

## **NOTICE OF INTENT**

### **Department of Health Bureau of Health Services Financing**

#### **Home Health Agencies Licensing Standards (LAC 48:I.Chapter 91)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 91 as authorized by R.S. 36:254 and R.S. 40:2116.31 et seq. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 181 of the 2021 Regular Session of the Louisiana Legislature directed the Department of Health to revise the minimum licensing standards for providers of home health services. In compliance with Act 181, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of home health agencies in order to: 1) expand the type of practitioners and qualifications for administrators; 2) update and clarify definitions, the governing body and patient rights provisions, and licensing requirements; and 3) add quality assessment and performance improvement requirements.

## **Title 48**

### **PUBLIC HEALTH—GENERAL**

#### **Part I. General Administration**

#### **Subpart 3. Licensing and Certification**

## **Chapter 91. Minimum Standards for Home Health Agencies**

### **§9101. Definitions**

A. The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

#### Abuse—

a. the willful infliction of physical or mental injury;

b. causing deterioration by means including, but not limited to:

i. sexual abuse;

ii. exploration; or

iii. extortion of funds or other things of value to such an extent that the health, moral or emotional well-being of the individual being supported is endangered; or

c. the willful infliction of injury, unreasonable confinement, intimidation or punishment which results in or which could reasonably be expected to result in physical or mental harm, pain or mental anguish. Lack of awareness or knowledge by the victim of the act which produced, or which could have reasonably been expected to produce, physical or mental injury or harm shall not be a defense to the charge of abuse.

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Advanced Practice Registered Nurse (APRN)—a licensed health care practitioner who is acting within the scope of practice of his/her respective licensing boards(s) and/or certificates.

~~Advisory Board—a group of persons who meet with agency staff and/or owners as frequently as needed, but at least once every year, to evaluate the overall functions of the agency~~Repealed.

Allied Health Personnel—nursing assistants, licensed practical nurses, licensed physical therapy assistants, and other health care workers who require supervision by other licensed health care professionals in accordance with their scope of practice.

~~Branch—an office from which a home health agency (HHA) provides services within a portion of the total geographic service area served by the parent agency. The branch office is part of the parent home health agency HHA; is located within a 50-mile radius of the parent agency; and shares administration and supervision. (See 9117, Operation of Branch Offices.)~~

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

*Change of Ownership (CHOW)*—the addition, substitution, or removal, whether by sale, ~~or~~ transfer, ~~of all~~ lease, gift, or otherwise, ~~or a portion of the~~ licensed health care provider subject to this Rule by a person, corporation, or other equity, which results in a change of controlling interest of assets or other equity ~~interest in a home health agency~~interests of the licensed entity may. ~~Examples of actions that~~ constitute a ~~change of ownership include:~~CHOW of the licensed entity.

~~a. unincorporated sole proprietorship. Transfer of title and property of another party constitutes change of ownership;~~

~~\_\_\_\_\_ b. corporation. The merger of the provider corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation constitutes change of ownership. Transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute a change of ownership. Admission of a new member to a nonprofit corporation is not a change of ownership;~~

~~\_\_\_\_\_ c. limited liability company. The removal, addition or substitution of a member in a limited liability company does not constitute a change of ownership;~~

~~\_\_\_\_\_ d. partnership. In the case of a partnership, the removal, addition, or substitution, of a partner, unless the~~

~~partners expressly agree otherwise as permitted by applicable state law, constitutes a change of ownership~~ - d. Repealed.

Clinical Manager—a person designated in writing to supervise all aspects of patient care, all activities of professional staff and allied health personnel, and be responsible for compliance with regulatory requirements.

Clinical Note—a written or electronic notation of each visit with a patient, which shall include the date and time of the visit, services rendered, and the signature of person providing services. The note ~~may also~~ shall include any pertinent information related to the visit. ~~(See 9129.B Clinical Note.)~~

Clinical Nurse Specialist (CNS)—a licensed health care practitioner who is acting within the scope of practice of his/her respective licensing board(s) and/or certifications.

Clinical Records—those documents maintained on all patients accepted for care by ~~a home health agency~~ an HHA. The records shall be retained in accordance with existing state ~~law~~ laws.

Controlling Ownership or Controlling Interest—an equity or voting interest possessed by a person or entity that:

a. has a direct or indirect equity interest equal to 5 percent or more in the capital, the stock, or the profits of ~~a home health agency~~ an HHA; or

b. is an officer or director of ~~a home health agency~~an HHA which is organized as a corporation; or

c. is a partner in ~~a home health agency~~an HHA which is organized as a partnership; or

d. is a member or manager of ~~a home health agency~~an HHA which is organized as a limited liability company.

The term controlling ownership is synonymous with the terms controlling interest or control interest as defined by the Department of Health and Human Services (DHHS), Centers for Medicare and Medicaid Services (CMS).

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

~~Director of Nurses (DoN)—a person designated in~~  
~~writing to supervise all aspects of patient care, all activities~~  
~~of professional staff and allied health personnel, and be~~  
~~responsible for compliance with regulatory requirements~~Repealed.

Employed—being assigned the 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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*Governing Body*—the person or group of persons who have legal authority for and/or ownership of the corporation of the

~~home health agency~~HHA and responsibility for agency operations.

A governing body assumes full legal authority and responsibility for the operation of the agency.

*Home Health Agency*—a state-owned and operated agency, or a subdivision of such an agency or organization; or a private nonprofit organization; or a proprietary organization which provides skilled home health care and support services to the public. Skilled home health care is provided under the order of ~~a physician~~an authorized healthcare provider, in the place of residence of the person receiving the care, and includes skilled nursing and at least one of the following services:

- a. physical therapy;
- b. speech therapy;
- c. occupational therapy;
- d. medical social services; or
- e. home health aide services.

*Home Health Agency Premises*—the physical site where the ~~home health agency~~HHA maintains staff to perform administrative functions, and maintains its personnel records, or maintain its patient service records, or holds itself out to the public as being a location for receipt of patient referrals. The ~~home health agency~~HHA shall be a separate entity from any other entity, business, or trade. If office space is shared with another ~~health~~healthcare related entity,

the ~~home health agency must~~HHA shall operate independently~~and,~~  
have a clearly defined scope of services, and ensure  
confidentiality is maintained for HHA's patients. The ~~home~~  
~~health agency~~HHA may not share office space with a ~~nonhealth-~~  
~~related~~non-healthcare related entity.

*Home Health Aide*—a ~~qualified person who provides~~  
qualified to provide direct patient care in the home under the  
~~direct~~ supervision of a ~~registered nurse~~RN or physical therapist  
to assist the patient with ~~the activities of daily living~~ADLs,  
in accordance with a written plan of care (POC), and requiring a  
clinical note for each patient visit.

*Home Health ~~Packet~~Licensure Forms*—the collection of  
appropriate forms for licensure that may be obtained from the  
~~department for an established fee~~department's website. ~~This~~  
~~packet is to~~ home health licensure forms shall be completed by  
all initial applicants before the licensure process can begin.

*Jurisdiction*—all home health agencies shall be under  
the jurisdiction of the ~~Department of Health and Hospitals~~LDH,  
which promulgates and enforces the rules governing the operation  
of such agencies or organizations. However, nothing in this Part  
shall be construed to prohibit the delivery of personal care,  
homemaker, respite, and other in-home services by a person or  
entity not licensed under this rule unless provided with other  
home health services.



*Licensed Practical Nurse*—a ~~person~~licensed health care practitioner who is acting within the scope of practice of his/her respective licensing boards(s) and/or certifications and who works under the supervision of a~~registered nurse~~an RN.

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*Misappropriation*—taking possession without the permission of the individual who owns the personal belongings or the deliberate misplacement, exploitation or wrongful temporary or permanent use of an individual's belongings or money without the individual's consent.

*Neglect*—the failure by a caregiver responsible for an individual's care or by other parties, to provide the proper or necessary support or medical, surgical, or any other care necessary for his/her well-being, unless the patient exercises his/her right to refuse the necessary care.

*Non-Licensed Person*—any person who provides health-related services for compensation directly related to patient care to patients of an HHA and who is not a licensed healthcare provider. A non-licensed person is also any person who provides such services to individuals in their own homes as an employee or contract provider of an HHA.

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

Nurse Practitioner (NP)–a licensed health care practitioner who is acting within the scope of practice of his/her respective licensing board(s) and/or certifications.

*Physician*–~~a doctor of medicine, a doctor of osteopathy, or a podiatrist who is currently authorized to practice in Louisiana~~licensed health care practitioner who is acting within the scope of practice of his/her respective licensing boards(s) and/or certifications.

Physician Assistant (PA)–a licensed health care practitioner who is acting within the scope of practice of his/her respective licensing boards(s) and/or certifications.

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Registered Nurse–a licensed health care practitioner who is acting within the scope of practice of his/her respective licensing boards(s) and/or certifications.

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*Support Services*–~~services provided to assist the ill, disabled or infirmed person with household tasks essential to achieving adequate household and family management. Support services may include, but are not limited to, housekeeping, shopping, maintenance of premises, sitter or companion services. Home health agencies that choose to provide support services must have written policies and procedures outlining the delivery, training, assignment, supervision and complaint~~

~~resolution processes for these services. Support services are strictly supportive in nature and are not part of the patient's medical plan of care; therefore, a physician's order is not required~~Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21:177(February 1995), LR 22:1135 (November 1996), LR 27:2239(December 2001), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

#### §9102. Governing Body

A. The governing body shall designate an individual who is responsible for the day-to-day management of the HHA and shall ensure that all services provided are consistent with accepted standards of practice.

B. Responsibilities. The governing body shall:

1. conduct an annual documented review of the policies and procedures, the budget, overall program evaluation, statistical information, compliant resolutions, any projected changes, and emergency preparedness;

2. maintain written minutes of meetings with the signatures of all attendees, dates, and times; and

3. receive written notification of any of the following:

a. the agency's administrator or clinical manager is fired, resigns, or becomes incapacitated to the extent that he/she can no longer perform his/her duties;

b. the agency is surveyed and found to be in violation of the state law, minimum standards, Rules, or regulations of LDH;

c. any other grounds which adversely affect the agency's operation;

4. shall receive and acknowledge the results of any QAPI evaluation; and

5. maintain an organizational chart that delineates lines of authority and responsibility for all home health personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

**§9103. Personnel Qualifications and Responsibilities**

A. Administrator. The administrator shall be appointed by and answer directly to the governing body of the agency. The administrator ~~and the director of nursing~~ of the agency shall be designated in writing. The administrator shall be

administratively responsible and available in person or by telecommunication at all times for all aspects of facility operation. The administrator and the clinical manager or the alternate ~~director of nursing~~clinical manager may be the same individual if dually qualified. If an individual is designated as the administrator for more than one agency, then he/she ~~must~~shall designate an alternate who is a full-time, on-site employee of each agency and meets the qualifications for an administrator.

1. Qualifications

a. The administrator ~~must~~shall have three years of management experience in the delivery of health care service and meet one of the following criteria:

- i. is a licensed physician; or
- ii. is ~~a registered nurse~~an RN; or
- iii. is employed as an administrator on or after January 13, 2018, and is a college graduate with a bachelor's degree; or
- iv. ~~has an associate degree; or~~is employed as an administrator prior to January 13, 2018, and has had three additional years of documented experience in health care delivery service; or
- v. is an administrator who has ~~had three additional years of documented~~ experience in health ~~care~~

~~delivery services; or~~ service administration with at least one year of supervisory or administrative experience related to home health care or a home health care program.

vi. ~~has had six additional years of documented administrative and managerial experience in a governmental or corporate setting, other than in health care delivery services; supervised at least 20 employees; and handled administration of the daily operations of the organization, including the budget process. The person shall have held no more than three positions during the six year time period~~ Repealed.

b. ~~In addition to the qualifications listed above, those individuals who meet the qualifications contained in §9103.A.1.a.iii-vi must have one additional year of home health management experience~~ Repealed.

