from transporting clients.

C. ~~An~~The HCBS provider shall ~~allow designated representatives of the department, in performance of their mandated duties, to~~develop, implement and comply with written personnel policies that include the following:

1. ~~inspect all aspects of an HCBS provider's operations which directly or indirectly impact clients; and~~a plan for recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of staff members, that includes but is not limited to:

a. standards of conduct;

b. standards of attire to include having identification as an employee of the provider accessible when providing services to clients; and

c. standards of safety to include requirements for ensuring safe transportation of clients by employees, contracted or staff, who provide transportation;

2. ~~conduct interviews with any~~ written job descriptions for each staff member or client of the provider. position, including volunteers;

3. policies that shall, at a minimum, be consistent with Office of Public Health guidelines for services provided.

4. an employee grievance procedure;

5. abuse reporting procedures that require all employees, either contracted or directly employed, to report any and all incidents of abuse or mistreatment or misappropriation of client funds, whether that abuse or mistreatment or misappropriation is done by another staff member, a family member, a client or any other person;

6. a written policy to prevent discrimination; and

7. a written policy to assure that there is a final disposition of all charges that appear on the staff person's or contracted employee's criminal background check.

8. a written policy to address prohibited use of social media. The policy shall ensure that all staff, either contracted or directly employed, receive training relative to the restricted use

of social media and include, at a minimum ensuring confidentiality of client information and preservation of client dignity and respect, and protection of client privacy and personal and property rights.

D. ~~An~~ The HCBS provider shall, ~~upon request by the department, make available the legal ownership documents.~~ have written policies and procedures for client behavior management which:

1. prohibit:

a. corporeal punishment;

b. restraints of any kind;

c. psychological and verbal abuse;

d. seclusion;

e. forced exercise;

f. any cruelty to, or punishment of, a client; and

g. any act by a provider which denies:

i. food;

ii. drink;

iii. visits with family, friends or significant

others; or

iv. use of restroom facilities;

NOTE: §5029.D.1.g.i-iv is not inclusive of medically prescribed procedures.

2. ensure that non-intrusive positive approaches to address the meaning/origins of behaviors are used prior to the development of a restrictive plan; and

3. cover any behavioral emergency and provide documentation of the event in an incident report format.

E. ~~The~~ An HCBS provider shall ~~have~~ comply with all federal state and local laws, rules and regulations in the development and implementation of its ~~written~~ policies and procedures ~~approved by the owner or governing body, which must be implemented and followed, that address at a minimum the following:~~

- ~~1. confidentiality and confidentiality agreements;~~
- ~~2. security of files;~~
- ~~3. publicity and marketing, including the prohibition of illegal or coercive inducement, solicitation and kickbacks;~~
- ~~4. personnel;~~
- ~~5. client rights;~~
- ~~6. grievance procedures;~~
- ~~7. client funds;~~
- ~~8. emergency preparedness;~~
- ~~9. abuse and neglect;~~
- ~~10. incidents and accidents, including medical emergencies;~~
- ~~11. universal precautions;~~
- ~~12. documentation; and~~
- ~~13. admission and discharge procedures.~~ E.1. - E.13.

Repealed.

F. An HCBS provider shall ~~have written personnel policies, which must be implemented and followed,~~ ensure that ~~include~~ all home

and community-based waiver services are delivered in settings that are physically accessible to the client when the setting is controlled by the HCBS provider†.

~~1. a plan for recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of staff members;~~

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

~~3. policies that shall, at a minimum, be consistent with Office of Public Health guidelines to indicate whether, when, and how staff have a health assessment;~~

~~4. an employee grievance procedure;~~

~~5. abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment, whether that abuse or mistreatment is done by another staff member, a family member, a client or any other person; and~~

~~6. a written policy to prevent discrimination.~~

~~G. An HCBS provider shall maintain, in force at all times, the requirements for financial viability under this rule.~~

~~H. The provider shall have written policies and procedures for behavior management which:~~

~~1. prohibits:~~

~~a. corporeal punishment;~~

~~b. chemical restraints;~~

~~c. psychological and verbal abuse;~~

~~d. seclusion;~~  
~~e. forced exercise;~~  
~~f. physical and mechanical restraints;~~  
~~f. any cruel, severe, unusual, degrading or unnecessary punishment; and~~  
~~g. any procedure which denies:~~  
~~i. food;~~  
~~ii. drink;~~  
~~iii. visits with family; or~~  
~~iv. use of restroom facilities;~~  
~~2. ensure that non-intrusive positive approaches to address the meaning/origins of behaviors are used prior to the development of a restrictive plan; and~~  
~~3. cover any behavioral emergency and provide documentation of the event in an incident report format.~~  
~~I. An HCBS provider shall comply with all federal and state laws, rules and regulations in the development and implementation of its policies and procedures.~~  
F.1. - I. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORY NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:73 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5031. Business Location**



A. All HCBS providers shall have a business location in the ~~DHH~~-LDH Region for which the license is issued. The business location shall be a part of the physical geographic licensed location and shall be where the provider:

1. ...
2. maintains and stores the provider's personnel records;
3. maintains and stores the provider's client service records; ~~and~~
4. holds itself out to the public as being a location for receipt of client referrals ~~;~~ and

5. after initial licensure, consistently provides services to at least two clients.

EXCEPTION: Adult Day Care shall have 10 or more clients pursuant to R.S. 40:2120.2(4)(e).

B. The business location shall have ~~a separate entrance and exit from any other entity, business or trade, and shall have appropriate signage indicating the legal or trade name and address of the health care provider. The HCBS provider shall operate independently from any other business or entity, and shall not operate office space with any other business or entity.:~~

1. ~~The HCBS provider may share common areas with another business or entity. Common areas include foyers, kitchens, conference rooms, hallways, stairs, elevators or escalators when~~

~~used to provide access to the provider's~~ a separate entrance and exit from any other entity, business or trade;

2. ~~Records or other confidential information shall not be stored in areas deemed to be common areas~~ signage that is easily viewable indicating the provider's legal or trade name, address and days and hours of business operation as stated in the provider's license application.

a. Any planned deviation of the provider's days and hours of operation shall be reported to the Health Standards Section within five business days.

b. Any unplanned deviation of provider's days and hours of operation shall be reported to the Health Standards Section within two business days.

C. The ~~business location~~ HCBS provider shall operate independently from any other business or entity, and shall not operate office space with any other business or entity.

1. ~~be commercial office space or, if located in a residential area, be zoned for appropriate commercial use and shall be~~ The HCBS provider may share common areas with another business or entity. Common areas include foyers, kitchens, conference rooms, hallways, stairs, elevators or escalators when used solely for the operation of to provide access to the business provider's separate entrance.

a. the business location may not be located in an occupied personal residence; Repealed.

2. ~~have approval from the Louisiana Office of the State Fire Marshal;~~ Records or other confidential information shall not be stored in areas deemed to be common areas.

~~3. have a published telephone number which is available and accessible 24 hours a day, seven days a week, including holidays;~~

~~4. have a business fax number that is operational 24 hours a day, seven days a week;~~

~~5. have internet access and a working e-mail address;~~

~~a. the e-mail address shall be provided to the department;~~

~~6. have hours of operation posted in a location outside of the business that is easily visible to persons receiving services and the general public; and~~

~~7. have space for storage of client records in an area that is secure and does not breach confidentiality of personal health information.~~ C.3. - C.7. Repealed.

D. ~~Branch Offices and Satellites of HCBS Providers~~ The business location shall:

1. ~~An HCBS provider who currently provides in-home services such as PCA, respite~~ be commercial office space or, ~~SHH services may apply to the department~~ if located in a residential area, be zoned for ~~approval to operate a branch office to provide those same services. The branch office falls under the license of the parent agency~~ appropriate commercial use and shall be ~~located in~~

~~the same DHH Region as~~ used solely for the operation of the parent agency business;

a. the business location shall not be located in an occupied personal residence;

2. ~~An HCBS provider who currently provides ADC services or provides center-based respite services may apply to the department for~~ have approval to operate a satellite location to provide additional ADC services for occupancy from the Office of the State Fire Marshal and the Office of Public Health if located at the same address as an adult day care center ~~or center-based respite services at that satellite location. The satellite location falls under the license of the parent agency and shall be located in the same DHH Region as the parent agency.~~;

3. ~~No branch office or satellite location may be opened without written approval from the department. In order for a branch office or satellite location to be approved, the parent agency must have full licensure for at least one year. Branch office approvals~~ a published telephone number which is available ~~and satellite location approvals will be renewed at the time of renewal of the parent agency's license, if the parent agency meets the requirements for licensure.~~ accessible 24 hours a day, seven days a week, including holidays;

4. ~~The department will consider the following in making a determination whether to approve a branch office or a satellite~~

~~location:~~ have a business fax number that is operational 24 hours a day, seven days a week;

~~a. compliance history of the provider to include the scope and severity of deficiencies cited within the last 12 months;~~

~~b. the number and nature of validated complaints within the last 12 months;~~

~~c. the parent agency has a provisional license;~~

~~d. the parent agency is under license revocation;~~

~~e. the parent agency is undergoing a change of ownership; or~~

~~f. adverse action, including license revocation, denial or suspension, has been taken against the license of other agencies operated by the owner of the parent agency.~~ D.4.a. - D.4.f.

Repealed.

5. ~~The branch office or satellite location shall be held out to the public as a branch, division, or satellite of the parent agency so that the public will be aware of the identity of the agency operating the branch or satellite.~~ have internet access and a working e-mail address;

a. ~~Reference to the name of the parent agency e-mail address shall be contained in any written documents, signs or other promotional materials relating~~ provided to the ~~branch or satellite~~ department as well as any changes to the e-mail address

within five working days to assure that the department has current contact information-;

b. the e-mail address shall be monitored by the provider on an ongoing basis to receive communication from the department.

6. ~~Original personnel files shall not be maintained at the branch office or satellite location~~have space for storage of client records either electronically or in paper form or both in an area that is secure, safe from hazards and does not breach confidentiality of protected health information.

~~7. A branch office or a satellite location is subject to survey, including complaint surveys, by the department at any time to determine compliance with minimum licensing standards.~~

~~8. A branch office or a satellite location shall:~~

~~a. serve as part of the geographic service area approved for the parent agency;~~

~~b. retain an original or duplicate copy of all clinical records for its clients for a 12 month period. Duplicate records need not be maintained at the parent agency, but shall be made available to state surveyors during any survey upon request within a reasonable amount of time;~~

~~c. maintain a statement of personnel policies on-site for staff usage;~~

~~d. post and maintain regular office hours; and~~

~~\_\_\_\_\_ e. staff the branch office or satellite location during regular office hours.~~

~~\_\_\_\_\_ 9. Each branch office shall be assessed a fee of \$200, assessed at the time the license application is made for the branch and once a year thereafter for renewal of the branch license. This fee is non-refundable and is in addition to any other fees that may be assessed according to the laws, rules, regulations and standards.~~

~~\_\_\_\_\_ 10. Each satellite location shall be assessed a fee of \$250, assessed at the time the license application is made for the satellite location and once a year thereafter for renewal of the satellite location license. This fee is non-refundable and is in addition to any other fees that may be assessed according to the laws, rules, regulations and standards.~~

~~\_\_\_\_\_ 11. The department at its sole discretion, and taking into consideration resources of the department, may approve branch offices for HCBS providers rendering in-home services.~~

~~\_\_\_\_\_ 12. The department at its sole discretion, and taking into consideration resources of the department, may approve satellite locations for HCBS providers rendering center-based respite or adult day care services.~~ D.7. - D.12. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORY NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:74 (January

2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5032. Branch Offices and Satellites of HCBS Providers**

A. HCBS providers with branch offices or satellite locations shall meet the following:

1. No branch office or satellite location may be opened without prior written approval from HSS. In order for a branch office or satellite location to be approved, the parent agency shall have maintained a full licensure for the previous twelve month period.

a. The number of any new branch or satellite locations for any provider within a geographic location may be limited at the discretion of HSS.