2. Responsibilities. The administrator shall:

a. - f. ...

g. act as liaison between staff, the group of professional personnel, and the governing body; ~~and~~

h. implement an ongoing accurate and effective budgeting and accounting system-; and

i. ensure that complaints reported by patients, families, caregivers, authorized healthcare providers, agency staff or public are investigated and addressed in a timely manner.

3. Continuing Education. The administrator shall annually obtain two continuing education hours relative to the administrator's role, which may include, but not be limited to the following topics:

a. Medicare and Medicaid regulations;

b. management practices;

c. labor laws;

d. Occupational Safety and Health

Administration rules, laws, etc.;

e. ethics; and

f. quality improvement.

B. ~~Advisory Board~~Clinical Manager

1. Qualifications. The ~~advisory board~~clinical manager shall be ~~composed of the following individuals:~~an RN who is currently licensed to practice in the state of Louisiana and has at least three years of experience as an RN. One of these years shall consist of full-time experience in providing direct patient care in a home health setting. The clinical manager shall be a full-time employee of the licensed HHA and shall not work full-time at any other licensed healthcare agency. The clinical manager shall be available at all times during operating hours and additionally as needed.

NOTE: The clinical manager may not work for another licensed healthcare entity when on call or during operating hours of the HHA.

~~a. at least three health care professionals of which one must be an RN and one must be a physician; and~~

~~b. at least two nonhealth care professionals from the community who are not connected financially or by family to the agency or the governing body; one of these professionals may be a member of a patient's family~~a. - b.

Repealed.

2. Responsibilities. The ~~advisory board~~clinical manager shall:

a. ~~conduct an annual documented review of the policies and procedures, the budget, overall program evaluation, statistical information, complaint resolutions and any projected changes~~be a full-time employee of only one HHA;

b. ~~maintain written minutes of meetings with the signatures of all attendees, dates, and times~~supervise all patient care activities to assure compliance with current standards of accepted nursing practice;~~and~~

c. ~~receive written notification of any of the following;~~establish personnel and employment policies to assure that only qualified personnel are hired; employ qualified personnel by verifying licensure and/or certification (as



required by law) prior to employment and annually thereafter;  
and certify and maintain records to support competency of all  
allied health personnel;

~~i. the agency's administrator or director  
of nurses is fired, resigns, or becomes incapacitated to the  
extent that he/she can no longer perform his/her duties;~~

~~ii. the agency is surveyed and found to be  
in violation of the state law, minimum standards, rules, or  
regulations of the Department of Health and Hospitals;~~

~~iii. any other grounds which adversely  
affect the agency's operation~~i. - iii. Repealed.

d. develop and maintain agency policy and  
procedure manuals that establish and support the highest  
possible quality of patient care, cost controls, quality  
assurance, and mechanisms for disciplinary action for  
infractions;

e. supervise employee health program;

f. assure compliance with local, state, and  
federal laws as well as promote the health and safety of  
employees, patients and the community with the following non-  
exclusive methods:

i. resolve problems;

ii. perform complaint investigations;

iii. refer impaired personnel to proper authorities;

iv. provide for orientation and in-service to personnel to promote the health and safety of the patient as well as to familiarize staff with regulatory issues and agency policy and procedures;

v. ensure orientation of health care personnel who provide direct patient care;

vi. ensure timely annual evaluation of health care personnel;

vii. assure regularly scheduled appropriate continuing education for all health professionals and home health aides;

viii. assure that the care provided by the health care personnel promotes the health and safety of the patient; and

ix. assure that agency policies are enforced, including but not limited to checking the direct service worker (DSW)/certified nurse aide (CNA) registry for adverse actions against non-licensed employees in accordance with state laws;

g. be on site or immediately available to be on site and available by telecommunications during normal operating hours. The agency shall designate in writing an RN who shall

assume the responsibilities of the clinical manager during his/her absence, i.e., on vacation, ill time, at a workshop, etc.

3. Continuing Education. The clinical manager shall annually obtain two continuing education hours relative to the clinical manager's role, which may include, but not be limited to the following topics:

- a. Medicare and Medicaid regulations;
- b. management practices;
- c. labor laws;
- d. Occupational Safety and Health Administration rules, laws, etc.;
- e. ethics; and
- f. quality improvement.

C. ~~Director of Nurses~~Home Health Aide

1. Qualifications. ~~The director of nurses (DoN) must be a registered nurse who is currently licensed to practice in the State of Louisiana and has at least three years of experience as a registered nurse. One of these years must consist of full time experience in providing direct patient care in a home health setting. The DoN must be a full-time employee of only one agency.~~A home health aide shall meet the following criteria:

a. have current nursing assistant certification and successfully complete the agency's competency evaluation; or

b. have successfully completed a home health aide training program and successfully complete the agency's competency evaluation and meet each of the following:

i. exhibit a sympathetic attitude toward the patient, an ability to provide care to the sick, and the maturity and ability to deal effectively with the demands of the job;

ii. have the ability to read, write, and carry out directions promptly and accurately; and

iii. shall inform all employers when employed with one or more agencies; cooperate and coordinate to assure highest performance of quality when providing services to the patient.

NOTE: ~~The director of nurses may never serve more than one agency~~Repealed.

2. Responsibilities. The ~~director of nursing shall~~home health aide:

a. ~~be a full time employee of only one home health agency~~ shall obtain and record vital signs during each visit in addition to notifying the primary RN of deviations according to standard practice;

b. ~~supervise all patient care activities to assure compliance with current standards of accepted nursing and medical practice~~may provide assistance with the following ADL's during each visit: mobility, transferring, walking, grooming, bathing, dressing or undressing, eating, or toileting. Some examples of assistance include:

i. helping the patient with a bath, care of the mouth, skin and hair;

ii. helping the patient to the bathroom or in using a bed pan or urinal;

iii. helping the patient to dress and/or undress;

iv. helping the patient in and out of bed, assisting with ambulation;

v. helping the patient with prescribed exercises which the patient and the health aide have been taught by appropriate personnel; and

vi. performing such incidental household services essential to the patient's health care at home that are necessary to prevent or postpone institutionalization;

c. ~~establish personnel and employment policies to assure that only qualified personnel are hired; employ~~may perform care assigned by an RN if the delegation is in compliance with current standards of nursing practice;

d. ~~develop and maintain agency policy and procedure manuals that establish and support the highest possible quality of patient care, cost controls, quality assurance, and mechanisms for disciplinary action for infractions~~ may administer over the counter disposable enemas, saline or vinegar douches, and glycerine or Ducolax suppositories if such are included in the patient's POC; and

e. ~~supervise employee health program;~~shall complete a clinical note for each visit, which shall be incorporated into record at least on a weekly basis.

f. ~~assure compliance with local, state, and federal laws as well as promote the health and safety of employees, patients and the community with the following nonexclusive methods:~~

~~\_\_\_\_\_ i. resolve problems;~~

~~\_\_\_\_\_ ii. perform complaint investigations;~~

~~\_\_\_\_\_ iii. refer impaired personnel to proper authorities;~~

~~\_\_\_\_\_ iv. provide for orientation and in-service to personnel to promote the health and safety of the patient as well as to familiarize staff with regulatory issues and agency policy and procedures;~~

~~\_\_\_\_\_ v. ensure orientation of health care personnel who provide direct patient care;~~

~~vi. ensure timely annual evaluation of health care personnel;~~

~~vii. assure regularly scheduled appropriate continuing education for all health professionals and home health aides;~~

~~viii. assure that the care provided by the health care personnel promotes the health and safety of the patient; and~~

~~ix. assure that agency policies are enforced;~~

~~g. be on site or immediately available to be on site and available by telecommunications during normal operating hours. The agency shall designate in writing a registered nurse who will assume the responsibilities of the DoN during his/her absence, i.e., on vacation, ill time, at a workshop, etc.~~f. - g.

Repealed.

3. Restrictions. The home health aide shall not:

a. perform any intravenous procedures, procedures involving insertion of feeding tubes or urinary catheters, the administration of tube feedings, or any other sterile or invasive procedures;

b. administer medications to any patient; and

c. perform any of the following tasks which are not home health aide services:

i. transporting the patient;

ii. general housekeeping duties; or

iii. shopping.

4. Training. An HHA that offers a training program shall, at a minimum, include the following in the training program:

a. communication skills;

b. observation, reporting and documentation of patient status and the care or service furnished;

c. reading and recording temperature, pulse, and respiration;

d. basic infection control procedures;

e. basic elements of body functioning and changes in body function that shall be reported to the patient's RN;

f. maintenance of a clean, safe, and healthy environment of the patient's immediate surroundings;

g. recognizing emergencies and knowledge of emergency procedures;

h. the physical, emotional, and developmental needs of the patient and methods for working with the populations served by the agency, including the need to respect the patient, his/her privacy and his/her property;

i. safe transfer techniques and ambulation;



j. appropriate and safe techniques in personal hygiene and grooming that include:

i. bed bath;

ii. sponge, tub, or shower bath;

iii. sink, tub, or bed shampoo;

iv. nail and skin care;

v. oral hygiene; and

vi. toileting and elimination.

k. normal range of motion and positioning;

l. adequate nutrition and fluid intake;

m. any other task, within state regulations, that the agency may choose to have the home health aide perform.

5. Orientation. The content of the basic orientation provided to home health aides shall include the following:

a. policies and objectives of the agency;

b. duties and responsibilities of a home health aide;

c. the role of the home health aide as a member of the health care team;

d. ethics and confidentiality;

e. record keeping;

f. information on the process of aging and behavior of the aged;

g. information on the emotional problems

accompanying illness; and

h. principles and practices of maintaining a clean, healthy and safe environment.

6. Assignment. The home health aide is assigned to a patient by an RN in accordance with the POC. Specific written instructions for patient care are prepared by an RN or therapist as appropriate. All personal care services are described to the patient, in writing, by the RN in charge of that patient.

7. Supervision. An RN or licensed therapist shall provide direct supervision to the home health aide as follows.

a. An RN shall supervise and evaluate the home health aide's ability to perform assigned duties, relate to the patient, and work effectively as a member of the health care team.

b. Periodic on-site supervision with the home health aide present shall be established as part of the agency's policies and procedures.

c. If the patient is receiving a skilled service (nursing, physical therapy, occupational therapy, or speech language pathology), the supervisory visits shall be made to the patient's residence at least once every two weeks (not to exceed 14 days) by the RN or appropriate therapist to assess relationships and determine whether goals are being met.

d. If the patient is not receiving skilled services, an RN shall make a supervisory visit to the patient's residence at least once every 60 days. In order to ensure that the aide is properly caring for the patient, the supervisory visit shall occur while the home health aide is providing patient care.

e. Documentation of supervision shall include the aide-patient relationships, services provided, and instructions and comments given as well as other requirements of the clinical note.

f. Annual performance review for each aide shall be documented in the individual's personnel record.

8. In-service. The agency shall offer a minimum of 12 hours of appropriate in-service training to each home health aide every calendar year. The in-service may be furnished while the aide is providing service to the patient, but shall be documented.

a. These in-service sessions should include, but are not limited to:

i. care of the body;

ii. communication;

iii. infection control;

iv. safety and documentation.

b. In-service training may be prorated for employees who only worked a portion of the year; however, part-time employees who work throughout the year shall attend 12 hours of in-service training.

c. Documentation should include the outline and length of the in-service training.