2. The department may consider the following in making a determination whether to approve a branch office or a satellite location:

a. compliance history of the provider to include the areas of non-compliance of the deficiencies cited within the last 12 months;

b. the nature and severity of any substantiated complaints within the last 12 months;

c. if the parent agency currently has a provisional license;

d. if the parent agency currently is in a settlement agreement with the department;



e. if the parent agency has previously been excluded from participation from the Medicaid program;

f. if the parent agency is currently under license revocation or denial of license renewal;

g. if the parent agency is currently undergoing a change of ownership; and

h. if any adverse action has been taken against the license of other agencies operated by the owner of the parent agency within the previous two year period.

3. The branch office or satellite location shall be held out to the public as a branch, division, or satellite of the parent agency so that the public will be aware of the identity of the agency operating the branch or satellite.

a. Reference to the name of the parent agency shall be contained in any written documents, signs or other promotional materials relating to the branch or satellite.

4. Original personnel files shall not be maintained or stored at the branch office or satellite location.

5. A branch office or a satellite location is subject to survey, including complaint surveys, by the department at any time to determine compliance with minimum licensing standards.

6. A branch office or a satellite location shall:

a. serve as part of the geographic service area approved for the parent agency;

b. retain an original or a duplicate copy of all clinical records for its clients for a 12 month period at the branch or satellite location.

NOTE: If satellite or branch records are not maintained at the parent agency, such shall be made available as requested by the state surveyor without delaying the survey process;

c. maintain a copy of the agency's policies and procedures manual on-site for staff usage;

d. post and maintain regular office hours in accordance with §5031.B; and

e. staff the branch office or satellite location during regular office hours.

7. Each branch office or satellite location shall:

a. fall under the license of the parent agency and be located in the same LDH Region as the parent agency;

b. be assessed the required fee, assessed at the time the license application is made and once a year thereafter for renewal of the branch or satellite license;

NOTE: This fee is non-refundable and is in addition to any other fees that may be assessed in accordance with applicable laws, rules, regulations and standards.

8. Existing branch office or satellite location approvals will be renewed at the time of the parent agency's license renewal, if the parent agency meets the requirements for licensure.

#### B. Branch Offices of HCBS Providers

1. An HCBS provider who currently provides in-home services such as PCA, respite, MIHC or SIL services may apply to the department for approval to operate a branch office to provide those same services.

a. HCBS providers are limited in the same LDH Region as the parent agency at the discretion of HSS.

C. Satellite Locations of HCBS Providers

1. An HCBS provider who currently provides ADC services or provides center-based respite services may apply to the department for approval to operate a satellite location to provide additional ADC services or center-based respite services at that satellite location.

a. HCBS providers are limited in the same LDH Region as the parent agency at the discretion of the HSS.

NOTE: The HSS may with good cause consider exceptions to the limit on numbers of satellite and/or branch locations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

**Subchapter C. Admission, Transfer and Discharge Criteria**

**§5033. Admissions**

A. An HCBS provider shall have written admissions policies and criteria which shall include the following:

1. - 3. ...

4. ~~policy regarding the determination of~~ legal status of the clients served, ~~according to appropriate state laws, before admission;~~

5. - 7. ...

B. The written description of admissions policies and criteria shall be ~~provided to the department upon request, and~~ made available to the client and his/her legal representative.

C. An HCBS provider shall ensure that the client, the legal representative or other persons, where appropriate, ~~or other persons~~ are provided an opportunity to participate in the admission process ~~and decisions~~.

1. ~~Proper e~~Consents as necessary for care and services shall be obtained ~~before~~ from the client or legal representative, if applicable, prior to admission.

2. Where such involvement of the client, the legal representative, where appropriate, or other persons as selected by the client is not possible or not desirable, the reasons for their exclusion shall be recorded.

D. ~~An HCBS provider shall not refuse~~ When refusing admission, a provider shall provide a written statement as ~~to any client on the reason for~~ the ~~grounds of race, national origin, ethnicity~~ refusal. This shall be provided to designated representatives of the department or ~~disability~~ to a client upon request.

~~E. An HCBS provider shall meet the needs of each client admitted to his/her program as identified and addressed in the client's ISP.~~

~~F. When refusing admission, a provider shall provide a written statement as to the reason for the refusal. This shall be provided to designated representatives of the department or to a client upon request.~~  
E. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:75 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5035. Voluntary Transfers and Discharges**

A. A client has the right to choose a provider. This right includes the right to be discharged from his current provider, be transferred to another provider and to discontinue all services ~~altogether~~.

B. Upon notice by the client or authorized representative that the client has selected another provider or has decided to discontinue services or moves from the geographical~~al~~ region serviced by the provider, the HCBS provider shall have the responsibility of planning for a client's voluntary transfer or discharge.

C. The transfer or discharge responsibilities of the HCBS provider shall include:

1. holding a transfer or discharge planning conference with the client, family, support coordinator, legal representative and advocate, if such are ~~known~~applicable, in order to facilitate ~~a~~ ~~smooth~~an orderly transfer or discharge, unless the client or authorized representative declines such a meeting;

C.2. - D.1. ...

E. The provider shall not coerce the client to stay with the provider agency or interfere in any way with the client's decision to transfer. Failure to cooperate with the client's decision to transfer to another provider ~~will result in adverse action by the department~~may result in further investigation and action as deemed necessary by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:75 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5037. Involuntary Transfers and Discharges**

A. ...

1. The client's health has improved sufficiently so that the client no longer ~~needs~~requires the services rendered by the provider.

2. ...

3. The client has failed to pay any past due amounts for services received from the provider for which he/she is liable within 15 days after receipt of written notice from the provider.

4. ...

5. The client or family refuses to cooperate or interferes with attaining the care objectives of the HCBS provider.

A.6. - C. ...

1. The written notice shall be sent to the client or to the authorized representative via certified mail, return receipt requested.

2. ...

3. When the client has failed to pay any outstanding amounts for services for which he/she has received from the provider and is liable, written notice may be given immediately. Payment is due within 15 days of receipt of written notice from the provider that an amount is due and owing.

4. - 5. ...

D. The written notice of involuntary transfer or discharge shall include:

1. - 4. ...

5. names of provider personnel available to assist the client or authorized representative and family in decision making and transfer arrangements;

D.6. - F.2.b. ...

3. If a client is given ~~less than 30 calendar~~ 15 days written notice and files a timely appeal of an involuntary transfer/discharge based on the client's failure to pay any outstanding amounts for services within the allotted time, the provider may discharge or transfer the client.

G. The transfer or discharge responsibilities of the HCBS provider shall include:

1. ~~holding~~ conducting a transfer or discharge planning conference with the client, family, support coordinator, legal representative and advocate, if such are known, in order to facilitate an ~~smooth~~ orderly transfer or discharge;

G.2. - H. ...

1. The provider shall not be required to provide services if the discharge is due to the client moving out of the provider's geographical~~a~~ region. An HCBS provider is prohibited from providing services outside of its geographical~~a~~ region without the department's approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:75 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

## **Subchapter D. Service Delivery**

### **§5039. General Provisions**



A. ...

B. ~~All services provided to the client shall be provided in accordance with an individual service plan.~~Assessment of Needs

1. Prior to any service being rendered, an HCBS provider shall conduct a thorough assessment of the client's needs to identify where supports and services are needed and whether the provider has the capacity to provide such needed care and services.

2. The provider shall not admit a client for whom they do not have the capacity to safely provide required services.

3. The assessment shall identify potential risks to the client and shall address, at a minimum the following areas:

a. Life safety, including, but not limited to:

i. the ability of the client to access emergency services;

ii. the ability of the client to access transportation in order to obtain necessary goods and services (i.e. medical appointments, medications and groceries); and

iii. the ability of the client to evacuate the home in an emergent event, such as a fire in the home, or in the event of a declared disaster.

b. living environment including, but not limited to:

i. presence of physical hazards (i.e. objects that could cause falls, hot water temperatures that could contribute to scalds);

ii. presence of functional utilities; and

iii. presence of environmental hazards (i.e. chemicals, foods not kept at acceptable temperatures);

c. health conditions including, but not limited to:

i. diagnoses;

ii. medications, including methods of administration; and

iii. current services and treatment regimen;

d. functional capacity including but not limited to:

i. activities of daily living;

ii. instrumental activities of daily living including money management, if applicable;

iii. communication skills;

iv. social skills; and

v. psychosocial skills including behavioral needs; and

e. client financial health including, but not limited to:

i. the client's independent ability to manage their own finances;

ii. the client's dependence on a family member or other legal representative to manage the client's finances; and

iii. the client's need for the provider's assistance to manage the client's finances to assure that bills such as rent and utilities are paid timely.

4. The assessment shall be conducted prior to admission and at least annually thereafter. The assessment shall be conducted more often as the client's needs change.

5. An HCBS comprehensive assessment performed for a client in accordance with policies, procedures, and timeframes established by Medicaid or by a LDH program office for reimbursement purposes can substitute for the assessment required under these provisions.

6. The provider shall be familiar with the health condition of clients served. If the client has an observable significant change in physical or mental status, the provider shall ensure that the change is immediately reported so that the client receives needed medical attention by a licensed medical practitioner in a timely manner.

~~C. Assessment of Needs~~

~~1. Prior to any service being rendered, an HCBS provider shall conduct an assessment of the client's needs. The assessment shall include, at a minimum:~~

~~a. risk assessment, including:~~

~~i. life safety (i.e. the ability to access emergency services, basic safety practices and evaluation of the living unit);~~

~~ii. home environment;~~

~~iii. environmental risk; and~~

~~iv. medical risk;~~

~~b. medical assessments, including:~~

~~i. diagnosis;~~

~~ii. medications, including methods of~~  
~~administration; and~~

~~iii. current services and treatment regimen;~~

~~c. activities of daily living;~~

~~d. instrumental activities of daily living~~  
~~including money management, if applicable;~~

~~e. communication skills;~~

~~f. social skills; and~~

~~g. psychosocial skills including behavioral needs.~~

~~2. If medical issues are identified in the assessment, a~~  
~~licensed physician or licensed registered nurse (RN) shall perform a~~  
~~medical assessment to determine necessary supports and services~~  
~~which shall be addressed in the ISP.~~

~~3. The assessment shall be conducted prior to admission~~  
~~and at least annually thereafter. The assessment may be conducted~~  
~~more often as the client's needs change.~~

~~4. An HCBS comprehensive assessment performed for a~~  
~~client in accordance with policies and procedures established by~~  
~~Medicaid or by a DHH program office for reimbursement purposes can~~

~~substitute for the assessment required under these provisions.~~C. -

#### C.4. Repealed

D. - D.2.d. ...

3. An HCBS plan of care or agreement to provide services signed by the provider or client in accordance with policies, ~~and~~ procedures, and timelines established by Medicaid or by a ~~DHH~~ LDH program office for reimbursement purposes can substitute for the agreement required under these provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:77 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5041. Individual Service Plan**

A. Upon admission and prior to the initiation of care and services, an individual service plan shall be person centered and developed for each client, based upon a comprehensive assessment.

B. - E. ...

F. The ISP shall include the following components:

1. - 3. ...

4. target dates for completion or re-evaluation of the stated goals; ~~and~~

5. identification of all persons responsible for implementing or coordinating implementation of the plan; ~~and~~ and

6. documentation of all setting options for services, including non-disability specific settings, which the provider offered to the client, including residential settings.

G. ...

H. A comprehensive plan of care prepared in accordance with policies, ~~and~~ procedures, and timelines established by Medicaid or by a ~~DHH~~ LDH program office for reimbursement purposes may be substituted or used for the individual service plan.

I. Each client's ISP shall be reviewed, revised, updated and amended no less than annually, and more often as necessary, or as designated by the department, to reflect changes in the client's needs, services and personal outcomes.

#### J. Coordination of Services

1. Client care goals and interventions shall be coordinated in conjunction with other providers rendering care and services and/or caregivers to ensure continuity of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:77 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5043. Contract Services**

A. ...

B. When services are provided through contract, a written contract ~~must~~shall be established. The contract shall include all of the following items:

1. - 4. ...

5. a statement that the ~~person~~-contracted personnel shall meet the same qualifications and training requirements as an employee of an HCBS agency who holds the same position-~~being~~  
~~contracted~~;

B.5.a. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:77 (January 2012), amended LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5045. Transportation**

A. ...

B. Any vehicle owned by the agency or its employees, either contracted or staff, used to transport clients shall be:

1. ...

2. maintained in an ~~safe~~operational condition;

3. operated at an internal temperature that does not compromise the health, safety or needs of the client.

C. The provider shall have proof of liability insurance coverage in accordance with state law for any vehicle owned by the

agency or its employees, either contracted or staff, that are used to transport clients. The personal liability insurance of a provider's employee, either contracted or staff, shall not be substituted for the required vehicular insurance coverage.

D. Any staff member of the provider, or other person acting on behalf of the provider, who is operating a vehicle owned by the agency or its employees, either contracted or staff, for the purpose of transporting clients shall be properly licensed to operate that class of vehicle in accordance with state law.

E. The provider shall have documentation of successful completion of a safe driving course for each staff or contract employee who transports clients. If the staff or contract employee does not transport clients, such shall be clearly documented in their personnel record.

1. Employees, either contracted or staff, who are required to transport clients as part of their assigned duties shall successfully complete a safe driving course within 90 days of hiring, every three years thereafter, and within 90 days of the provider's discovery of any moving violation.

F. Upon hire, and annually thereafter, the provider shall ~~conduct a driving history record of~~ at a minimum, obtain a driver's license status inquiry report available on-line from the State Office of Motor Vehicles, for each employee, either contracted or directly employed, who is required to transport clients as part of their assigned duties ~~and annually thereafter~~.



G. The provider shall not allow the number of persons in any vehicle used to transport clients to exceed the number of available seats with seatbelts in the transporting vehicle.

H. - I.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:78 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

## **Subchapter E. Client Protections**

### **§5049. Client Rights**

A. Unless adjudicated by a court of competent jurisdiction, clients served by HCBS providers shall have the same rights, benefits and privileges guaranteed by the constitution and the laws of the United States and Louisiana~~-,~~ including but not limited to the following:

1. human dignity;

2. impartial access to treatment regardless of:

a. race;

b. religion;

c. sex;

d. ethnicity;

e. age; or

f. disability;

- 3. cultural access as evidenced by:
  - a. interpretive services;
  - b. translated materials;
  - c. the use of native language when possible; and
  - d. staff trained in cultural awareness;
- 4. have sign language interpretation, allow for the use of service animals and/or mechanical aids and devices that assist those persons in achieving maximum service benefits when the person has special needs;
- 5. privacy;
- 6. confidentiality;
- 7. access his/her records upon the client's written consent for release of information;
- 8. a complete explanation of the nature of services and procedures to be received, including:
  - a. risks;
  - b. benefits; and
  - c. available alternative services;
- 9. actively participate in services, including:
  - a. assessment/reassessment;
  - b. service plan development; and
  - c. discharge;
- 10. refuse specific services or participate in any activity that is against their will and for which they have not given consent;

11. obtain copies of the provider's complaint or grievance procedures;
12. file a complaint or grievance without retribution, retaliation or discharge;
13. be informed of the financial aspect of services;
14. be informed of the need for parental or guardian consent for treatment of services, if appropriate;
15. personally manage financial affairs, unless legally determined otherwise;
16. give informed written consent prior to being involved in research projects;
17. refuse to participate in any research project without compromising access to services;
18. be free from mental, emotional and physical abuse, coercion and neglect;
19. be free from all restraints;
20. receive services that are delivered in a professional manner and are respectful of the client's wishes concerning their home environment;
21. receive services in the least intrusive manner appropriate to their needs;
22. contact any advocacy resources as needed, especially during grievance procedures;
23. discontinue services with one provider and freely choose the services of another provider;

24. freedom and support to control their own schedules and activities;

25. access to food at any time; and

26. have visitors of their choosing at any time.

B. ~~There~~ An HCBS provider shall ~~be written policies and procedures that protect the client's welfare, including the means by which the protections will be implemented and enforced~~ assist in obtaining an independent advocate:-:

1. if the client's rights or desires may be in jeopardy;

2. if the client is in conflict with the provider; or

3. upon any request of the client.

C. ~~Each HCBS provider's written policies and procedures, at a minimum, shall ensure t~~The client's has the right to select an independent advocate, which may be:

1. ~~human dignity~~ a legal assistance corporation;

2. ~~impartial access to treatment regardless of race, religion, sex, ethnicity, age or disability~~ a state advocacy and protection agency;

3. ~~cultural access as evidenced by~~ a trusted church or family member:-; or

~~a. interpretive services;~~

~~b. translated materials;~~

~~c. the use of native language when possible; and~~

~~d. staff trained in cultural awareness;~~ C.3.a. -

C.3.d. Repealed.

4. ~~have sign language interpretation, allow for the use of service animals and/or mechanical aids and devices that assist those persons in achieving maximum service benefits when the person has special needs~~any other competent key person not affiliated in any way with the licensed provider;

5. ~~privacy;~~

6. ~~confidentiality;~~

7. ~~access his/her records upon the client's written consent for release of information;~~

8. ~~a complete explanation of the nature of services and procedures to be received, including:~~

a. ~~risks;~~

b. ~~benefits; and~~

c. ~~available alternative services;~~

9. ~~actively participate in services, including:~~

a. ~~assessment/reassessment;~~

b. ~~service plan development; and~~

c. ~~discharge;~~

10. ~~refuse specific services or participate in any activity that is against their will and for which they have not given consent;~~

11. ~~obtain copies of the provider's complaint or grievance procedures;~~

12. ~~file a complaint or grievance without retribution, retaliation or discharge;~~

- ~~13. be informed of the financial aspect of services;~~
  - ~~14. be informed of the need for parental or guardian consent for treatment of services, if appropriate;~~
  - ~~15. personally manage financial affairs, unless legally determined otherwise;~~
  - ~~16. give informed written consent prior to being involved in research projects;~~
  - ~~17. refuse to participate in any research project without compromising access to services;~~
  - ~~18. be free from mental, emotional and physical abuse and neglect;~~
  - ~~19. be free from chemical or physical restraints;~~
  - ~~20. receive services that are delivered in a professional manner and are respectful of the client's wishes concerning their home environment;~~
  - ~~21. receive services in the least intrusive manner appropriate to their needs;~~
  - ~~22. contact any advocacy resources as needed, especially during grievance procedures; and~~
  - ~~23. discontinue services with one provider and freely choose the services of another provider.~~
- C.5. - C.23. Repealed.

D. ~~An HCBS provider shall assist in obtaining an independent advocate.~~ The client, client's family and legal guardian, if one is known, shall be informed of their rights, both verbally and in writing in a language they are able to understand.

~~1. if the client's rights or desires may be in jeopardy;~~

~~2. if the client is in conflict with the provider; or~~

~~3. upon any request of the client.~~

~~E. The client has the right to select an independent advocate, which may be:~~

~~1. a legal assistance corporation;~~

~~2. a state advocacy and protection agency;~~

~~3. a trusted church or family member; or~~

~~4. any other competent key person not affiliated in any way with the licensed provider.~~

~~F. The client, client's family and legal guardian, if one is known, shall be informed of their rights, both verbally and in writing in a language they are able to understand.~~ D.1. - F.

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:78 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5051. Grievances**

A. - C. ...

1. The agency shall provide the grievance procedure in writing to the client at admission and grievance forms shall be made readily available as needed thereafter.

D. ...

E. The administrator of the agency, or his/her designee, shall issue a written report and/or decision within five business days of receipt of the grievance to the:

1. - 3. ...

4. the person ~~making~~ initiating the grievance.

F. The agency shall maintain documentation pursuant to §5051.A-E.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:79 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **Subchapter F. Provider Responsibilities**

##### **§5053. General Provisions**

A. ...

B. Additional staff shall be employed or contracted as necessary to ensure proper care of clients and adequate provision of services.

C. ...

D. All client calls to the provider's published telephone number shall be returned within ~~an appropriate amount of time not to exceed~~ one business day. Each client shall be informed of the provider's published telephone number, in writing, as well as



through any other method of communication most readily understood by the client according to the following schedule:

1. - 3. ...

E. HCBS providers shall establish policies and procedures relative to the reporting of abuse~~and,~~ neglect~~of clients,~~ extortion, or exploitation of clients pursuant to the provisions of R.S. 15:1504-1505, R.S. 40:2009.20 and any subsequently enacted laws. Providers shall ensure that staff complies with these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:79 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5055. Core Staffing Requirements**

A. - B.1.a. ...

b. have a minimum of six years of verifiable experience working in a health or social service related business, plus a minimum of four additional years of verifiable experience working in a field providing services to the elderly and/or persons with developmental disabilities~~;~~ or

c. is a registered nurse licensed and in good standing with the Louisiana State Board of Nursing and have at least

two years' experience in providing care to the elderly or to adults with disabilities.

2. Any person convicted of a felony as defined in these provisions is prohibited from serving as the administrator of an HCBS provider agency.

C. Administrator Responsibilities. The administrator shall:

1. - 4. ...

5. employ, either by contract or staff, qualified individuals and ensure adequate staff education and evaluations;

C.6. - D.1.g. ...

2. Professional staff employed or contracted by the provider shall hold a current, valid professional license issued by the appropriate licensing board ~~and shall comply with continuing education requirements of the appropriate board.~~

3. The provider shall maintain proof of annual verification of current professional ~~license~~ licensure of all licensed professional staff.

4. All professional services furnished or provided shall be furnished or provided in accordance with ~~acceptable~~ professional standards of practice ~~standards~~, according to the scope of practice requirements for each licensed discipline.

E. Direct Care Staff

1. The provider shall ~~be staffed with~~ have sufficient numbers of trained direct care staff to ~~properly~~ safeguard the health, safety and welfare of clients.

2. - 3. ...