D. ~~Home Health Aide~~ Licensed Practical Nurse

1. Qualifications. A ~~home health aide must meet the following criteria~~ licensed practical nurse (LPN) shall:

a. ~~successfully complete a competency evaluation~~ be currently licensed by the Louisiana State Board of Practical Nurse Examiners with no restrictions; and

b. have ~~current nursing assistant certification~~ worked at least one year as an LPN prior to being employed by an HHA; or and

c. ~~have successfully completed a training program; and~~ inform all employers when employed with one or more agencies and cooperate and coordinate to assure highest performance of quality when providing services to the patient.

d. ~~exhibit a sympathetic attitude toward the patient, an ability to provide care to the sick, and the maturity and ability to deal effectively with the demands of the job;~~

~~\_\_\_\_\_ e. have the ability to read, write, and carry out directions promptly and accurately; and~~

~~\_\_\_\_\_ f. must inform all employers when employed with one or more agencies; cooperate and coordinate to assure highest performance of quality when providing services to the patient~~d.

- f. Repealed.

2. Responsibilities. The ~~home health aide~~LPN shall:

a. ~~shall obtain and record vital signs during each visit in addition to notifying the primary registered nurse of deviations according to standard practice~~perform skilled nursing services under the supervision of an RN in accordance with the laws governing the practice of practical nursing;

b. ~~may provide assistance with~~observe and report the ~~following ADL's during each visit: mobility, transferring, walking, grooming, bathing, dressing or undressing, eating, or toileting. Some examples of assistance include:~~patient's response to treatment and any changes in the patient's condition to the authorized healthcare provider and the supervising RN;

~~i. helping the patient with a bath, care of the mouth, skin and hair;~~

~~\_\_\_\_\_ ii. helping the patient to the bathroom or in using a bed pan or urinal;~~

~~\_\_\_\_\_ iii. helping the patient to dress and/or undress;~~  
~~\_\_\_\_\_ iv. helping the patient in and out of bed, assisting with ambulation;~~  
~~\_\_\_\_\_ v. helping the patient with prescribed exercises which the patient and the health aide have been taught by appropriate personnel; and~~  
~~\_\_\_\_\_ vi. performing such incidental household services essential to the patient's health care at home that are necessary to prevent or postpone institutionalization;~~i. - vi.

Repealed.

~~c. may perform care assigned by a registered nurse if the delegation is in compliance with current standards of~~administer prescribed medications and treatments as permitted by the laws governing the practice of practical nursing practice;

~~d. may administer over the counter disposable enemas, saline or vinegar douches, glycerine or Ducolax suppositories;~~prepare clinical and/or progress notes and incorporate them into the clinical record at least weekly;

~~e. shall complete a clinical note for each visit, which must be incorporated into record at least on a weekly basis.~~perform wound care as ordered in accordance with the POC; and

f. perform routine venipuncture (phlebotomy) if written documentation of competency is in personnel record.  
Competency shall be evaluated by an RN even if LPN has completed a certification course.

3. Restrictions. The ~~home health aide~~ LPN shall not:

a. ~~perform~~ access any intravenous ~~procedures,~~  
~~procedures involving insertion of feeding tubes or urinary~~  
~~catheters, the administration of tube feedings, or any other~~  
~~sterile or invasive procedures~~ appliance for any reason;

b. ~~administer medications to any patient~~ perform  
supervisory visit for a home health aide; ~~and~~

c. ~~perform any of~~ develop and/or alter the  
~~following tasks which are not home health aide services:~~ POC;

~~i. transporting the patient;~~

~~ii. general housekeeping duties; or~~

~~iii. shopping.~~ i. - iii. Repealed.

d. make initial assessment visit;

e. prepare the recertification;

f. make aide assignments; or

g. function as a supervisor of the nursing practice of any RN.

~~4. Training. A home health agency that offers a training program must, at a minimum, include the following in the training program:~~

- ~~\_\_\_\_\_ a. communication skills;~~
- ~~\_\_\_\_\_ b. observation, reporting and documentation of patient status and the care or service furnished;~~
- ~~\_\_\_\_\_ c. reading and recording temperature, pulse, and respiration;~~
- ~~\_\_\_\_\_ d. basic infection control procedures;~~
- ~~\_\_\_\_\_ e. basic elements of body functioning and changes in body function that must be reported to an aide's supervisor;~~
- ~~\_\_\_\_\_ f. maintenance of a clean, safe, and healthy environment;~~
- ~~\_\_\_\_\_ g. recognizing emergencies and knowledge of emergency procedures;~~
- ~~\_\_\_\_\_ h. the physical, emotional, and developmental needs of the patient and methods for working with the populations served by the agency, including the need to respect the patient, his/her privacy and his/her property;~~
- ~~\_\_\_\_\_ i. safe transfer techniques and ambulation;~~
- ~~\_\_\_\_\_ j. appropriate and safe techniques in personal hygiene and grooming that include:~~
  - ~~\_\_\_\_\_ i. bed bath;~~
  - ~~\_\_\_\_\_ ii. sponge, tub, or shower bath;~~
  - ~~\_\_\_\_\_ iii. sink, tub, bed or shampoo;~~
  - ~~\_\_\_\_\_ iv. nail and skin care;~~



~~v. oral hygiene; and~~

~~vi. toileting and elimination.~~

~~k. normal range of motion and positioning;~~

~~l. adequate nutrition and fluid intake;~~

~~m. any other task, within state regulations,~~  
~~that the agency may choose to have the home health aide perform.~~

~~5. Orientation. The content of the basic orientation provided to home health aides shall include the following:~~

~~a. policies and objectives of the agency;~~

~~b. duties and responsibilities of a home health aide;~~

~~c. the role of the home health aide as a member of the health care team;~~

~~d. ethics and confidentiality;~~

~~e. record keeping;~~

~~f. information on the process of aging and behavior of the aged;~~

~~g. information on the emotional problems accompanying illness; and~~

~~h. principles and practices of maintaining a clean, healthy and safe environment.~~

~~6. Assignment. The home health aide is assigned to a patient by a registered nurse in accordance with the plan of care. Specific written instructions for patient care are~~

~~prepared by a registered nurse or therapist as appropriate. All personal care services are described to the patient, in writing, by the registered nurse in charge of that patient.~~

~~7. Supervision. A registered nurse or licensed therapist shall provide direct supervision to the home health aide as follows.~~

~~a. A registered nurse shall supervise and evaluate the home health aide's ability to perform assigned duties, relate to the patient, and work effectively as a member of the health care team.~~

~~b. Periodic on-site supervision with the home health aide present shall be established as part of the agency's policies and procedures.~~

~~c. If the patient is receiving a skilled service (nursing, physical therapy, occupational therapy, or speech language pathology), the supervisory visits shall be made to the patient's residence at least once every two weeks (not to exceed 20 days) by the registered nurse or appropriate therapist to assess relationships and determine whether goals are being met.~~

~~d. If the patient is not receiving skilled services, a registered nurse must make a supervisory visit to the patient's residence at least once every 62 days. In order to ensure that the aide is properly caring for the patient, the~~

~~supervisory visit must occur while the home health aide is providing patient care.~~

~~\_\_\_\_\_e. Documentation of supervision shall include the aide patient relationships, services provided, and instructions and comments given as well as other requirements of the clinical note.~~

~~\_\_\_\_\_f. Annual performance review for each aide shall be documented in the individual's personnel record.~~

~~\_\_\_\_\_8. In-service. The agency must offer a minimum of 12 hours of appropriate in service training to each home health aide every calendar year. The in-service may be furnished while the aide is providing service to the patient, but must be documented.~~

~~\_\_\_\_\_a. These in service sessions should include, but are not limited to:~~

~~\_\_\_\_\_i. care of the body;~~

~~\_\_\_\_\_ii. communication;~~

~~\_\_\_\_\_iii. infection control;~~

~~\_\_\_\_\_iv. safety and documentation.~~

~~\_\_\_\_\_b. In service training may be prorated for employees who only worked a portion of the year; however, part-time employees who work throughout the year must attend 12 hours of in-service training.~~

~~c. Documentation should include the outline and length of the in-service training~~4 - 8.c. Repealed.

E. ~~Licensed Practical Nurse~~Medical Social Services

1. Qualifications. A ~~licensed practical nurse (LPN)~~must a medical social worker shall:

a. be currently licensed by the Louisiana ~~State~~ Board of ~~Practical Nurse~~Certified Social Work Examiners ~~with no restrictions;~~ or

b. have ~~worked at least one year as an LPN prior to being employed by a home health agency; and~~a master's degree from a school of social work accredited by the Council on Social Work Education in accordance with the requirements of the Louisiana State Board of Social Work Examiners.

c. ~~inform all employers when employed with one or more agencies and cooperate and coordinate to assure highest performance of quality when providing services to the patient~~Repealed.

2. Responsibilities. The ~~LPN~~medical social worker shall:

a. ~~perform skilled nursing services under the supervision of a registered nurse in accordance with the laws governing the practice of practical nursing~~assist the authorized healthcare provider and other members of the health care team in

understanding significant social and emotional factors related to the patient's health problems;

b. ~~observe and report~~ assess the social and emotional factors having an impact on the patient's ~~response to treatment~~ health status, and ~~any changes~~ assist in the ~~patient's condition to~~ formulation of the ~~physician and supervising registered nurse~~ POC;

c. ~~administer prescribed medications and treatments as permitted by the laws governing~~ provide services within the scope of practice ~~of practical nursing~~, as defined by state law, in accordance with the POC and in coordination with other members of the health care team;

d. ...

e. ~~perform wound care as ordered~~ participate in ~~accordance with the plan of~~ discharge planning and in-service programs related to the needs of the patient; acts as a consultant to other members of the health care team; and

f. ~~perform routine venipuncture (phlebotomy) if written documentation of competency is in personnel record. Competency must be evaluated by an RN even if LPN has completed a certification course~~ prepare a written assessment and summary of services provided when medical social work services are discontinued, including an assessment of the patient's current status that shall be retained in the patient's clinical record,

and a copy forwarded to the attending authorized healthcare provider within five business days.

3. Restrictions. ~~The LPN shall not:~~An unlicensed medical social worker may not contract directly with the HHA for clinical services, consultation, supervision or educational services.

~~a. access any intravenous appliance for any reason;~~

~~b. perform supervisory visit for a home health aide;~~

~~c. develop and/or alter the plan of care;~~

~~d. make initial assessment visit;~~

~~e. prepare the recertification;~~

~~f. make aide assignments; or~~

~~g. function as a supervisor of the nursing practice of any registered nurse~~a - g. Repealed.

F. ~~Medical Social~~Nutritional Guidance Services

1. Qualifications. ~~A medical social worker must:~~If an agency provides or arranges for nutritional guidance, the staff member or consultant shall be a professional dietitian who meets the qualification standards of the Commission on Dietetic Registration of the American Dietetic Association.

~~a. be currently licensed by the Louisiana Board of Certified Social Work Examiners; or~~

~~b. have a master's degree from a school of social work accredited by the Council on Social Work Education~~a.

- b. Repealed.

2. Responsibilities. The ~~medical social worker~~dietitian shall:

a. ~~assist the physician and other members of the health care team in understanding significant social~~document each visit made to the patient and ~~emotional factors related to the patient's health problems~~incorporate notes into the clinical record on a weekly basis;

b. ~~assess the social and emotional factors having an impact on the patients health status, and assist in the formulation of the plan of care~~prepare initial nutritional dietary assessment;

c. ~~provide services within the scope of practice, as defined by state law, in accordance with the plan of care and in coordination with other members of the health care team~~communicate with the clinical manager, the nurse supervisor and/or the primary nurse assigned to the patient regarding the need for a continuation of services for each patient;

d. ~~prepare clinical and/or progress notes and incorporate them into the clinical record at least~~

~~weekly~~ evaluate compliance with authorized healthcare provider ordered therapeutic diet and makes recommendations as needed;

e. ~~participate in discharge planning and in-service programs related to the needs of the patient; acts as a consultant to other members of the health care team; evaluate patient's socio-economic factors to develop recommendations concerning food purchasing, preparation and storage;~~

f. ~~submit a written assessment and summary of services provided when medical social work services are discontinued, including an assessment of the patient's current status that will be retained in the patient's clinical record.~~ train those persons who are responsible for purchasing and storing food;

g. evaluate food preparation methods to ensure that nutritive value is conserved in addition to flavor, texture and temperature principles being adhered to in meeting the individual patient's needs;

h. participate in all related case conferences with agency staff. Minutes of case conferences are retained in patient's clinical record;

i. prepare a written discharge summary and ensure that a copy is retained in patient's clinical record and a copy is forwarded to the attending authorized healthcare provider within five business days;



j. assess and evaluate the food and nutritional needs of the patient in accordance with the plan of treatment and the recommended daily dietary allowances established by the Food and Nutrition Board, National Academy of Sciences-National Research Council;

k. participate in discharge planning and in-service training programs related to the needs of the patient and acts as a consultant to the other members of the health care team; and

l. ensure that a current diet manual (within five years of publication) is readily available to agency staff where applicable.