F. Direct Care Staff Qualifications

1. ~~All HCBS providers who receive state or federal funds, and compensate their direct service workers with such funds,~~ shall ensure that all non-licensed direct care staff, either contracted or employed, meet the minimum mandatory qualifications and requirements for direct service workers as required by R.S. 40:2179-40:2179.1 or a subsequently amended statute and any rules published pursuant to those statutes.

2. All direct care staff shall have the ability to read ~~and~~ write at a level that allows them to understand the client's services plan, document services provided, and carry out directions competently as assigned.

a. The training ~~must~~ shall address needed areas of ~~weakness~~ improvement, as determined by the worker's performance reviews, and may address the special needs of clients.

3. All direct care staff shall be trained in recognizing and responding to ~~the~~ medical emergencies of clients.

G. Direct Care Staff Responsibilities. The direct care staff shall:

1. - 8. ...

9. be responsible for accurate daily documentation of services provided and status of clients to be reported on progress notes and/or progress reports.

H. ~~Volunteers/Student Interns~~ Direct Care Staff Training

1. ~~A~~ The provider ~~utilizing volunteers or student interns on a regular basis~~ shall ~~have a written plan for using such resources. This plan~~ ensure that each direct care staff, either contracted or employed, satisfactorily completes a minimum of 16 hours of training upon hire and before providing direct care and services to clients. Such training shall include the following topics and shall be ~~given to all volunteers and interns. The plan shall indicate that all volunteers~~ documented, maintained and ~~interns shall~~ readily available in the agency's records:

a. ~~be directly supervised by a paid staff member~~ the provider's policies and procedures;

b. ~~be oriented and trained in the philosophy, policy~~ emergency and safety ~~procedures of the provider, confidentiality requirements and the needs of clients; and~~

c. ~~have documentation of three reference checks.~~ recognizing and responding to medical emergencies including:

i. knowing when to make an immediate call to 911; and

ii. knowing how to support the client while waiting for the emergency personnel to arrive such as maintaining an open airway for breathing, checking for the presence of a pulse, or stopping bleeding, when needed;

d. client's rights;

e. detecting and reporting suspected abuse and neglect, utilizing the department's approved training curriculum;

f. reporting critical incidents;

g. universal precautions;

h. documentation;

i. implementing service plans;

j. confidentiality;

k. detecting signs of illness or impairment that warrant medical or nursing intervention;

l. basic skills required to meet the health needs and problems of the client;

m. the management of aggressive behavior, including acceptable and prohibited responses; and

n. scald prevention training.

2. ~~Volunteer/student interns~~ The provider shall ~~be a supplement to~~ ensure that each direct care staff, either contracted or employed, by the provider but shall not provide direct care services to clients satisfactorily completes a basic first aid course within 45 days of hire.

3. Training received by a direct care staff worker from previous employment with a HCBS agency is transferrable between HCBS agencies when the hiring HCBS agency:

a. obtains from the previous employer proof of the employee's successful documented completion of any required training; and

b. obtains documented evidence of the employee's continued competency of any required training received during employment with the previous HCBS provider.

I. ~~Direct Care Staff Supervisor. The HCBS provider shall designate and assign a direct care staff supervisor to monitor and supervise the direct care staff.~~Competency Evaluation

1. ~~The supervisor~~A competency evaluation shall be ~~selected based upon the needs of the client outlined~~developed and conducted to ensure that, at a minimum, each direct care staff, either contracted or employed, is able to demonstrate competencies in the ~~ISP~~ training areas in §5055.H.

2. ~~A provider may have more than one direct care staff supervisor~~Written or oral examinations shall be provided.

3. ~~Staff in supervisor positions~~The examination shall ~~have annual~~reflect the content and emphasis of the training curriculum components in ~~supervisory~~§5055.H and ~~management techniques~~shall be developed in accordance with accepted educational principles.

4. The provider shall ensure that those direct care staff with limited literacy skills receive substitute examination sufficient to determine written reading comprehension and competency to perform duties assigned.

J. ~~Direct Care Supervision~~Continuing Education

1. ~~A direct care staff supervisor~~Annually thereafter, the provider shall ~~make an in-person supervisory visit of~~ensure

that each direct care staff, within 60 days of hire and at least annually thereafter. Supervisory visits either contracted or employed, satisfactorily completes a minimum of eight hours of training in order to ensure continuing competence. Orientation and normal supervision shall not be considered for meeting this requirement. This training shall occur more frequently; address the special needs of clients and may address areas of employee weakness as determined by the direct care staff person's performance reviews.

~~a. if dictated by the ISP;~~

~~b. as needed to address worker performance;~~

~~c. to address a client's change in status; or~~

~~d. to assure services are provided in accordance with the ISP.~~

~~2. The supervisory visit shall be unannounced and utilized to evaluate:~~

~~a. the direct care staff's ability to perform assigned duties;~~

~~b. whether services are being provided in accordance with the ISP; and~~

~~c. if goals are being met.~~

~~3. Documentation of supervision shall include:~~

~~a. the worker/client relationship;~~

~~b. services provided;~~

~~c. observations of the worker performing assigned duties;~~

~~d. instructions and comments given to the worker during the onsite visit; and~~

~~e. client satisfaction with service delivery.~~

~~4. An annual performance evaluation for each direct care staff person shall be documented in his/her personnel record.~~

~~5. In addition to the in-person supervisory visits conducted with direct care staff, the provider shall visit the home of each client on a quarterly basis to determine whether the individual:~~

~~a. service plan is adequate;~~

~~b. continues to need the services; and~~

~~c. service plan needs revision.~~ J.1.a. - J.5.c.

Repealed.

K. ~~Direct Care Staff Training~~ Volunteers/Student Interns

1. ~~The~~ A provider utilizing volunteers or student interns on any regular basis shall ~~ensure that each direct care staff satisfactorily completes~~ have a ~~minimum of 16 hours of training upon hire and before providing direct care and services to clients. Such training shall include the following topics and~~ written plan for using such resources. This plan shall be ~~documented, maintained~~ given to all volunteers and interns. The plan shall indicate that all volunteers and ~~readily available in the agency's records~~ interns shall:

a. ~~the provider's policies and procedures~~ be directly supervised by a paid staff member;



b. ~~emergency and safety procedures~~ be oriented and trained in the philosophy, policy and procedures of the provider, confidentiality requirements and the needs of clients;

c. ~~recognizing and responding to medical emergencies that require an immediate call to 911~~ have documentation of reference checks in accordance with facility policy;

~~d. client's rights;~~

~~e. detecting and reporting suspected abuse and neglect, utilizing the department's approved training curriculum;~~

~~f. reporting critical incidents;~~

~~g. universal precautions;~~

~~h. documentation;~~

~~i. implementing service plans;~~

~~j. confidentiality;~~

~~k. detecting signs of illness or dysfunction that warrant medical or nursing intervention;~~

~~l. basic skills required to meet the health needs and problems of the client; and~~

~~m. the management of aggressive behavior, including acceptable and prohibited responses.~~ K.1.d. - K.1.m. Repealed.

2. ~~The~~ Volunteer/student interns shall be a supplement to staff employed by the provider but shall ~~ensure that each direct care staff satisfactorily completes a basic first aid course within 45 days of hire~~ not provide direct care services to clients.

L. ~~Competency Evaluation~~ Direct Care Staff Supervisor. The HCBS provider shall designate and assign a direct care staff supervisor to monitor and supervise the direct care staff.

1. ~~A competency evaluation must be developed and conducted to ensure that each direct care staff, at a minimum, is able to demonstrate competencies in the training areas in §5055.K~~ The supervisor shall be selected based upon the needs of the client outlined in the ISP.

2. ~~Written or oral examinations shall be provided~~ A provider may have more than one direct care staff supervisor.

~~3. The examination shall reflect the content and emphasis of the training curriculum components in §5055.K and shall be developed in accordance with accepted educational principles.~~

~~4. A substitute examination, including an oral component, will be developed for those direct care staff with limited literacy skills. This examination shall contain all of the content that is included in the written examination and shall also include a written reading comprehension component that will determine competency to read job-related information.~~ L.3. - L.4.

Repealed.

M. ~~Continuing Education~~ Direct Care Supervision

1. ~~Annually thereafter, the provider~~ A direct care staff supervisor shall ~~ensure that~~ make an in-person supervisory visit of each direct care staff ~~person satisfactorily completes a minimum of 16 hours of continuing training in order to ensure continuing~~

~~competence. Orientation~~ within 60 days of being hired or contracted  
and ~~normal supervision shall not be considered for meeting this~~  
~~requirement. This training~~ at least annually thereafter.

Supervisory visits shall ~~address the special needs of clients and~~  
~~may address areas of employee weakness as determined by the direct~~  
~~care staff's performance reviews~~ occur more frequently.:

- a. if dictated by the ISP;
- b. as needed to address worker performance;
- c. to address a client's change in status; or
- d. to assure services are provided in accordance  
with the ISP.

2. The supervisory visit shall be unannounced and  
utilized to evaluate:

- a. the direct care staff person's ability to  
perform assigned duties;
- b. whether services are being provided in  
accordance with the ISP; and
- c. if goals are being met.

3. Documentation of supervision shall include:

- a. the worker/client relationship;
- b. services provided;
- c. observations of the worker performing assigned  
duties;
- d. instructions and comments given to the worker  
during the onsite visit; and

e. client satisfaction with service delivery.

4. An annual performance evaluation for each direct care staff person shall be documented in his/her personnel record.

5. In addition to the in-person supervisory visits conducted with direct care staff, the provider shall visit the home of each client on a quarterly basis to determine whether the individual:

a. service plan is adequate;

b. continues to need the services; and

c. service plan needs revision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:79 (January 2012), amended LR 40:1007 (May 2014), LR 41:2639 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

#### **§5057. Client Records**

A. Client records shall be accurately documented and maintained in the HCBS provider's office. Current progress notes shall be maintained at the home. The provider shall have a written record for each client which shall include:

A.1. - 6. ...

7. ~~a full and complete separate accounting~~ an accurate financial record of each client's personal funds which includes a

written record of all of the financial transactions involving the personal funds of the client deposited with the provider;

a. the client (or his legal representative) shall be afforded ~~reasonable~~ access to such record; and

b. the financial records shall be available through quarterly statements;

c. ~~the provider shall safeguard and account for any such funds;~~ Repealed.

8. - 11.a. ...

b. a description of any serious or life threatening medical condition(s); and

c. a description of any medical treatment or medication necessary for the treatment of any medical condition; ~~and~~

d. ~~physician delegation form for the administration of medication or treatment, if applicable; and~~ Repealed.

12. a copy of any signed and dated advance directive that has been provided to the HCBS provider, or any physician orders, signed and dated, relating to end of life care and services.

B. HCBS providers shall maintain client records for a period of ~~five~~ no less than six years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:82 (January

2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5059. Client Funds and Assets**

A. The HCBS provider shall not require that ~~they~~ the provider be the manager of the client's funds and shall develop and implement written policies and procedures to protect client funds. Clients shall have the right to control their personal resources.

B. In the case of a representative payee, all social security rules and regulations shall be adhered to. The provider shall obtain written authorization from the client and/or his/her legal or responsible representative if they will be designated as the representative payee of the client's social security payment.

C. If the provider manages a client's personal funds, the provider ~~must~~ shall furnish a written statement which includes the client's rights regarding personal funds, a list of the services offered and charges, if any, to the client and/or his/her legal or responsible representative.

D. - E.6. ...

F. A client with a personal fund account managed by the HCBS provider may sign an account agreement acknowledging that any funds deposited into the personal account, by the client or on his/her behalf, are jointly owned by the client and his legal representative or next of kin. These funds do not include Social Security funds that are restricted by Social Security Administration (SSA) guidelines. The account agreement shall state that:

1. - 4. ...

5. the joint owner of a client's account shall not be an employee, either contracted or on staff, of the provider.

G. - H. ...

1. Upon the death of a client, the provider shall act accordingly upon any burial ~~or insurance~~ policies of the client.

2. ...

3. If a valid account agreement has been executed by the client, the provider shall transfer the funds in the client's personal fund account to the joint owner within 30 days of the client's death. ~~This provision only applies to personal fund accounts not in excess of \$2,000.~~

H.4. - I. ...

J. Burial ~~or Insurance~~ Policies. Upon discharge of a client, the provider shall release any and all burial policies ~~or insurance policies~~ to the client or his/her legal or responsible representative.

K. ~~The provisions of this section shall have no effect on federal or state tax obligations or liabilities of the deceased client's estate. If there are other laws or regulations which conflict with these provisions, those laws or regulations will govern over and supersede the conflicting provisions~~Life Insurance Policies. An HCBS provider and/or its employee(s), either contracted or staff, shall not purchase a life insurance policy on an HCBS

client and designate the provider and/or its employee(s) as the beneficiary of the policy.

L. The provisions of this section shall have no effect on federal or state tax obligations or liabilities of the deceased client's estate. If there are other laws or regulations which conflict with these provisions, those laws or regulations will govern over and supersede the conflicting provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:82 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5061. Quality Enhancement Plan**

A. An HCBS provider shall ~~have a quality enhancement (QE) plan which puts systems in place to effectively identify issues for which quality monitoring, remediation and improvement activities are necessary. The~~ develop, implement and maintain a quality enhancement (QE) plan ~~includes plans of action to correct identified issues including monitoring the effect of implemented changes and making needed revisions to the action plan.~~ that:

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

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



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

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

5. improves individual client outcomes and individual client satisfaction;

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

a. monitor the effects of implemented changes; and

b. result in revisions to the action plan;

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

B. The QE ~~program outcomes plan~~ shall ~~be reported to the administrator for action, as necessary, for any identified systemic problems.~~include:

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

a. review and resolution of complaints;

b. review and resolution of incidents; and

c. incidents of abuse, neglect and exploitation;

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

3. a process to review and develop action plans to

resolve all system wide issues identified as a result of the processes above;

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

5. a process of evaluation to identify or trigger further opportunities for improvement in identification of individual client care and service components.

C. The QE program shall hold bi-annual committee meetings to:

1. assess and choose which QE plan activities are necessary and set goals for the quarter;

2. evaluate the activities of the previous quarter;  
and

3. implement any changes that protect the clients from potential harm or injury.

D. The QE plan committee shall:

1. develop and implement the QE plan; and

2. report to the administrator any identified systemic problems.

E. The HCBS provider shall maintain documentation of the most recent 12 months of the QE plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:83 (January

2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5063. Emergency Preparedness**

A. - A.9. ...

B. Providers shall ensure that each client has ~~an~~ documented individual plan in preparation for, ~~dealing with and response to,~~ emergencies and disasters and shall assist clients in identifying the specific resources available through family, friends, the neighborhood and the community.

C. Continuity of Operations. The provider shall have ~~an~~ written disaster and emergency preparedness plans to maintain ~~continuity of the agency's operations in preparation for, during and after an emergency or disaster. The plan shall be designed to manage the consequences of~~ which are based on a risk assessment using an all hazards, ~~declared disasters or other emergencies that disrupt the provider's ability to render care~~ approach for both internal and ~~treatment~~ external occurrences, or threatens developed and approved by the ~~lives or safety of the clients.~~ governing body and updated annually;

1. to maintain continuity of the provider's operations in preparation for, during and after an emergency or disaster;

2. to manage the consequences of all disasters or emergencies that disrupt the provider's ability to render care and treatment, or threaten the lives or safety of the clients; and

3. that are prepared in coordination with the provider's local and/or parish Office of Homeland Security and Emergency Preparedness (OHSEP) and include provisions for persons with disabilities.

D. The HCBS provider shall ~~follow develop~~ and ~~execute~~ implement policies and procedures based on the ~~its~~ emergency ~~preparedness plan, in the event of the occurrence of a declared risk~~ assessment, and communication plan which shall be reviewed and updated at least annually to maintain continuity of the agency's operations in preparation for, during and after an emergency or disaster ~~or other emergency~~. The plan shall ~~include, at a minimum:~~ be designed to manage the consequences of all hazards, declared disasters or other emergencies that disrupt the provider's ability to render care and treatment, or threatens the lives or safety of the clients.

1. ~~provisions for~~ At any time that the ~~delivery of essential services to each client as identified in the individualized~~ HCBS provider has an interruption in services or a change in the licensed location due to an emergency ~~plan for each clients situation, whether the client is in a shelter or other location;~~ the provider shall notify HSS no later than the next business day.

2. ~~provisions for the management of staff, including provisions for adequate, qualified staff as well as for distribution and assignment of responsibilities and functions;~~

~~3. provisions for back-up staff;~~

~~4. the method that the provider will utilize in notifying the client's family or caregiver if the client is evacuated to another location either by the provider or with the assistance or knowledge of the provider. This notification shall include:~~

~~a. the date and approximate time that the facility or client is evacuating;~~

~~b. the place or location to which the client(s) is evacuating which includes the name, address and telephone number; and~~

~~c. a telephone number that the family or responsible representative may call for information regarding the provider's evacuation;~~

~~5. provisions for ensuring that supplies, medications, clothing and a copy of the service plan are sent with the client, if the client is evacuated; and~~

~~6. the procedure or methods that will be used to ensure that identification accompanies the individual. The identification shall include the following information:~~

~~a. current and active diagnosis;~~

~~b. medication, including dosage and times administered;~~

~~c. allergies;~~

~~d. special dietary needs or restrictions; and~~

~~e. next of kin, including contact information.~~D.2.

- 6. Repealed.

E. ~~If the state, parish or local Office of Homeland Security and Emergency Preparedness (OHSEP) orders a mandatory evacuation of the parish or the area in which the agency is serving, the agency shall ensure that all clients are evacuated according to the client's individual plan and the agency's~~ The provider shall follow and execute its emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency. The plan shall include, at a minimum:

1. ~~The provider shall not abandon a client during a disaster or~~ provisions for the delivery of essential services to each client as identified in the individualized emergency. ~~The provider shall not evacuate a plan for each client, to whether the client is in a shelter or other location; without ensuring staff and supplies remain with the client at the shelter, in accordance with the client's service plan.~~

2. provisions for the management of staff, including provisions for adequate, qualified staff as well as for distribution and assignment of responsibilities and functions;

3. provisions for back-up staff;

4. the method that the provider will utilize in notifying the client's family or caregiver if the client is evacuated to another location either by the provider or with the

assistance or knowledge of the provider. This notification shall include:

a. the date and approximate time that the provider or client is evacuating;

b. the place or location to which the client(s) is evacuating which includes the name, address and telephone numbers; and

c. a telephone number that the family or responsible representative may call for information regarding the provider's evacuation;

5. provisions for ensuring that sufficient supplies, medications, clothing and a copy of the individual service plan are sent with the client, if the client is evacuated; and

6. the procedure or methods that will be used to ensure that identification accompanies the individual. The identification shall include the following information:

a. current and active diagnoses;

b. medication(s), including dosages and times administered;

c. allergies;

d. special dietary needs or restrictions; and

e. next of kin, including contact information.

F. - H. ...

I. All agency employees, either contracted or staff, shall be trained in emergency or disaster preparedness. Training shall

include orientation, ongoing training and participation in planned drills for all personnel.

J. - J.5. ...

~~K. Inactivation of License due to a Declared Disaster or Emergency.~~

~~1. An HCBS provider licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster, as issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:~~

~~a. the licensed provider shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:~~

~~i. the HCBS provider has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;~~

~~ii. the licensed HCBS provider intends to resume operation as an HCBS provider in the same service area;~~

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



~~iv. includes an attestation that all clients have been properly discharged or transferred to another provider; and~~

~~v. provides a list of each client and where that client is discharged or transferred to;~~

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

~~c. the licensed HCBS provider continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and~~

~~d. the licensed HCBS provider continues to submit required documentation and information to the department.~~

~~2. Upon receiving a completed written request to inactivate a HCBS provider license, the department shall issue a notice of inactivation of license to the HCBS provider.~~

~~3. Upon completion of repairs, renovations, rebuilding or replacement, an HCBS provider which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met.~~

~~a. The HCBS provider shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening.~~

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

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

~~d. The provider resumes operating as an HCBS provider in the same service area within one year.~~

~~4. Upon receiving a completed written request to reinstate an HCBS provider license, the department shall conduct a licensing survey. If the HCBS provider meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the HCBS provider license.~~

~~a. The licensed capacity of the reinstated license shall not exceed the licensed capacity of the HCBS provider at the time of the request to inactivate the license.~~

~~5. No change of ownership in the HCBS provider shall occur until such HCBS provider has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as an HCBS provider.~~

~~6. The provisions of this Section shall not apply to an HCBS provider which has voluntarily surrendered its license and ceased operation.~~

~~7. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the HCBS provider~~

~~license and any applicable facility need review approval for licensure.~~  
K. - K.7. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:83 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

## **Subchapter G. Adult Day Care Module**

### **§5071. General Provisions**

A. ...

B. ~~Adult Day Care is designed to meet the individual needs of~~  
An ADC program shall provide services for 10 or more functionally impaired adults. ~~This is a structured and comprehensive group program which provides a variety of health, social, and~~ who are not related ~~support services in a protective setting for a portion to~~ the owner or operator of the ~~24-hour day~~ HCBS provider.

1. For the purposes of this Section, "functionally impaired adult" shall be defined as individuals 17 years of age or older who are physically, mentally or socially impaired to a degree that requires supervision.

C. ~~An ADC~~ The following two programs shall be provided ~~services for 10 or more functionally impaired adults who are not related to the owner or operator of the HCBS provider.~~ under the ADC Module:

1. ~~For the purposes of this Section, "functionally impaired adult" shall be defined as individuals 17 years of age or older who are physically, mentally or socially impaired to a degree that requires supervision.~~ Day Habilitation Services

a. Day habilitation services include assistance with acquisition, retention or improvement in self-help, socialization, and adaptive skills that take place in a non-residential setting separate from the recipient's private residence or other residential living arrangement. Day habilitation services provide activities and environments designed to foster the acquisition of skills, appropriate behavior, greater independence and personal choice.

i. Day Habilitation services are provided in a variety of community settings, (i.e. local recreation department, garden clubs, libraries, etc.) other than the recipient's residence and are not limited to a fixed-site facility.

b. Services are furnished to a client who is 17 years of age or older and has a developmental disability, or who is a functionally impaired adult, on a regularly scheduled basis during normal daytime working hours for one or more days per week, or as specified in the recipient's service plan.

c. Day habilitation services focus on enabling the recipient to attain or maintain his or her maximum functional level, and shall be coordinated with any physical, occupational, or speech

therapies in the service plan. These services may also serve to reinforce skills or lessons taught in other settings.