~~3. Restrictions. An unlicensed medical social worker may not contract directly with the home health agency for clinical services, consultation, supervision or educational services~~Repealed.

G. ~~Nutritional Guidance Services~~Occupational Therapist

~~1. Qualifications. If an agency provides or arranges for nutritional guidance, the staff member or consultant must be a professional dietitian who meets the qualification standards of the Commission on Dietetic Registration of the American Dietetic Association~~An occupational therapist shall be currently licensed by the LSBME.

2. Responsibilities. The ~~dietitian must~~occupational therapist shall:
- a. ~~document each visit made to the patient and incorporate notes into the clinical record on a weekly basis~~assist the authorized healthcare provider in evaluating the patient's functional status and occupational therapy needs, and assist in the development of the POC;
  - b. ~~prepare initial nutritional dietary assessment~~provide services within the scope of practice as defined by the state laws governing the practice of occupational therapy, in accordance with the POC, and in coordination with other members of the health care team;
  - c. ~~communicate with the director of nurses,~~observe and report the patient's response to treatment and any changes in his/her condition to the ~~nurse supervisor and/or the primary nurse assigned to the patient regarding the need for a continuation of services for each patient~~authorized healthcare provider and the supervising RN;
  - d. ~~evaluate compliance with physician ordered therapeutic diet and makes recommendations as needed~~instruct and inform participating members of the health care team, the patient, and the family/caregivers regarding the POC, functional limitations and progress towards goals;

e. ~~evaluate patient's socio-economic factors to develop recommendations concerning food purchasing, preparation and storage~~prepare clinical and/or progress notes for each visit and incorporate them into the clinical record at least weekly;

f. ~~train those persons who are responsible for purchasing and storing food~~when occupational therapy services are discontinued, prepare a written discharge summary of services provided, including an assessment of patient's current status, for retention in the patient's clinical record, and forward a copy to the attending authorized healthcare provider within five business days; and

g. ~~evaluate food preparation methods to ensure that nutritive value is conserved in addition to flavor, texture and temperature principles being adhered to in meeting the individual patient's needs;~~provide supervision of the occupational therapy assistant (OTA) as follows:

i. be readily available to the OTA by telecommunications;

ii. assess the competency and experience of the OTA;

iii. establish the type, degree and frequency of supervision that is required for an OTA in a home health setting; and

iv. conduct a face-to-face patient care conference with each OTA once every two weeks, or once every four to six treatment sessions, to review progress and modification of treatment programs for all patients.

~~h. participate in all related case conferences with agency staff. Minutes of case conferences are retained in patient's clinical record;~~

~~i. prepare a written discharge summary and ensure that a copy is retained in patient's clinical record and a copy is forwarded to the attending physician;~~

~~j. assess and evaluate the food and nutritional needs of the patient in accordance with the plan of treatment and the Recommended Daily Dietary Allowances established by the Food and Nutrition Board, National Academy of Sciences National Research Council;~~

~~k. participate in discharge planning and in-service training programs related to the needs of the patient and acts as a consultant to the other members of the health care team; and~~

~~l. ensure that a current diet manual (within five years of publication) is readily available to agency staff where applicable~~h. - l. Repealed.

H. Occupational ~~Therapist~~Therapy Assistant

1. Qualifications. ~~An occupational therapist must be registered by the American Occupational Therapy Association, and currently licensed by the Louisiana Board of Medical Examiners.~~

The OTA shall:

a. be currently licensed by the Louisiana State Board of Medical Examiners to assist in the practice of occupational therapy under the supervision of a licensed registered occupational therapist; and

b. have, at a minimum, two years' experience as a licensed OTA before starting a home health caseload.

~~2. Responsibilities. The occupational therapist shall:~~

~~a. assist the physician in evaluating the patient's functional status and occupational therapy needs, and assist in the development of the plan of care;~~

~~b. provide services within the scope of practice as defined by the state laws governing the practice of occupational therapy, in accordance with the plan of care, and in coordination with other members of the health care team;~~

~~c. observe and report the patient's response to treatment and any changes in his/her condition to the physician and the supervising registered nurse;~~

~~d. instruct and inform participating members of the health care team, the patient, and the family/caregivers~~

~~regarding the plan of care, functional limitations and progress towards goals;~~

~~\_\_\_\_\_ e. \_\_\_\_\_ prepare clinical and/or progress notes for each visit and incorporate them into the clinical record at least weekly;~~

~~\_\_\_\_\_ f. \_\_\_\_\_ when occupational therapy services are discontinued, submit a written summary of services provided, including an assessment of patient's current status, for retention in the patient's clinical record; and~~

~~\_\_\_\_\_ g. \_\_\_\_\_ provide supervision of the occupational therapy assistant (OTA) as follows:~~

~~\_\_\_\_\_ i. \_\_\_\_\_ be readily available to the OTA by telecommunications;~~

~~\_\_\_\_\_ ii. \_\_\_\_\_ assess the competency and experience of the OTA;~~

~~\_\_\_\_\_ iii. \_\_\_\_\_ establish the type, degree and frequency of supervision that is required for an OTA in a home health setting; and~~

~~\_\_\_\_\_ iv. \_\_\_\_\_ conduct a face-to-face patient care conference with each OTA once every two weeks, or once every four to six treatment sessions, to review progress and modification of treatment programs for all patients~~2 - 2.g.iv.

Repealed.

I. ~~Occupational Therapy Assistant~~Physical Therapist

1. Qualifications. The ~~occupational therapy assistant (OTA) must:~~physical therapist shall be currently licensed by the Louisiana State Board of Physical Therapy Examiners.

~~a. be currently licensed by the Louisiana Board of Medical Examiners to assist in the practice of occupational therapy under the supervision of a licensed registered occupational therapist; and~~

~~b. have, at a minimum, two years experience as a licensed OTA before starting a home health caseload~~a - b.

Repealed.

2. Responsibilities. The physical therapist shall:

a. assist the authorized healthcare provider in evaluating the patient's functional status and physical therapy needs, and assist in the development of the POC;

b. provide services within the scope of practice as defined by the state laws governing the practice of physical therapy, in accordance with the POC, and in coordination with other members of the health care team;

c. observe and report the patient's reaction to treatment and any changes in his/her condition to the authorized healthcare provider and the supervising RN;

d. instruct and inform participating members of the health care team, the patient, and the family/caregivers

regarding the POC, functional limitations and progress towards goals;

e. prepare clinical and/or progress notes for each visit and incorporate them into the clinical record at least weekly;

f. when physical therapy services are discontinued, prepare a written discharge summary and ensure that a copy is retained in the patient's clinical record and a copy is forwarded to the attending authorized health care provider;

g. may supervise home health aides in lieu of an RN if physical therapy is the only skilled service being provided;

h. provide supervision to a physical therapy assistant (PTA) as follows:

i. be readily accessible by telecommunications;

ii. evaluate and establish a written treatment plan on the patient prior to implementation of any treatment program;

iii. treat and reassess the patient on at least every sixth visit, but not less than once per month;



iv. conduct a face-to-face patient care conference every two weeks with each PTA to review progress and modification of treatment programs for all patients; and

v. assess the final treatment rendered to the patient at discharge and include in the discharge summary.

J. Physical ~~Therapist~~Therapy Assistant

1. Qualifications. The ~~physical therapist must~~PTA shall be currently licensed by the Louisiana State Board of Physical Therapy Examiners and ~~have graduated from a school with a~~ be supervised by a licensed physical ~~therapy curriculum approved by:~~therapist. The PTA shall have, at a minimum, one year of experience as a licensed PTA before assuming responsibility for a home health caseload.

~~a. the American Physical Therapy Association; or~~

~~b. the Council on Medical Education and Hospitals of the American Medical Association; or~~

~~c. the Council on Medical Education of the American Medical Association and the American Physical Therapy Association.~~a. - c. Repealed.

2. ~~Responsibilities~~Restrictions. The ~~physical therapist~~PTA's duties ~~shall~~not include interpretation and implementation of referrals or prescriptions, performance

evaluations, or the determination or major modifications of treatment programs.

~~a. assist the physician in evaluating the patient's functional status and physical therapy needs, and assist in the development of the plan of care;~~

~~b. provide services within the scope of practice as defined by the state laws governing the practice of physical therapy, in accordance with the plan of care, and in coordination with other members of the health care team;~~

~~c. observe and report the patient's reaction to treatment and any changes in his/her condition to the physician and the supervising registered nurse;~~

~~d. instruct and inform participating members of the health care team, the patient, and the family/caregivers regarding the plan of care, functional limitations and progress towards goals;~~

~~e. prepare clinical and/or progress notes for each visit and incorporate them into the clinical record at least weekly;~~

~~f. when physical therapy services are discontinued, prepare a written discharge summary and ensure that a copy is retained in the patient's clinical record and a copy is forwarded to the attending physician;~~

~~g. may supervise home health aides in lieu of a registered nurse if physical therapy is the only skilled service being provided;~~

~~h. provide supervision to a physical therapy assistant (PTA) as follows:~~

~~i. be readily accessible by telecommunications;~~

~~ii. evaluate and establish a written treatment plan on the patient prior to implementation of any treatment program;~~

~~iii. treat and reassess the patient on at least every sixth visit, but not less than once per month;~~

~~iv. conduct a face-to-face patient care conference once a week with each PTA to review progress and modification of treatment programs for all patients; and~~

~~v. assess the final treatment rendered to the patient at discharge and write a discharge summary~~[a - h.v.](#)

[Repealed.](#)

K. ~~Physical Therapy Assistant~~[Registered Nurse](#)

1. Qualifications. The ~~physical therapy assistant (PTA) must~~ [RN shall](#) be currently licensed by the ~~Louisiana State Board of Physical Therapy Examiners and be supervised by a licensed physical therapist. The PTA must~~ [LSBN without restrictions and](#) have, at a minimum, one year of [clinical](#)

experience as ~~a licensed PTA before assuming responsibility for a home health caseload~~an RN. This requirement may be waived for an RN with one year's clinical experience as an LPN.

a. Special Qualifications. In addition to the above qualifications, an RN shall have one of the following credentials in order to provide psychiatric nursing services. Work experience shall have been obtained within the last five years. If experience is not within the five-year time period, then documentation shall be provided to support either psychiatric retaining, classes, or CEUs to update psychiatric knowledge:

i. a master's degree in psychiatric or mental health nursing; or

ii. a bachelor's degree in nursing and one year of work experience in an active treatment unit in a psychiatric or mental health facility or outpatient mental health clinic; or

iii. a diploma or associate degree and two years of work experience in an active treatment unit in a psychiatric or mental health hospital or outpatient clinic.

2. ~~Restrictions~~Responsibilities. The ~~PTA's duties~~RN shall ~~not include interpretation and implementation of referrals or prescriptions, performance evaluations, or the determination or major modifications of treatment programs.~~:

- a. provide or supervise skilled nursing services in accordance with authorized healthcare provider orders;
- b. assess and regularly re-evaluate the nursing needs of the patient;
- c. develop, initiate, implement, and update the POC as needed or at least every 60 days, or as needed;
- d. provide specialized nursing services, which may include treatments and diagnostic and preventive procedures;
- e. initiate preventive and rehabilitative nursing procedures as appropriate for the patient's care and safety;
- f. coordinate services and inform the authorized healthcare provider and other personnel of changes in the patient's condition and needs;
- g. teach, supervise and counsel the patient, family members and other members of the health care team regarding the nursing care needs and other related problems of the patient at home;
- h. prepare clinical and/or progress notes and incorporate them into the clinical record at least weekly;
- i. observe and report the patient's response to treatment and any changes in his/her condition to the authorized healthcare provider and supervising RN;

j. conduct on-site supervisory evaluations at least every six months of each licensed practical nurse while he/she is providing care and document such supervision in the LPN's personnel file;

k. conduct on-site supervision of patient care provided by the home health aide; and

l. function as patient advocate in all medical decisions affecting the patient.

3. Restrictions. An RN applicant may not work in the home health setting as an RN.

L. ~~Registered Nurse~~Speech Pathology Services

1. Qualifications. The ~~registered nurse (RN)~~must speech pathologist shall be currently licensed by the Louisiana ~~State~~ Board of ~~Registered Nurse~~ Examiners ~~without restrictions and have, at a minimum, one year of clinical experience as a registered nurse. This requirement may be waived for a registered nurse with recent clinical experience as a LPN or an RN currently working for a home health agency at the time this rule takes effect~~of Speech Pathology and Audiology.

~~a. Special Qualifications. In addition to the above qualifications, a RN must have one of the following credentials in order to provide psychiatric nursing services. Work experience must have been obtained within the last five years. If experience is not within the five year time period,~~

~~then documentation must be provided to support either psychiatric retraining, classes, or CEUs to update psychiatric knowledge:~~

~~\_\_\_\_\_ i. a master's degree in psychiatric or mental health nursing; or~~

~~\_\_\_\_\_ ii. a bachelor's degree in nursing and one year of work experience in an active treatment unit in a psychiatric or mental health facility or outpatient mental health clinic; or~~

~~\_\_\_\_\_ iii. a diploma or associate degree and two years of work experience in an active treatment unit in a psychiatric or mental health hospital or outpatient clinic~~a. -

a.iii. Repealed.

2. Responsibilities. The ~~registered nurse~~speech pathologist shall:

a. ~~provide or supervise skilled nursing services in accordance with physicians orders~~assist the authorized healthcare provider and other members of the health care team in evaluating the patient's speech or language needs and formulating the POC;

b. ~~assess and regularly re-evaluate the nursing needs of the patient~~provide service within the scope of practice as defined by the state law governing the practice of speech

pathology, in accordance with the POC and in coordination with other members of the health care team;

c. ~~develop, initiate, implement, and update the plan of care as needed or at least every 62 days, or as needed~~observe and report the patient's response to treatment and any changes in the patient's condition to the authorized healthcare provider and supervising RN;

d. ~~provide specialized nursing services, which may include treatments and diagnostic and preventive procedures~~instruct and inform participating members of the health care team, the patient, and the family/caregivers regarding the POC, functional limitations and progress towards goals;

e. ~~initiate preventive and rehabilitative nursing procedures as appropriate for the patient's care and safety~~prepare clinical and or progress notes for each visit and incorporate them into the clinical record at least weekly; and

f. ~~coordinate~~prepare a written summary of the services and inform the physician and other personnel of changes in the patient's condition and needs;provided when speech therapy services are discontinued, including an assessment of the patient's current status which shall be retained in the patient's clinical record and a copy forwarded to the authorized healthcare provider within five business days.



~~g. teach, supervise and counsel the patient, family members and other members of the health care team regarding the nursing care needs and other related problems of the patient at home;~~

~~h. prepare clinical and/or progress notes and incorporate them into the clinical record at least weekly;~~

~~i. observe and report the patient's response to treatment and any changes in his/her condition to the physician and supervising registered nurse;~~

~~j. conduct on site supervisory evaluations at least every six months of each licensed practical nurse while he/she is providing care and document such supervision in the LPN's personnel file;~~

~~k. conduct on site supervision of patient care provided by the home health aide; and~~

~~l. function as patient advocate in all medical decisions affecting the patient.~~

~~3. Restrictions. A registered nurse applicant may not work in the home health setting as a registered nurse.~~

~~M. Speech Pathology Services~~

~~1. Qualifications. The speech pathologist must be currently licensed by the Louisiana State Board of Examiners of Speech Pathology and Audiology and certified by the American Speech and Hearing Association, or has completed the academic~~

~~requirements and is in the process of accumulating the necessary supervised (as directed by the state agency certifying body) work experience required for certification.~~

~~2. Responsibilities. The speech pathologist shall:~~

~~a. assist the physician and other members of the health care team in evaluating the patient's speech or language needs and formulating the plan of care;~~

~~b. provide services within the scope of practice as defined by the state law governing the practice of speech pathology, in accordance with the plan of care and in coordination with other members of the health care team;~~

~~c. observe and report the patient's response to treatment and any changes in the patient's condition to the physician and supervising registered nurse;~~

~~d. instruct and inform participating members of the health care team, the patient, and the family/caregivers regarding the plan of care, functional limitations and progress towards goals;~~

~~e. prepare clinical and or progress notes for each visit and incorporate them into the clinical record at least weekly; and~~

~~f. submit a written summary of the services provided when speech therapy services are discontinued, including an assessment of the patient's current status which~~

~~shall be retained in the patient's clinical record~~2.g. - M.2.f.

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq..

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 22:1135 (November 1996), LR 27:2240 (December 2001), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§9105. State Licensure**

A. Initial Licensure

1. The ~~Department of Health and Hospitals~~LDH is the only licensing authority for home health agencies in the State of Louisiana. To initiate the review process for licensure as ~~a home health agency~~an HHA, the applicant ~~must~~shall submit the following:

a. ...

b. the required fee for licensure by corporate check, certified check or money order or in other manner as determined by the department. This fee is non-refundable;

c. ...

d. proof of general and professional liability insurance as well as worker's compensation insurance. The

general and professional liability coverage shall be for at least \$300,000. The ~~agency~~shall must maintain these insurance requirements at all times, and be able to provide proof of insurance upon request~~+~~ as follows:

i. proof of general liability insurance of at least \$300,000 per occurrence;

ii. proof of worker's compensation insurance as required by state law;

iii. proof of professional liability insurance of at least \$100,000 per occurrence/\$300,000 per annual aggregate, or proof of self-insurance of at least \$100,000, along with proof of enrollment as a qualified health care provider with the Louisiana Patient's Compensation Fund (PCF):

(a). if the HHA is self-insured and is not enrolled in the PCF, professional liability limits shall be \$1 million per occurrence/\$3 million per annual aggregate.

NOTE: the LDH-Health Standards Section (HSS) shall specifically be identified as the certificate holder on any policies and any certificates of insurance issued as proof of insurance by the insurer or producer (agent);

e. résumés and documentation of qualifications for administrator and ~~director of nursing~~clinical manager.

Additional information may not be submitted after the original

résumé is submitted for review, except for changes in the designated positions or with approval of the ~~Health Standards Section~~HSS;

f. - g. ...

h. proof of citizenship or a valid green card for all administrative personnel, officers, directors and owners; ~~and~~

i. any other forms for initial licensure as required by the ~~Health Standards Section~~HSS; and

j. the "doing business as" (DBA) name of the agency shall not be the same or similar to another licensed HHA registered with the Secretary of State.

2. An application ~~will~~shall not be reviewed until payment of application fee has been received. All requirements of the application process ~~must~~shall be completed by the applicant within 90 days of the date of the initial submission of the home health license application. Upon approval of the application by ~~DHH~~LDH, the applicant ~~must~~shall agree to become fully operational and prepared for initial survey within 90 days. Any application not completed within 90 days after the initial submission ~~will~~shall be closed.

3. The applicant ~~will~~shall be notified in writing when the application process is completed and the application is

approved. The applicant ~~will~~shall receive instructions regarding requesting an initial licensing survey.

4. Approved applicants ~~must~~shall be fully operational, in compliance with all licensing standards and providing care to only two patients at the time of the initial survey.

5. ~~If an applicant requests to be certified for Medicare and/or enrolled in Medicaid prior to the initial survey, the applicant must also be in compliance with the Medicare Conditions of Participation for home health agencies (42 CFR Part 484) at the time of the licensing survey~~Repealed.

B. Types of Licenses. The ~~Department of Health and Hospitals~~LDH shall have the authority to issue the three types of licenses described below:

1. ...

2. ~~Administrative~~ Provisional License may be issued to ~~an~~those existing ~~agency~~agencies that ~~has paid the annual renewal fee, but the survey process was not completed before the expiration of its license~~do not meet criteria for full licensure. Such licenses may be issued to any agency by the department when the agency:

a. receives more than five violations of the minimum standards in a one-year period;

b. receives more than three valid complaints in a one-year period;

c. has placed a patient at risk according to a documented incident;

d. fails to correct deficiencies within 60 days of being cited;

e. fails to submit assessed fees after notification by the department;

f. has an owner, administrator, officer, director or clinical manager who has pled guilty or nolo contendere to a felony, or been convicted of a felony as documented by a certified copy of the record of the court of conviction. If the applicant is a firm or corporation, a provisional license may also be issued when any of the members, officers, or the person designated to manage or supervise the agency has been convicted of a felony; or

g. fails to notify the department in writing within 30 days of the occurrence of a change in any of the following:

i. controlling ownership;

ii. administrator;

iii. clinical manager or alternate;

iv. address/telephone number, either parent or branch;

v. hours of operation; and

vi. after-hours contact procedures.

C. - D. ...

E. Survey Process

1. Initial. An on-site survey ~~will~~shall be conducted to assure compliance with the ~~Minimum Standards~~minimum standards. The request for initial licensing survey ~~will~~shall be accepted after the applicant has been notified in writing by the department that the application process is completed and the applicant is approved for an initial survey. This survey ~~will~~shall be unannounced and the agency ~~will~~shall have only one opportunity to be in compliance with the ~~Minimum Standards~~minimum standards. If the initial survey finds that the agency is not in substantial compliance with the ~~Minimum Standards~~minimum standards, then the agency shall transfer all patients and close.

2. Renewal. An unannounced, on-site visit ~~will~~may be conducted to assure compliance with the ~~Minimum Standards~~minimum standards as determined by the department. This ~~annual~~ survey may be conducted in conjunction with a survey for Medicare recertification or other reasons.

3. Follow-up. An unannounced survey may be conducted following ~~an annual~~annual re-licensing, complaint, or previous



follow-up survey when the agency is not in substantial compliance with the ~~Minimum Standards~~minimum standards.

4. Complaint Investigation. The ~~Department of Health and Hospitals~~LDH has the authority to conduct investigations regarding home health agencies. A complaint investigation may be conducted during an unannounced on-site visit, by administrative review, or by telephone, as appropriate.

5. Violations of Minimum Standards. If the agency is found to be in violation of the minimum standards during any survey, a statement of deficiencies listing those violations ~~will~~shall be issued to the agency. The agency ~~must~~shall respond to these violations with an acceptable plan of correction, which ~~must~~shall be submitted to the department. The plan of correction ~~must~~shall be received by the department within 10 days of receipt of the statement of deficiencies by the agency. A follow-up survey may be conducted to assure that the agency has achieved substantial compliance with the minimum standards. If the follow-up survey reveals that the agency is still not in substantial compliance with the minimum standards, then a provisional license may be issued or a revocation action may be initiated in accordance with R.S.40:2116.32 and R.S. 40:2116.36. ~~The agency has one opportunity to question allegations of deficient practice through an informal dispute resolution process. The agency receives a notice of its right to request~~

~~the informal dispute resolution process with the statement of deficiencies.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 22:1135 (November 1996), LR 27:2245 (December 2001), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§9107. Fees**

A. Licensing Fee. A licensing fee, in the amount determined by ~~DHH~~LDH, is required to be submitted with the initial application. The department ~~will~~shall not consider an application as complete without the required licensing fee.

B. - C. ...

D. Change of Ownership Fee. A fee equal to the amount of licensing fee is to be paid to the department by the new owner when a ~~change of ownership~~CHOW occurs.

E. ...

F. Provisional License Fee. Any agency issued a provisional license shall pay an additional amount equal to the annual fee for each follow-up survey. Fees shall be paid to the

department prior to the survey being performed and shall be non-refundable.

NOTE: All fees submitted to the department ~~must~~shall be in the form of a certified check, company check, or money order or in other manner as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 27:2246 (December 2001), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

#### **§9109. Changes**

A. Notice of Changes. The department shall be notified in writing by mail/e-mail or by facsimile ~~within 24 hours of~~no later than five days prior to the occurrence of any of the following changes:

1. - 6. ...
7. administrator or ~~De~~Nclinical manager;
8. controlling ownership; and
9. ...

B. Change of Ownership. The department shall be notified in writing of a ~~change of ownership~~CHOW or change of controlling interest.

1. A ~~change of ownership~~ {CHOW} packet is required to be submitted with required fees.

2. When a change in controlling interest occurs, written documentation and disclosure of the change ~~must~~shall be submitted.

3. The purchaser of the agency ~~must~~shall meet all criteria for an initial application for licensure. (See §9105, State Licensure.)

C. Voluntary Termination of License. If at any time the agency ceases to operate, the agency shall ~~notify the department in writing and surrender its license to the department within five working days of the cessation of business~~meet the requirements of §9110.

D. Relocation of an Agency. The department shall be notified in writing of any relocation of an agency. An agency may only relocate within~~its geographic service area in effect on August 15, 1995, or for an agency licensed after that date,~~ a 50-mile radius of the location where the agency was originally licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 57 (January 1992), amended LR 21:177 (February 1995), LR 22:1135 (November 1996), LR 27:2246 (December 2001), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§9110. Cessation of Business**

A. Except as provided in §9116 and §9117 of these licensing regulations, a license shall be immediately null and void if an HHA becomes non-operational.

B. A cessation of business is deemed to be effective the date on which the HHA ceases offering or providing services to the community and/or is considered non-operational in accordance with the requirements in §9115.B.1-3.c.

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

D. Cessation of business is deemed to be voluntary action on the part of the agency. The HHA 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 HHA shall:

1. give 30 days' advance written notice to:
  - a. each patient or patient's legal representative, if applicable;

b. each patient's authorized healthcare provider; and

c. Health Standards Section.

2. provide for a safe and orderly discharge and transition of all of the HHA's patients.

F. In addition to the advance notice, the HHA shall submit a written plan for the disposition of patient 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 agency's patient 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 agency, at least 15 days prior to the effective date of closure.

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

H. Once any HHA has ceased doing business, the agency shall not provide services until the agency has obtained a new initial HHA License.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

**\$9111. Denial, Revocation or ~~Nonrenewal~~Denial of License Renewal**

A. Denial of Licensure Applications. If an agency's license is revoked or denied renewal, no other ~~home health agency~~HHA license application ~~will~~shall be accepted from that agency for approval by the department for two years from the date of the revocation or denial of renewal of the license.

B. Grounds for Denial or Revocation of License. The ~~Department of Health and Hospitals~~LDH may deny an application for a license, refuse to renew a license or revoke a license in accordance with R.S. 40:2116.36 and 40:2116.37.

C. Grounds for Immediate Denial or Revocation. A license shall be immediately denied or revoked if the department determines that the agency either knowingly and willfully or through gross negligence allowed or directed actions which resulted in:

1. - 2. ...

3. failure to protect patients or persons in the community from the harmful actions of the agency employees including, but not limited to: coercion, threat, intimidation, solicitation and harassment;

4. - 6. ...

7. bribery, harassment, or intimidation of any person designed to cause that person to use the services of any particular ~~home health agency~~HHA;

8. pleading guilty or nolo contendere to a felony, or being convicted of a felony by an owner, administrator, officer, director, or ~~director of nursing~~clinical manager as documented by a certified copy of the record of the court of conviction. If the applicant is a firm or corporation, a license may also be immediately denied or revoked when any of its members, officers, or the person designated to manage or supervise the home care has been convicted of a felony. For purposes of this Paragraph, conviction of a felony means and includes:



a. - c. ...

D. Additional Grounds for Denial or Revocation. A license may be denied, revoked or not renewed for failure to correct any violation of law and regulation for which a provisional license may have been issued under R.S. 40:2116.[31, et seq.](#)

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 22:1135 (November 1996), LR 27:2247 (December 2001), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§9113. Informal Dispute Resolution Process, Notice and Appeal Procedure**

A. Informal Dispute Resolution Process. An agency has one opportunity to question citations of deficient practice through an informal dispute resolution process. To request an informal dispute resolution discussion, the agency ~~must~~[shall](#) submit a written request specifying the deficient practice(s) that are being disputed and why the agency is questioning the deficient practice(s). The request ~~must~~[shall](#) be made within 10 [calendar](#) days of the date of the agency's receipt of the notice of the deficient practice(s). Reconsideration shall be made solely on

the survey report, statement of violations and all documentation the agency submits to the department at the time of its request for reconsideration. Correction of a violation shall not be a basis for reconsideration. Since this is an informal dispute resolution discussion, it is not necessary for the agency's attorney to be present. However, if the agency wishes to include their attorney in the informal dispute resolution discussion, the agency ~~must~~shall indicate this in their written request. The informal dispute resolution process is not in lieu of the appeals process ~~and does not extend the time limits for filing an administrative appeal.~~

B. Notice. Notice of reasons for ~~nonrenewal~~denial of renewal or revocation of a license shall be given in accordance with the current Louisiana Revised Statutes.

C. Administrative Appeal Process. When an administrative appeal is requested in a timely ~~and proper~~ manner, the ~~Department of Health and Hospitals~~Division of Administrative Law (DAL) shall provide an administrative hearing in accordance with the provisions of the Louisiana Administrative Procedure Act (APA) and the current Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq.

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

Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 27:2247 (December 2001), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§9115. Agency Operations**

A. ...

B. Operational Requirements

1. ~~A home health agency~~An HHA shall:

a. - b. ...

c. have ~~a registered nurse~~an RN immediately available by telecommunications at all times;

d. respond to patient care needs and ~~physician~~authorized healthcare provider orders in a timely manner;

e. - i. ...

j. accept medical orders only from ~~a physician~~an authorized healthcare provider or authorized ~~physician~~healthcare provider representative (e.g., hospital discharge planner);

k. ...

l. have an emergency preparedness plan (which conforms to the Louisiana Model Home Health Emergency Preparedness Plan) designed to manage the consequences of

natural disasters or other emergencies that disrupt the ~~home health agency's~~HHA's ability to provide home health services;

m. - q. ...

r. notify the department of any change of address, services added or ceased, and change of all key employees in accordance with ~~§~~§9109;

s. maintain general and professional liability insurance ~~with minimum limits of \$300,000~~ and workers' compensation insurance in ~~the minimum statutory amount~~accordance with the requirements of §9105.

2. ~~A home health agency~~An HHA may:

a. - b. ...

3. ~~A home health agency~~An HHA shall not:

a. - c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 27:2248 (December 2001), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

§9116 Inactivation of License Due to a Declared Disaster or Emergency

A. An HHA 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 agency shall submit written notification to the HSS within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the agency 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 agency intends to resume operation as an HHA in the same service area;

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

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

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

2. the licensed agency resumes operating as an HHA 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 HHA 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

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

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

C. Upon completion of repairs, renovation, rebuilding or replacement, an HHA 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 HHA 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 agency resumes operating as an HHA 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.

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

E. No CHOW in the HHA shall occur until such HHA has completed repairs, renovations, rebuilding or replacement construction, and the HHA has reinstated its license and resume operation as an HHA.

F. The provisions of this Section shall not apply to an HHA 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 HHA license and any applicable facility need review approval for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq.

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

Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 27:2248 (December 2001), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§9117.     ~~Operation of Branch Offices~~Inactivation of License Due to a Non-Declared Disaster or Emergency**

A.     ~~Branch Office Approval. No branch office may be opened without written approval from the department. In order for a branch office to be approved, the parent agency must have full licensure for at least one year. Branch office approval will be renewed at the time of renewal of the parent agency's~~ A licensed HHA in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license if the parent agency meets the requirements for licensure., provided that the following conditions are met:

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

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

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



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

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

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

2. the licensed HHA 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 HHA continues to submit required documentation and information to the department, including but not limited to cost reports.

B. ~~Identification. The branch~~ Upon receiving a completed written request to temporarily inactivate an HHA, the department shall ~~be held out~~ issue a notice of inactivation of its license to the ~~public as a branch or division of the parent agency, so that the public will be aware of the identity of the agency operating the branch. Reference to the name of the parent agency shall be contained in any written documents, signs, or other promotional materials relating to the branch~~ HHA.

C. ~~Personnel Records. Original personnel files~~ Upon the agency's receipt of the department's approval of request to inactivate the HHA's license, the HHA shall not be maintained at have 90 days to admit plans for the branch office repairs, renovations, rebuilding, or replacement of the HHA.

D. ~~Survey. A branch office is subject to survey by the Department at any time to determine compliance with the minimum standards which apply to branches.~~ The licensed HHA shall resume operating as an HHA in the same service area within one year.

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

E. ~~Operational Requirements. A branch office~~ Upon completion of repairs, renovations, rebuilding or replacement of the agency, an HHA 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. ~~serve a part of the geographic service area approved for the parent~~ HHA shall submit a written license reinstatement request to the agency of the department;

2. ~~offer all home health services provided by the parent agency~~license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing survey; and

3. ~~retain all original clinical records for its patients. Duplicate records need not be maintained at the parent agency, but~~license reinstatement request shall be made available to federal/state surveyors during any review upon request; and include a completed licensing application with appropriate licensing fees.

4. ~~maintain a statement of personnel policies on site for staff usage~~Repealed.

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

G. No CHOW in the HHA shall occur until such HHA has completed repairs, renovations, rebuilding or replacement construction and has resumed operation as an HHA.

H. The provisions of this Subsection shall not apply to an HHA 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 home health agency license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq.

HISTORICAL NOTE: HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 27:2248 (December 2001), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§9118. Operation of Branch Offices [Formally §9117]**

A. Branch Office Approval. No branch office may be opened without written approval from the department. In order for a branch office to be approved, the parent agency shall have full licensure for at least one year. Branch office approval shall be renewed at the time of renewal of the parent agency's license if the parent agency meets the requirements for licensure.

B. Identification. The branch shall be held out to the public as a branch or division of the parent agency, so that the public shall be aware of the identity of the agency operating the branch. Reference to the name of the parent agency shall be contained in any written documents, signs, or other promotional materials relating to the branch.

C. Personnel Records. Original personnel files shall not be maintained at the branch office.

D. Survey. A branch office is subject to survey by the Department at any time to determine compliance with the minimum standards which apply to HHAs.

E. Operational Requirements. A branch office shall:

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

2. offer all home health services provided by the parent agency;

3. retain all original clinical records for its patients. Duplicate records need not be maintained at the parent agency, but shall be made available to federal/state surveyors during any review upon request; and

4. make personnel policies available to all HHA employees, including employees of the branch office

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR:48

**§9119. Personnel Policies and Records**

A. Personnel Policies. Each ~~home health agency will formulate and adhere to~~HHA shall develop and implement personnel policies. The policies ~~will~~shall be reviewed on an annual basis

and ~~must~~shall specify agency requirements ~~with regard~~  
~~to~~regarding the following:

1. - 6. ...

7. continuing education related to health care  
activities:

a. health professionals ~~must~~shall attend  
inservice training as required by respective licensing boards.

b. home health aides ~~must~~shall attend inservice  
training 12 hours per calendar year;

8. - 10. ...

11. payroll;~~and~~

12. criminal background investigations (~~"~~history  
check~~"~~), if applicable~~;~~ and

13. a process for checking the direct service worker  
registry and the Louisiana certified nurse aide registry upon  
hiring an employee, and every six months thereafter, to ensure  
that non-licensed personnel do not have a finding placed against  
him/her of abuse, neglect, or misappropriation of funds of an  
individual. If there is such a finding on the DSW and/or CNA  
registry, the applicant shall not be employed, nor shall a  
current employee have continued employment with the HHA.

B. Personnel Records. Original personnel files ~~must~~shall  
be maintained either at the parent agency or integrated with the  
human resources department of a hospital, agency home office or

the parent corporation of the agency. Personnel records ~~must~~shall be made available to surveyors on request. There shall be a personnel record on file for each employee and contract staff member including, but not limited to, the following information:

1. - 8. ...
9. documentation of continuing education; ~~and~~
10. criminal background investigation (~~"~~history check~~"~~), if applicable~~;~~ and
11. registry checks, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 27:2248 (December 2001), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

#### §9120. Home Health Agency Responsibilities

A. Prior to hiring any non-licensed person, the home health agency HHA shall:

1. ensure that the individual is at least 18 years of age;

2. document that the individual is able to read, write and compare the English language; and

3. access the DSW/CNA registry to determine if there is a finding that a prospective hire, or currently employed or contracted non-licensed person, has been determined to have committed exploitation, extortion, abuse or neglect of an individual being supported, or misappropriated the individual's property or funds.

4. Access to the registry shall be limited to an inquiry for a specific individual.

B. The HHA shall have a written policy/process to check the DSW/CNA registry on the department's designated database at least every six months to determine if any currently employed or contracted non-licensed person has been placed on the registry with a finding that he/she has been determined to have committed abuse or neglect of an individual being supported or misappropriated the patient's property or funds or committed exploitation or extortion of a patient.

1. The HHA shall follow the agency's process in demonstration of compliance with this procedure.

2. If there is such a finding on the registry, the employee shall not have continued employment as a non-licensed person with the HHA.



NOTE: The DSW/CNA registry is maintained on the department's designated database which may also contain other exclusionary information on a non-licensed person. The HHA's responsibility to access the database shall also be conducted in accordance with other departmental Rules and regulations, as applicable.

C. Criminal History. In accordance with R.S. 40:1203.1-5 et seq., the HHA shall have a written policy and process to request in writing a security check and the criminal history of an employee, either contracted or directly employed, conducted by the Louisiana State Police or authorized agency, upon offer of employment or contract.

1. The HHA may make an offer of temporary employment to a non-licensed person pending the results of the criminal history and security check on the person. In such instances, the HHA shall provide to the Louisiana State Police, or authorized agency, the name and relevant information relating to the person within 72 hours after the date the person accepts temporary employment.

2. The security check shall consist of the use of personal identifiers, such as name, social security number, date of birth, and driver's license number, to search the national sex offender public registry. The HHA shall obtain from the Louisiana State Police or the authorized agency the results of

the security check to verify if an applicant is listed in the national sex offender public registry.

3. Any home health aide offered temporary employment prior to the receipt of the results of the required criminal history and security check shall be under the direct supervision of a permanent employee or shall be in the presence of a member of the immediate family of the patient or of a care giver designated by the immediate family of the patient.

a. For purposes of this Paragraph, member of the immediate family means a child, parent, grandparent, sibling, uncle, aunt, nephew, or niece of the patient related by blood, marriage, or adoption.

D. The provisions of this Section shall apply to non-licensed persons who are compensated, either by direct employment or through contract, regardless of the setting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

**§9121. Emergency Preparedness**

A. The ~~home health agency~~HAA shall have an emergency preparedness plan which conforms to the current Office of Emergency Preparedness model plan and is designed to manage the consequences of natural disasters or other emergencies that

disrupt the ~~home health agency's~~HHA's ability to provide care and treatment or threaten the lives or safety of its ~~clients~~patients. The ~~home health agency~~HHA is responsible for obtaining a copy of the current Home Health Emergency Preparedness Model Plan from the Louisiana Office of Emergency Preparedness.

B. At a minimum, the agency shall have a written plan that describes:

1. the evacuation procedures for agency ~~clients~~patients who require community assistance as well as for those with available caregivers to another location;

2. the delivery of essential care and services to agency ~~clients~~patients, whether they are in a shelter or other locations;

3. ...

4. a plan for coordinating transportation services required for evacuating agency ~~clients~~patients to another location; and

5. assurance that the agency ~~will~~shall notify the ~~client's~~patient's family or caregiver, if ~~client~~patient is evacuated to another location.

C. The ~~home health agency's~~HHA's plan shall be activated at least annually, either in response to an emergency or in a planned drill. The ~~home health agency's~~HHA's performance during

the activation of the plan shall be evaluated and documented. The plan shall be revised if the agency's performance during an actual emergency or a planned drill indicates that it is necessary.

D. Any updates or revisions to the plan shall be submitted to the parish Office of Emergency Preparedness for review. The parish Office of Emergency Preparedness shall review the ~~home health agency's~~HHA's plan by utilizing community wide resources.

E. As a result of an evacuation order issued by the parish Office of Emergency Preparedness (OEP), it may be necessary for ~~a home health agency~~an HHA to temporarily relocate outside of its licensed geographic service area. In such a case, the agency may request a waiver to operate outside of its licensed location for a time period not to exceed 90 days in order to provide needed services to its ~~clients~~patients and/or other evacuees of the affected areas. The agency ~~must~~shall provide documentation as required by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 27:2249 (December 2001), LR 32:846 (May

2006), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§9123. Patient Care Standards**

A. Admission Criteria. The ~~home health agency~~HHA shall follow written policies in making decisions regarding the acceptance of patients for care. Decisions ~~must~~shall be based upon medical and social information provided by the patient's attending ~~physician~~authorized healthcare provider, and the patient and/or the family as well as the agency resources available to meet the needs of potential patients. The ~~home health agency~~HHA shall accept patients for care without regard to age, color, creed, sex, national origin or handicap. Patients shall be admitted to an agency based on the following written criteria:

1. the ability of the agency and its resources to provide services on a timely basis ~~and available~~ within 24 hours unless specified otherwise by ~~physician's order~~authorized healthcare provider's orders and in accordance with the needs of the patients;

2. the willingness of the patient and caregiver to participate in the ~~plan of care~~POC;

3. - 4. ...

B. Admission Procedure. Patients are to be admitted only upon the order of the patient's ~~physician~~authorized healthcare

provider. The patient shall have the right to choose a ~~physician~~an authorized healthcare provider and ~~a home health agency~~an HHA without interference. Admission procedures are as follows:

1. an initial visit shall be made by ~~a registered nurse~~an RN or an appropriate therapist who ~~will~~shall perform the assessment and instruct the patient regarding home care services. This visit shall be made available to an individual in need within 24 hours of referral unless otherwise ordered by ~~physician~~an authorized healthcare provider;

2. an initial ~~Plan of Care (PoC)~~POC ~~must~~shall be completed by ~~a R.N.~~an RN or an appropriate therapist and incorporated into the patient's clinical record within seven days from the start of care; and

3. documentation shall be obtained at admission and retained in the clinical record including:

a. the referral for home care and/or ~~physician's~~authorized healthcare provider's order to assess patient;

b. - m. ...

C. Plan of Care. The ~~plan of care (PoC)~~POC for each patient ~~must~~shall be individualized to address the patient's problems, goals, and required services.

1. The ~~PeC~~POC, telephone and/or verbal orders ~~must~~ shall be signed by the ~~physician~~authorized healthcare provider within a timely manner, not to exceed ~~30~~60 days-; such orders may be accepted by an RN, a qualified therapist or a licensed practical nurse as authorized by state and federal laws and regulations.

~~a. The physician's verbal orders may be accepted by a registered nurse, a qualified therapist or a licensed practical nurse as authorized by state and federal laws and regulations.~~

~~b. Verbal orders taken by an LPN must be co-signed by a RN or appropriate therapist.~~ a. - b. Repealed.

2. Agency staff shall administer services and treatments only as ordered by the ~~physician~~authorized healthcare provider.

3. A ~~PeC~~POC for continuation of services ~~must~~shall be completed by ~~a~~an RN or an appropriate therapist and incorporated into the patient's clinical record within seven days from the date of the development of the ~~PeC~~POC.

D. Review of the Plan of Care. The total ~~plan of care~~POC ~~must~~shall be reviewed by the patient's attending ~~physician~~authorized healthcare provider in consultation with the agency's professional personnel at such intervals as required by the

severity of the patient's illness, but at least once every two months.

E. Drugs and Biologicals. The agency shall institute procedures that protect the patient from medication errors. Agency policy and procedures shall be established to ~~insure~~ensure that agency staff has adequate information regarding the drugs and treatments ordered for the patient.

1. Agency staff ~~will~~shall only administer drugs and treatments as ordered by the ~~physician~~authorized healthcare provider.

2. Only medications dispensed, compounded or mixed by a licensed pharmacist and properly labeled with the drug name, dosage, frequency of administration and the name of the prescribing ~~physician~~authorized healthcare provider shall be administered.

3. The agency ~~will~~shall provide verbal and written instruction to patient and family as indicated.

F. Coordination of Services. Patient care goals and interventions ~~must~~shall be coordinated in conjunction with providers, patients and/or caregivers to ensure appropriate continuity of care from admission through discharge.

1. All agencies shall provide for nursing services at least eight hours a day, five days a week and be available on



emergency basis 24 hours a day, seven days a week. Agencies ~~must~~shall maintain an on-call schedule for RN's.

2. The agency ~~must~~shall maintain a system of communication and integration of services, whether provided directly or under arrangement, that ensures identification of patient needs and barriers to care, the ongoing coordination of all disciplines providing care, and contact with the ~~physician~~authorized healthcare provider regarding for relevant medical issues.

#### G. Discharge Policy and Procedures

1. The patient may be discharged from an agency when any of the following occur:

a. - e. ...

f. conditions in the home are no longer safe for the patient or agency personnel. The agency shall make every effort to satisfactorily resolve problems before discharging the patient and, if the home is unsafe, make referrals to appropriate protective agencies;

g. the patient's ~~physician~~authorized healthcare provider fails to renew orders for the patient;

h. - j. ...

k. ~~death-of~~30 days advance written notice has been provided to the patient~~-,~~ or responsible party, when applicable and appropriate; and

1. death of the patient.

2. The agency ~~must~~shall have discharge procedures that include, but are not limited to:

- a. notification of the patient's ~~physician~~authorized healthcare provider;
- b. - c. ...
- d. forwarding of the discharge summary to the ~~physician, if requested~~authorized healthcare provider.

3. The following procedures shall be followed in the event of the death of a patient in the home:

- a. ...
- b. the ~~home health agency~~HHA parent office shall be notified;
- c. the ~~home health agency~~HHA personnel in attendance shall offer whatever assistance they can to the family and others present ~~at scene~~in the home; and
- d. progress notes shall be completed in detail and ~~must~~shall include observations of the patient, any treatment provided, individuals notified, and time of death, if established by the ~~physician~~authorized healthcare provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq.

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

Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 27:2249 (December 2001), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§9125. Patient Rights**

A. The patient ~~must~~, or representative if appropriate, shall be informed of ~~his or her~~ the patient's rights in receiving home care services in a language and manner the individual understands. The patient has the right to exercise his/her rights as a patient of the ~~home health agency~~ HHA. If the patient has been judged incompetent, the family or guardian may exercise the patient's rights. The agency ~~must~~ shall protect and promote the exercise of these rights. The patient has the right to:

1. ~~Notice of Rights. The agency must provide the patient with a written notice of the patient's rights in advance of furnishing care to the patient or during the initial evaluation visit before the initiation of treatment. The agency must maintain documentation that it has complied with the requirements of this '9125~~ have his or her property and person treated with respect.

2. ~~Right to be Informed and to Participate in Planning Care~~ free from verbal, mental, sexual, and Treatment. ~~The patient has the right to be informed, in advance, about the care to be furnished and~~ physical abuse, including injuries of

~~any proposed changes in the care being furnished. The patient also has the right to participate in the planning of care and to be informed regarding advance directives.~~unknown source, neglect and misappropriation of property;

~~a. The agency must advise the patient, in advance, of the disciplines that will furnish care and the proposed frequency of visits to be furnished.~~

~~b. The agency must advise the patient of any proposed change in the plan of care before the change is made.~~

~~c. The agency must advise the patient, in advance, of his/her right to participate in the planning of care or treatment as well as in the planning of changes in care or treatment.~~

~~d. The agency must inform and distribute written information to the patient, in advance, concerning its policies on advance directives, including a description of applicable State law. The advance directives information may be given to a patient at the time of the first home visit, as long as the information is furnished before care is provided. The agency must maintain written policies and procedures regarding advance directives~~a. - d. Repealed.

3. ~~Right to Respect for Person and Property. The patient has the right to be treated with respect and to have his/her property treated with respect. The patient also has the~~

~~right to file a grievance regarding the treatment or care that is or is not being~~ make complaints to the HHA regarding treatment or care that is (or fails to be) furnished, or  
~~regarding~~ and the lack of respect for property and/or person by anyone who is furnishing services on behalf of the ~~agency. The patient shall not be subjected to discrimination or reprisal for filing a grievance.~~ HHA;

a. ~~The agency must investigate complaints made by a patient or the patient's family or guardian regarding the treatment or care that is or is not being furnished or regarding the lack of respect for the patient's property by anyone furnishing services on behalf of the agency. The agency must document both the receipt and subsequent resolution of the complaint.~~ Repealed.

4. ~~Right to Confidentiality of Medical Records. The patient has the right to expect the agency to maintain the confidentiality of his/her clinical records. The agency must advise the patient of its policies and procedures regarding disclosure of clinical records.~~ participate in, be informed about, and consent or refuse care in advance of and during treatment, where appropriate, with respect to:

a. completion of all assessments;

b. the care to be furnished, based on the comprehensive assessment;

- c. establishing and revising the POC;
- d. the disciplines that will furnish the care;
- e. the frequency of visits;
- f. expected outcomes of care, including  
patient-identified goals, and anticipated risks and benefits;
- g. any factors that could impact treatment  
effectiveness; and
- h. any changes in the care to be furnished.

5. ~~Right to be Informed about Patient Liability for~~  
~~Payment.~~receive all services outlined in the POC;

~~a. The patient has the right to be advised,~~  
~~before care is initiated, of his/her liability for payment for~~  
~~services furnished by the agency. Before care is initiated, the~~  
~~agency must inform the patient, orally and in writing, of:~~

~~i. the charges for services furnished by~~  
~~the agency;~~

~~ii. those charges for services that will~~  
~~not be covered by the patient's payor source; and~~

~~iii. the charges that the patient may be~~  
~~responsible for paying.~~

~~b. The patient has the right to be advised,~~  
~~orally and in writing, of any changes to the preceding~~  
~~requirements when they occur.~~

~~i. The agency must advise the patient of these changes orally and in writing as soon as possible, but no later than 30 calendar days from the date that the agency becomes aware of a change.~~ a. - b.i. Repealed.

6. ~~Home Health Hotline. The patient has the right to be advised of the availability of the state's toll free home health hotline. When the agency accepts a patient for treatment or care, the agency must advise the patient, in writing, of the telephone number of the state's home health hotline, the hours of its operation, and that the purpose of the hotline is to receive complaints or questions about local home health agencies. The patient also has the right to use this hotline to lodge complaints concerning the implementation of advance directives requirements.~~ have a confidential clinical record;

7. be advised, orally and in writing, of:

a. the extent to which payment for HHA services may be expected from Medicare, Medicaid, or any other federally-funded or federal aid program known to the HHA;

b. the charges for services that may not be covered by Medicare, Medicaid, or any other federally-funded or federal aid program known to the HHA;

c. the charges the individual may have to pay before care is initiated; and

d. any changes in the information provided in accordance with §9125.A.7 when they occur. The HHA shall advise the patient and representative (if any), of these changes as soon as possible, in advance of the next home health visit.

8. receive proper written notice, in advance of a specific service being furnished, if the HHA believes that the service may be non-covered care, or in advance of the HHA reducing or terminating on-going care;

9. be advised of the state toll-free home health telephone hot line, its contact information, its hours of operation, and that its purpose is to receive complaints or questions about local HHAs;

10. be advised of the names, addresses, and telephone numbers of the following federally-funded and state-funded entities that serve the area where the patient resides:

- a. agency on aging
- b. center for independent living;
- c. protection and advocacy agency;
- d. aging and disability resource center; and
- e. quality improvement organization.

11. be free from any discrimination or reprisal for exercising his or her rights or for voicing grievances to the HHA or an outside entity;



12. be informed of the right to access auxiliary aids and language services and how to access these service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21: 177 (February 1995), LR 27:2251 (December 2001), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§9127. Contract Services**

A. ...

1. Contract Requirements. Whenever services are provided by an outside agency or individual, there ~~must~~shall be a written contract. The contract shall include ~~all~~each of the following items:

a. - b. ...

c. a statement that services provided to the patient are in accordance with a ~~plan-of-care~~POC established by the patient's ~~physician~~authorized healthcare provider in conjunction with the ~~home-health-agency~~HHA staff and, when appropriate, others involved in the patient's care;

d. a statement that services are being provided within the scope and limitations set forth in the ~~plan-of~~

~~care~~POC, and may not be altered in type, scope, or duration by the contractor;

e. assurance that the contractor meets the same requirements as those specified for ~~home health agency~~HHA personnel such as staff qualifications, functions, evaluations, orientation and in-service training. The agency shall be responsible for assuring the contractor's compliance with the personnel policies required for ~~a home health agency~~an HHA during the contractual period;

f. - h. ...

B. Contract Review. The ~~home health agency~~HHA and contractor shall document review of their contract on an annual basis.

C. Coordination of Contract Services. The ~~home health agency~~HHA shall coordinate services with contract personnel to assure continuity of patient care.

NOTE: Administration and one other service ~~must~~shall be provided directly by the agency at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 27:2251 (December 2001), amended by the

Department of Health, Bureau of Health Services Financing, LR

48:

**§9129. Clinical Records**

A. Requirements. A clinical record containing past and current findings shall be maintained either electronically or in paper form for every patient who is accepted by the agency for home health service and shall be accessible to authorized agency staff as needed. In addition, the agency ~~must~~shall comply with the following requirements for clinical records.

1. The information contained in the clinical record ~~must~~shall be accurate and immediately available to the patient's ~~physician~~authorized healthcare provider and appropriate ~~home health agency~~HHA staff. The record may be maintained electronically.

2. All entries ~~must~~shall be legible, clear, complete, and appropriately authenticated and dated. Authentication ~~must~~shall include signatures or a secured computer entry with the unique identifier of a primary author who has reviewed and approved the entry.

3. The original clinical records of active patients may be kept in the branch office for the convenience of the staff providing services. The records of patients whose services are provided by parent office staff ~~must~~shall be kept in that office.

4. ...

5. A signed "consent for treatment" form ~~must~~shall be obtained from the patient and/or the patient's family and retained in the record.

6. When applicable, a signed "release of information" form ~~must~~shall be obtained from the patient and/or the patient's family and a copy ~~must~~shall be retained in the record.

7. ~~A written summary report for each patient must be sent to the attending physician every two months~~Records maintained either in paper or electronically shall be made available to LDH staff upon request.

8. ~~If a patient is transferred to another health facility, a copy of the records, a transfer form, or a discharge summary must be sent with the patient~~Records shall be retained either electronically or in paper form for a period of not less than six years from the date on which the record was established and, if there is an audit or litigation that involves the records, the timeframe may be extended.

9. ~~Records shall be made available to DHH staff upon request~~The agency shall have internal policies that provide for the retention of clinical records even if the agency discontinues operation.

10. ~~Records must be retained for five years from the date on which the record was established unless there is an audit or litigation that involves the record~~Repealed.

11. ~~The agency must have internal policies that provide for the retention of clinical records even if the agency discontinues operation~~Repealed.

B. Clinical Note. A clinical note shall be legibly written by the person making the visit and incorporated into the clinical record within one week of the visit. A patient care clinical note ~~must~~shall be completed on each visit and ~~must~~shall contain the following~~÷~~, at a minimum:

1. - 5. ...

6. vital signs, according to ~~physician's~~authorized healthcare provider's order or accepted standards of practice; and

7. ...

NOTE: The patient or a responsible person ~~must~~shall sign the permanent record of visit that is retained by the agency. However, it is not necessary for the patient or a responsible person to sign on the clinical note.

C. Clinical Record Contents. An active clinical record shall contain all of the following documentation:

1. ...

2. the current ~~plan of care~~POC signed and dated by the ~~physician~~authorized healthcare provider. ~~If the physician does not date the PoC when it is signed, then the agency must date it when the signed PoC is received from the physician;~~

3. ...

4. the current clinical notes for at least the past 60 days, including a description of measurable outcomes relative to the goals in the ~~PoC~~POC that have been achieved;

5. - 6. ...

7. attending ~~physician~~authorized healthcare provider data, including:

a. - c. ...

8. the diagnoses, including all conditions relevant to the current ~~plan of care~~POC;

9. - 16. ...

17. when applicable, a copy of the transfer form that was forwarded to the appropriate health care facility that ~~will~~shall be assuming responsibility for the patient's care; and

18. the discharge summary ~~which shall be available to physicians upon request.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq.

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

Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), amended LR 22:1135 (November 1996), LR 27:2252 (December 2001), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

**§9131.     ~~Continuous~~ Quality Assessment and Performance  
Improvement**

A.     The ~~agency~~HHA shall ~~have written policies requiring that an overall evaluation of the agency's total program be conducted at least once a year by a group of professional personnel (or a committee of this group), agency staff, and consumers or by a independent group of professionals outside the agency working in conjunction with consumers. The evaluation shall consist of an overall policy and administrative review and a clinical record review. The evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective, and efficient. The results of the evaluation must be reported to and acted upon by those persons who are responsible for the operation of the agency. The evaluation results shall be maintained separately as administrative records~~develop, implement, evaluate, and maintain an effective, ongoing, HHA-wide, data-drive quarterly quality assessment and performance improvement (QAPI) program. The HHA's governing body shall ensure that the program reflects the complexity of its organization and services; involves all HHA services (including

those services provided under contract or arrangement); focuses on indicators related to improved outcomes and takes actions that address the HHA's performance across the spectrum of care.

B. The HHA shall maintain documentary evidence of quarterly QAPI activities and be able to demonstrate its operation. The evaluation shall consist of an overall policy and administrative review and a quarterly clinical record review. The evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective, and efficient. The results of the quarterly QAPI evaluation shall be reported to the governing body which is legally responsible for the operation of the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116.31 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 18:57 (January 1992), amended LR 21:177 (February 1995), LR 27:2253 (December 2001), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

### **Family Impact Statement**

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 and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

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.

#### **Small Business Analysis**

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses.

#### **Provider Impact Statement**

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, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

### **Public Comments**

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 31, 2022.

### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on May 10, 2022. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on, May 26, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after May 10, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez

Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips

Secretary