## 2. Prevocational Services

a. Prevocational services prepare a recipient for paid employment or volunteer opportunities. Services include teaching such concepts as compliance, attendance, task completion, problem solving and safety. Services are not job-task oriented, but are aimed at a generalized result. These services are reflected in the recipient's service plan and are directed to habilitative (e.g. attention span, motor skills) rather than explicit employment objectives.

b. Individuals receiving prevocational services shall have an employment related goal as part of their individual service plan.

c. This service is not available to clients eligible to receive services under a program funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act (IDEA).

D. ~~The following two programs shall be provided under the ADC Module:~~ When applying for the ADC module under the HCBS provider license, the provider shall indicate whether it is providing day habilitation, prevocational/employment-related services or both.

### ~~1. Day Habilitation Services~~

~~a. Day habilitation services include assistance with acquisition, retention or improvement in self-help,~~

~~socialization, and adaptive skills that take place in a non-residential setting separate from the recipient's private residence or other residential living arrangement. Day habilitation services provide activities and environments designed to foster the acquisition of skills, appropriate behavior, greater independence and personal choice.~~

~~\_\_\_\_\_ b. Services are furnished to a client who is 17 years of age or older and has a developmental disability, or who is a functionally impaired adult, on a regularly scheduled basis during normal daytime working hours for one or more days per week, or as specified in the recipient's service plan.~~

~~\_\_\_\_\_ c. Day habilitation services focus on enabling the recipient to attain or maintain his or her maximum functional level, and shall be coordinated with any physical, occupational, or speech therapies in the service plan. These services may also serve to reinforce skills or lessons taught in other settings.~~

## ~~\_\_\_\_\_ 2. Prevocational/Employment-Related Services~~

~~\_\_\_\_\_ a. Prevocational/employment-related services prepare a recipient for paid or unpaid employment. Services include teaching such concepts as compliance, attendance, task completion, problem solving and safety. Services are not job-task oriented, but are aimed at a generalized result. These services are reflected in the recipient's service plan and are directed to habilitative (e.g. attention span, motor skills) rather than explicit employment objectives.~~

~~b. Prevocational services are provided to clients who are not expected to join the general work force or participate in a transitional sheltered workshop within one year of service initiation.~~

~~c. This service is not available to clients eligible to receive services under a program funded under the Rehabilitation Act of 1973 or the IDEA.~~

~~E. When applying for the ADC module under the HCBS provider license, the provider shall indicate whether it is providing day habilitation, prevocational/employment-related services or both.~~D.1.

- E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:85 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

### **§5073. Operational Requirements for ADC Facilities**

A. The client/staff ratio in an ADC facility shall be a minimum of one staff person per eight clients, unless additional staff coverage is needed to meet the needs of the client, as specified in the service plan.

B. - C. ...

1. If meals are prepared by the facility or contracted from an outside source, the following conditions shall be met:

a. menus shall be written in advance and shall provide for a variety of nutritional foods from which a client may choose;

C.1.b. - C.3. ...

4. Dining areas shall be adequately equipped with tables, chairs, eating utensils and dishes designed to meet the functional needs of clients. Clients shall have choice of where and with whom to eat within the ADC facility.

C.5. - D.2. ...

3. ~~Adequate~~ Sufficient supervision/training shall be provided where potentially harmful materials such as cleaning solvents and/or detergents are used.

4. - 5. ...

6. Fire drills shall be performed at least once a ~~month~~ quarter. Documentation of performance shall be maintained.

E. - E.8. ...

a. The ratio of bathrooms to number of clients shall meet the requirements ~~in Table 407 of the State Plumbing Code~~ in accordance with applicable state and/or federal laws, rules and regulations.

b. Individuals shall be ~~provided~~ ensured privacy when using bathroom facilities.

c. - 11. ...

12. The building in which the ADC is located shall meet the ~~standards~~ requirements of the ~~Americans with Disabilities Act~~



OSFM in accordance with applicable state and federal laws, rules and regulations.

F. - F.1. ...

a. The provider ~~must~~ shall maintain full financial records of clients' earnings if the facility pays the client.

b. ...

c. The provider ~~must~~ shall have a current U.S. Department of Labor Sub-Minimum Wage Certificate if the provider pays sub-minimum wage.

2. ...

3. Clients shall be directly supervised when operating any type of power driven equipment such as lawn mowers or electrical saws, unless:

a. - b. ...

c. ~~adequate~~ sufficient training is given to the recipient and the training is documented.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:85 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

## **Subchapter H. Family Support Module**

### **§5075. General Provisions**

A. ...

B. ~~The purpose of~~ Services covered by the family support ~~services is to~~ module may include:

1. ~~keep the family of a person with a disability together by promoting unity, independence of the family in problem solving and maintenance of the family as the primary responsible caretaker~~ special equipment;

2. ~~determine if barriers to home placement for persons with a disability can be eliminated or relocated through financial assistance for purchases, special equipment and supplies~~ limited adaptive housing;

3. ~~allow a person with a disability to remain in or return to a family setting as an alternative to placement in a more restrictive setting~~ medical expenses and medications; and

4. ~~link families of a person with a disability to existing support services and to supplement those services where necessary (i.e. transportation to reach services when not otherwise provided).~~ nutritional consultation and regime;

5. related transportation;

6. special clothing;

7. special therapies;

8. respite care;

9. dental care; and

10. family training and therapy.

~~C. Services covered by the family support module may include:~~

- ~~1. special equipment;~~
- ~~2. limited adaptive housing;~~
- ~~3. medical expenses and medications;~~
- ~~4. nutritional consultation and regime;~~
- ~~5. related transportation;~~
- ~~6. special clothing;~~
- ~~7. special therapies;~~
- ~~8. respite care;~~
- ~~9. dental care; and~~
- ~~10. family training and therapy~~[C. - C.10. Repealed.](#)

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:86 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

## **Subchapter I. Personal Care Attendant Module**

### **§5079. General Provisions**

A. ...

B. Personal care attendant services may include:

1. - 1.i. ...

j. any [non-complex](#) medical task which can be delegated;

2. assistance and/or training in the performance of tasks [in accordance with the plan of care and](#) related to:

2.a. - 3. ...

4. support and assistance in developing relationships with neighbors and others in the community ~~and in strengthening existing informal, social networks and natural supports~~; and

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:87 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

## **Subchapter J. Respite Care**

### **§5083. General Provisions**

A. ...

B. ~~The goal of respite care is to provide temporary, intermittent relief to informal caregivers in order to help prevent unnecessary or premature institutionalization while improving the overall quality of life for both the informal caregiver and the client~~ Respite care may be provided as an in-home or center-based service. The services may be provided in the client's home or in a licensed respite center.

C. ~~Respite care may be provided as an~~ Providers of in-home respite care ~~service. The services may be provided in the client's home or in a licensed respite center.~~ must comply with:

1. all HCBS providers core licensing requirements;

2. PCA module specific requirements; and

3. the respite care services module in-home requirements.

D. Providers of ~~in-home~~ center-based respite care services ~~must~~ shall comply with:

1. ...

2. ~~PCA~~ respite care services module ~~specific~~ in-home requirements; and

3. the respite care services module ~~in-home~~ center-based requirements.

E. ~~Providers of~~ When applying for the respite care service module under the HCBS provider license, the provider shall indicate whether it is providing in-home respite care, center-based respite care ~~services must comply with:~~ or both.

~~1. all HCBS providers core licensing requirements;~~

~~2. respite care services module in-home requirements;~~  
~~and~~

~~3. respite care services module center-based requirements.~~

~~F. When applying for the respite care service module under the HCBS provider license, the provider shall indicate whether it is providing in-home respite care, center-based respite care or both.~~ E.1. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:87 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5085. Operational Requirements for In-Home Respite Care**

A. - A.2. ...

B. In-home respite care service providers shall have ~~adequate~~ sufficient administrative, support, professional and direct care staff to meet the needs of clients at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:88 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5087. Operational Requirements for Center-Based Respite Care**

A. - A.2. ...

a. The provider shall ensure that the ~~family~~ client has an adequate supply of clothing, needed personal care supplies, and medications, if needed.

A.3. - B.1.a. ...

2. Arrangements for medical isolation shall be available. The provider shall inform the family to ~~remove~~ move the client to isolation when medically determined as necessary.

3. Medication shall be prescribed only by a licensed ~~physician~~ health care practitioner in accordance with the individual's professional licensing laws.

C. ...

1. Planning, preparation and serving of foods shall be in accordance with the nutritional, social, emotional and medical needs of the clients. The ~~diet~~ menu shall include a ~~variety~~ minimum of ~~food,~~ three varied, nutritious and ~~be attractively served~~ palatable meals a day plus nourishing snacks. ~~Clients shall be encouraged, but not forced, to eat all of the food served.~~

2. ~~Food provided~~ All milk and milk products used for drinking shall be ~~of adequate quality and in sufficient quantity to provide the nutrients for proper growth~~ Grade A and ~~development~~ pasteurized.

3. ~~Clients~~ There shall be ~~provided a minimum~~ no more than 14 hours between the last meal or snack offered on one day and the first meal offered of ~~three meals daily, plus snacks~~ the following day.

~~4. All milk and milk products used for drinking shall be Grade A and pasteurized.~~

~~5. There shall be no more than 14 hours between the last meal or snack on one day and the first meal of the following day.~~ C.4. - C.5. Repealed.

D. - F.1. ....

2. If it has been determined either medically or legally that the best interests of the client necessitate restrictions on communications or visits, these restrictions shall be documented in the service plan.

F.3. - G.1. ...

2. All bedrooms shall be on or above street grade level and be outside rooms. Bedrooms shall accommodate no more than four residents. Bedrooms ~~must~~shall provide at least 60 square feet per person in multiple sleeping rooms and not less than 80 square feet in single rooms.

3. ...

4. There shall be separate and gender segregated sleeping rooms for adults and for adolescents. When possible, there should be individual sleeping rooms for clients whose behavior would be ~~upsetting~~disruptive to others clients.

5. Appropriate furniture shall be provided including but not limited to, ~~such as~~ a chest of drawers, a table or desk, an individual closet with clothes racks and shelves accessible to the residents.

G.6. - H.7. ...

I. There shall be a designated space for dining. Dining room tables and chairs shall be adjusted in height to suit the ages and physical needs of the clients.

J. - J.2. ...

K. ...



1. The facility shall comply with all applicable federal, state and local building codes, fire and safety laws, ordinances and regulations.

2. Secure railings shall be provided for flights of more than four steps and for all ~~galleries~~ porches more than four feet from the ground.

3. Where clients under age two are in care, secure safety gates shall be provided at the head and foot of each flight of stairs accessible to these clients.

4. Before swimming pools are made available for client use, written documentation ~~must~~ shall be received by ~~DHH~~ LDH-OPH confirming that the pool meets the requirements of the Virginia Graeme Baker Pool and Spa Safety Act of 2007 or, in lieu of, written documentation confirming that the pool meets the requirements of ANSI/APSP-7 (2006 Edition) which is entitled the "American National Standard for Suction Entrapment Avoidance in Swimming Pools, Wading pools, Spas, Hot Tubs and Catch Basins."

a. ...

b. An individual, 18 years of age or older, shall be on duty when clients are swimming in ponds, lakes or pools where a lifeguard is not on duty. The ~~individual is to be~~ facility shall have staff sufficient in number certified in water safety by the American Red Cross or other qualified certifying agency to meet the needs of the clients served.

c. ~~There~~The provider shall ~~be~~have written plans and procedures for water safety.

d. The provider shall have available water safety devices sufficient in number for clients served and staff trained in the proper usage of such devices.

5. Storage closets or chests containing medicine or poisons shall be kept securely locked.

6. Garden tools, knives and other potentially dangerous instruments shall be inaccessible to clients without supervision.

K.7. - L.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:88 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

## **Subchapter K. Substitute Family Care Module**

### **§5089. General Provisions**

A. - A.2. ...

B. Substitute family care services ~~provide 24-hour personal care, supportive services, and supervision to adults who meet~~ are delivered by a principal caregiver, in the caregiver's home, under the ~~criteria for having a developmental disability~~ oversight and management of a licensed SFC provider.

1. The SFC caregiver is responsible for providing the client with a supportive family atmosphere in which the availability, quality and continuity of services are appropriate to the age, capabilities, health conditions and special needs of the individual.

2. The licensed SFC provider shall not be allowed to serve as the SFC caregiver.

C. ~~The SFC Program is designed to~~ Potential clients of the SFC program shall meet the following criteria:

1. ~~support individuals with~~ have a developmental ~~disabilities in a home environment~~ disability as defined in R.S. 28:451.1-455.2 of the ~~community through an array of naturally occurring and arranged community resources similar to those enjoyed by most individuals living in the community in all stages of life~~ Louisiana Developmental Disability Law or its successor statute;

2. ~~expand residential options for persons with developmental disabilities~~ be at least 18 years of age;

a. ~~this residential option also takes into account compatibility of the substitute family and the participant, including individual interests, age, health, needs for privacy, supervision and support needs;~~ Repealed.

3. ~~provide meaningful opportunities for people to participate in activities of their choosing whereby creating a quality of life not available in other settings~~ have an assessment

and service plan pursuant to the requirements of the HCBS provider licensing rule.

a. The assessment and service plan shall assure that the individual's health, safety and welfare needs can be met in the SFC setting.

~~4. serve persons who require intensive services for medical, developmental or psychological challenges.~~

~~a. The SFC provider is required to provide the technical assistance, professional resources and more intensive follow-up to assure the health, safety and welfare of the client(s).~~  
4. - 4.a. Repealed

~~D. Substitute family care services are delivered by a principal caregiver, in the caregiver's home, under the oversight and management of a licensed SFC provider.~~ SFC Caregiver

#### Qualifications

1. ~~The An~~ SFC caregiver is responsible for providing the client with a supportive family atmosphere in which the availability, quality and continuity of services are appropriate to shall be certified by the age, capabilities, health conditions and special needs of SFC provider before any clients are served. In order to be certified, the individual. SFC caregiver applicant shall:

a. undergo a professional home study conducted by the provider;

b. participate in all required orientations, trainings, monitoring and corrective actions required by the SFC provider; and

c. meet all of the caregiver specific requirements of this section.

2. ~~The licensed SFC provider shall not be allowed to serve as the SFC caregiver.~~ The personal qualifications required for certification include:

a. Residency. The caregiver shall reside in the state of Louisiana and shall provide SFC services in the caregiver's home. The caregiver's home shall be located in the state of Louisiana and in the region in which the SFC provider is licensed.

b. Criminal Record and Background Clearance. Members of the SFC caregiver's household shall not have any felony convictions. Other persons approved to provide care or supervision of the SFC client for the SFC caregiver shall not have any felony convictions.

i. Prior to certification, the SFC caregiver, all members of the SFC caregiver applicant's household and persons approved to provide care or supervision of the SFC client on a regular or intermittent basis, shall undergo a statewide criminal record background check conducted by the Louisiana State Police, or its authorized agent.

ii. Annually thereafter, the SFC caregiver, all members of the SFC caregiver applicant's household and persons

approved to provide care or supervision of the SFC client on a regular or intermittent basis, shall have criminal record background checks.

c. Age. The SFC principal caregiver shall be at least 21 years of age. Maximum age of the SFC principal caregiver shall be relevant only as it affects his/her ability to provide for the SFC client as determined by the SFC provider through the home assessment. The record shall contain proof of age.

3. The SFC caregiver may be either single or married. Evidence of marital status shall be filed in the SFC provider's records and shall include a copy of legal documents adequate to verify marital status.

4. The SFC caregiver is not prohibited from employment outside the home or from conducting a business in the home provided that:

a. the SFC home shall not be licensed as another healthcare provider;

b. such employment or business activities do not interfere with the care of the client;

c. such employment or business activities do not interfere with the responsibilities of the SFC caregiver to the client;

d. a pre-approved, written plan for supervision of the participant which identifies adequate supervision for the participant is in place; and

e. the plan for supervision is signed by both the SFC caregiver and the administrator or designee of the SFC provider.

E. ~~Potential clients of the~~ The SFC program caregiver shall ~~meet~~ not be certified as a foster care parent(s) for the following ~~criteria:~~ Department of Child and Family Services (DCFS) while serving as a caregiver for a licensed SFC provider.

1. ~~have a developmental disability as defined in R.S. 28:451.1-455.2 of the Louisiana Developmental Disability Law or its successor statute;~~ The SFC provider, administrator or designee shall request confirmation from DCFS that the SFC caregiver applicant is not presently participating as a foster care parent and document this communication in the SFC provider's case record.

~~2. be at least 18 years of age; and~~

~~3. have an assessment and service plan pursuant to the requirements of the HCBS provider licensing rule.~~

~~a. The assessment and service plan shall assure that the individual's health, safety and welfare needs can be met in the SFC setting.~~ E.2. - E.3.a. Repealed.

F. ~~SFC Caregiver Qualifications~~ In addition to the discharge criteria in the core requirements, the client shall be discharged from the SFC program upon the client meeting any of the following criteria:

1. ~~An SFC caregiver shall be certified by the SFC provider before any clients are served. In order to be certified, the SFC caregiver applicant shall:~~ incarceration or placement under

the jurisdiction of penal authorities or courts for more than 30 days;

~~a. undergo a professional home study;~~

~~b. participate in all required orientations, trainings, monitoring and corrective actions required by the SFC provider; and~~

~~c. meet all of the caregiver specific requirements of this Section.~~  
1.a. - 1.c. Repealed.

2. ~~The personal qualifications required for certification include:~~  
lives in or changes his/her residence to another region in Louisiana or another state;

~~a. Residency. The caregiver shall reside in the state of Louisiana and shall provide SFC services in the caregiver's home. The caregiver's home shall be located in the state of Louisiana and in the region in which the SFC provider is licensed.~~

~~b. Criminal Record and Background Clearance. Members of the SFC caregiver's household shall not have any felony convictions. Other persons approved to provide care or supervision of the SFC client for the SFC caregiver shall not have any felony convictions.~~

~~i. Prior to certification, the SFC caregiver, all members of the SFC caregiver applicant's household and persons approved to provide care or supervision of the SFC client on a regular or intermittent basis, shall undergo a criminal record and background check.~~



~~ii. Annually thereafter, the SFC caregiver, all members of the SFC caregiver applicant's household and persons approved to provide care or supervision of the SFC client on a regular or intermittent basis, shall have background checks.~~

~~c. Age. The SFC principal caregiver shall be at least 21 years of age. Maximum age of the SFC principal caregiver shall be relevant only as it affects his/her ability to provide for the SFC client as determined by the SFC provider through the home assessment. The record must contain proof of age.~~2.a. - 2.c.

Repealed.

3. ~~The SFC caregiver may be either single or married. Evidence of marital status must be filed in the SFC provider's records and may include a copy of legal documents adequate to verify marital status.~~admission to an acute care hospital, rehabilitation hospital, intermediate care facility for persons with intellectual disabilities (ICF/ID) or nursing facility with the intent to stay longer than 90 consecutive days;

4. ~~The SFC caregiver is not prohibited from employment outside the home or from conducting a business in the home provided that:~~the client and/or his legally responsible party(s) fails to cooperate in the development or continuation of the service planning process or service delivery;

~~a. the SFC home shall not be licensed as another healthcare provider;~~

~~b. such employment or business activities do not interfere with the care of the client;~~

~~c. such employment or business activities do not interfere with the responsibilities of the SFC caregiver to the client;~~

~~d. a pre-approved, written plan for supervision of the participant which identifies adequate supervision for the participant is in place; and~~

~~e. the plan for supervision is signed by both the SFC caregiver and the administrator or designee of the SFC provider.~~  
4.a. - 4.e. Repealed.

5. a determination is made that the client's health and safety cannot be assured in the SFC setting; or

6. failure to participate in SFC services for 30 consecutive days for any reason other than admission to an acute care hospital, rehabilitation hospital, ICF/ID facility or nursing facility.

~~G. The SFC caregiver shall not be certified as a foster care parent(s) for the Department of Social Services (DSS) while serving as a caregiver for a licensed SFC provider.~~

~~1. The SFC provider, administrator or designee shall request confirmation from DSS that the SFC caregiver applicant is not presently participating as a foster care parent and document this communication in the SFC provider's case record.~~

~~H. In addition to the discharge criteria in the core requirements, the client shall be discharged from the SFC program upon the client meeting any of the following criteria:~~

~~1. incarceration or placement under the jurisdiction of penal authorities or courts for more than 30 days;~~

~~2. lives in or changes his/her residence to another region in Louisiana or another state;~~

~~3. admission to an acute care hospital, rehabilitation hospital, intermediate care facility for persons with developmental disabilities (ICF/DD) or nursing facility with the intent to stay longer than 90 consecutive days;~~

~~4. the client and/or his legally responsible party(s) fails to cooperate in the development or continuation of the service planning process or service delivery;~~

~~5. a determination is made that the client's health and safety cannot be assured in the SFC setting; or~~

~~6. failure to participate in SFC services for 30 consecutive days for any reason other than admission to an acute care hospital, rehabilitation hospital, ICF/DD facility or nursing facility.~~  
G. - H.6. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:89 (January

2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**\$5090. Operational Requirements for Substitute Family Care Providers**

A. - A.1.a. ...

2. Within the first 90 days following the client's move into the home, the SFC provider shall provide and document training to the SFC caregiver(s) ~~on~~inclusive of the following:

2.a. - 2.d. ...

3. Annually, the SFC provider shall provide the following training to the SFC caregiver:

a. six hours of ~~approved~~ training related to the client's needs and interests including the client's specific priorities and preferences; and

b. six hours of ~~approved~~ training on issues of health and safety such as the identification and reporting of allegations of abuse, neglect or exploitation and misappropriation of client's funds.

A.4. - B. ...

1. The SFC provider shall conduct ~~in-person~~ no less than monthly face to face reviews of each SFC caregiver and/or household in order to:

B.1.a. - C. ...

1. 24-hour care and supervision, including provisions for:

a. a flexible, ~~meaningful daily~~ routine that includes client's choices or preferences;

C.1.b. - D. ...

1. SFC Providers shall ensure that the SFC caregiver complies with the following standards for client records that are maintained in the SFC's home.

a. - c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:90 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5091. Operational Requirements for Substitute Family Care Caregivers**

A. The SFC caregiver(s) shall provide ~~adequate~~ environments that meet the needs of the clients.

B. The SFC caregiver's home shall be located within a 25 mile radius of community facilities, resources and services such as medical care, schools, recreation facilities, churches and other community facilities, ~~unless a waiver is granted by the department.~~

C. The home of the SFC family shall not be used as lodging for any person(s) who is not subject to the prior approval certification process of the SFC family. The SFC family shall notify the administrator, or designee of the SFC provider, of any person(s)

allowed to ~~live~~ reside in the home following the initial certification.

1. ...

2. All persons residing with the SFC family, ~~even~~ including temporary or on a non-permanent basis, shall undergo statewide criminal record ~~and~~ background checks conducted by the Louisiana State Police, or its authorized agent.

C.3. - D. ...

E. The SFC caregiver shall have a stable income sufficient to meet routine expenses, independent of the payments for their substitute family care services, as demonstrated by a reasonable comparison between income and expenses conducted by the administrator or designee of the SFC provider upon initiation of services and as necessary thereafter.

F. The SFC caregiver ~~must~~ shall have a plan that outlines in detail the supports to be provided. This plan shall be approved and updated as required and as necessary by the SFC provider. The SFC caregiver shall allow only SFC approved persons to provide care or supervision to the SFC client.

1. ...

a. identification of any person(s) who will supervise the participant on a ~~regular~~ routine basis which ~~must~~ shall be prior approved by the administrator or designee of the SFC agency provider;

F.1.b. - H. ...

1. The home of the SFC caregiver shall be safe and in good repair, comparable to other family homes in the neighborhood. The home and its exterior shall be free from materials and objects which constitute a potential for danger to the individual(s) who reside in the home.

2. SFC homes featuring either a swimming or wading pool ~~must~~ shall ensure that safety precautions prevent unsupervised accessibility to clients.

3. - 3.f. ...

g. household first aid supplies to treat minor ~~cuts~~ or burns injuries;

h. plumbing in ~~proper~~ functional working order and availability of a method to maintain safe water temperatures for bathing; and

H.3.i. - H.5. ...

a. There shall be a bedroom for each client with at least 80 square feet exclusive of closets, vestibules and bathrooms and equipped with a ~~locking~~ door, that locks from the inside for privacy unless contraindicated by any condition of the client. Clients shall be afforded privacy within their sleeping units.

H.5.a.i. - I.2.c. ...

d. documentation of a ~~driving history~~ driver's license status inquiry report on each family member who will be transporting the client.

3. If the client(s) are authorized to operate the family vehicle, ~~sufficient~~ liability insurance coverage specific to the client(s) use shall be maintained at all times in accordance with state law.

J. - J.1.k. ...

~~i. Checklists alone are not adequate documentation for progress notes;~~ J.1.k.i. Repealed.

J.1.1. - J.3.c. ...

~~K. The SFC caregiver shall be required to take immediate actions to protect the health, safety and welfare of clients at all times.~~

~~1. When a client has been involved in a critical incident or is in immediate jeopardy, the SFC caregiver shall seek immediate assistance from emergency medical services and local law enforcement agencies, as needed.~~

~~2. If abuse, neglect or exploitation is suspected or alleged, the SFC caregiver is required to report such abuse, neglect or exploitation in accordance with R.S.40:2009.20 or any successor statute.~~ K. - K.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:91 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:



## **Subchapter L. Supervised Independent Living Module**

### **§5093. General Provisions**

A. - B. ...

C. Clients receiving SIL services ~~must~~ shall be at least 18 years of age. An SIL living situation is created when an SIL client utilizes an apartment, house or other single living unit as his place of residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:93 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

### **§5094. Operational Requirements for the Supervised Independent Living Module**

A. A provider shall ensure that the living situation is freely selected by the client from among non-disability specific settings. An SIL residence may be owned or leased by either the provider or the client. At the expense of the owner or lessee, a provider shall ensure that the living situation shall be:

1. - 4. ...

5. a living situation that affords the client's individual privacy, including the ability to lock entrance doors;

6. - 9. ...

10. equipped with an efficiency bedroom space or a separate private bedroom with a ~~locking~~-door that locks from the inside for privacy, if not contraindicated by a condition of the client residing in the room:

A.10.a. - A.15.g. ...

16. equipped with ~~a~~-functional smoke detectors and a fire extinguisher.

B. A provider shall ensure that any client placed in the living situation has:

1. ...

2. access to transportation; ~~and~~

3. access to any services in the client's approved ISP~~;~~  
and

4. privacy within their living and sleeping units.

C. The department shall have the right to inspect the SIL and client's living situation as deemed necessary.

D. - E. ...

1. For purposes of this Section, a supervisor is defined as a person, so designated by the provider agency, due to experience and expertise relating to ~~client~~-needs of clients with developmental disabilities.

2. A supervisor shall have a minimum of two documented contacts per week with the client. The weekly contacts may be made by telephone, adaptive communication technology or other alternative

means of communication. There shall be documentation of what was discussed with the client and any outcomes.

a. The supervisor shall have a minimum of one face-to-face contact per month with the client in the client's home. The frequency of the face-to-face contacts shall be based on the client's needs. There shall be documentation of what was discussed with the client and any outcomes.

b. - E.3. ...

F. In addition to the core licensing requirements, the SIL provider shall:

1. - 2. ...

3. assure that bill payment is completed ~~monthly~~ timely in accordance with the individual service plan, if applicable; and

4. - G.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:93 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5095. Supervised Independent Living Shared Living Conversion Process**

A. ...

B. Only an existing ~~ICF/DD~~ ICF/ID group or community home with up to 8 beds ~~as of promulgation of the final Rule governing~~

~~these provisions,~~ may voluntarily and permanently close its home and its related licensed, Medicaid certified and enrolled ~~ICF/DD~~ ICF/ID beds to convert to new community-based waiver opportunities (slots) for up to six persons in shared living model or in combination with other ROW residential options. These shared living models will be located in the community.

1. ...

C. The ~~DHH~~ LDH Office for Citizens with Developmental Disabilities (OCDD) shall approve all individuals who may be admitted to live in and to receive services in an SIL Shared Living Conversion model.

D. The ~~ICF/DD~~ ICF/ID provider who wishes to convert an ~~ICF/DD~~ ICF/ID to an SIL via the shared living conversion model shall be approved by OCDD and shall be licensed by HSS prior to providing services in this setting, and prior to accepting any ROW participant or applicant for residential or any other developmental disability service(s).

E. An ~~ICF/DD~~ ICF/ID provider who elects to convert to an SIL via the shared living conversion model may convert to one or more conversion models, provided that the total number of SIL shared living conversion slots; beds shall not exceed the number of Medicaid facility need review bed approvals of the ~~ICF(s)/DD~~ ICFs/ID so converted.

1. The conversion of an ~~ICF(s)/DD~~ ICFs/ID to an SIL via the shared living conversion process may be granted only for the

number of beds specified in the applicant's SIL shared living conversion model application to OCDD.

2. ...

3. Any remaining Medicaid facility need review bed approvals associated with an ~~ICF/DD~~ ICF/ID that is being converted cannot be sold or transferred and are automatically considered terminated.

F. An ~~ICF/DD~~ ICF/ID provider who elects to convert to an SIL via the shared living conversion process shall obtain the approval of all of the residents of the home(s) (or the responsible parties for these residents) regarding the conversion of the ~~ICF/DD~~ ICF/ID prior to beginning the process of conversion.

G. Application Process

1. The ~~ICF/DD~~ ICF/ID owner or governing board must sign a conversion agreement with OCDD regarding the specific beds to be converted and submit a plan for the conversion of these beds into ROW shared living or other ROW residential waiver opportunities, along with a copy of the corresponding and current ~~ICF/DD~~ ICF/ID license(s) issued by HSS.

a. This conversion plan ~~must~~ shall be approved and signed by OCDD and the owner or signatory of the governing board prior to the submittal of a HCBS provider, SIL module licensing application to ~~DHHL~~ LDH-HSS.

2. A licensed and certified ~~ICF/DD~~ ICF/ID provider who elects to convert an ~~ICF/DD~~ ICF/ID to an SIL via the shared living

conversion process shall submit a licensing application for a HCBS provider license, SIL Module. The ~~ICF/DD~~-ICF/ID applicant seeking to convert shall submit the following information with his licensing application:

a. - b. ...

i. that the license to operate an ~~ICF/DD~~ ICF/ID will be voluntarily surrendered upon successfully completing an initial licensing survey and becoming licensed as an SIL via the shared living conversion process; and

ii. that the ~~ICF/DD~~-ICF/ID Medicaid facility need review bed approvals will be terminated upon the satisfactory review of the conversion as determined by OCDD, pursuant to its 90 day post conversion site visit; and

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:94 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

## **Subchapter M. Supported Employment Module**

### **§5099. General Provisions**

A. ...

1. return all telephone calls from clients within ~~a~~  
~~reasonable amount of time~~one business day, other than during working  
hours;

2. - 3. ...

4. have licensed nursing services staff and direct care  
staff;

A.5. - B. ...

C. The assessment of needs shall be done prior to placement  
of the client on a job site. A Medicaid HCBS comprehensive  
assessment approved by a ~~DHH~~LDH program office for a Medicaid  
recipient shall not substitute for the assessment of needs. A  
comprehensive plan of care approved by the department for Medicaid  
or waiver reimbursement shall not substitute for the ISP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254  
and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and  
Hospitals, Bureau of Health Services Financing, LR 38:95 (January  
2012), amended by the Department of Health, Bureau of Health  
Services Financing, LR 43:

## **Chapter 51. Home and Community-Based Services Providers**

### **Subchapter A. Monitored In-Home Caregiving Module**

#### **§5101. General Provisions**

A. - A.2. ...

B. Providers applying for the monitored in-home caregiving  
module under the HCBS license shall meet the core licensing

requirements (except those set forth in §5005.B.4, §5005.C.ii and §5007.F.1.c) and the module specific requirements of this Section.

C. During any survey or investigation of the HCBS provider with the MIHC module conducted by the ~~DHH~~LDH-HSS, the survey process begins once the surveyor enters either the client's place of residence or the provider's licensed place of business. When the survey begins at the client's residence, the provider shall transmit any records requested by the HSS surveyor within two hours of such request to the location as designated by the HSS surveyor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:2639 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

### **§5103. Staffing Requirements, Qualifications, and Duties**

A. - E.3. ...

F. Care Manager Responsibilities. The following responsibilities of the care manager for the MIHC module shall substitute for the requirements in §5055.~~FL~~ and §5055.~~FM~~. The responsibilities of the MIHC care manager shall include:

F.1. - G.2.a. ...

b. have a statewide criminal background check conducted by the ~~HCBS provider~~ Louisiana State Police, or its authorized agent, in accordance with the applicable state laws;



c. ...

d. be at least 21-18 years of age ~~and have a high school diploma or equivalent~~;

G.2.e. - H.5. ...

6. providing ongoing supervision of health-related activities, including, but not limited to:

a. reminding the client ~~about~~ to take prescribed medications;

6.b. - 6.h.v. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:2639 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§5105. Operational Requirements for Monitored In-Home Caregiving**

A. Training. The following requirements for training and competency for the MIHC module shall substitute for the training and competency requirements in §5055.~~K~~H, §5055.~~L~~I, and §5055.~~M~~J.

A.1. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:2641 (December

2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and no direct or indirect cost to the provider to provide the same level of service. These provisions will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to [MedicaidPolicy@la.gov](mailto:MedicaidPolicy@la.gov). Ms. Castello is

responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, September 28, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary