

**NOTICE OF INTENT**

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

**Adult Residential Care Providers  
Licensing Standards  
(LAC 48:I.6831 and 6832)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.6831 and 6832 as authorized by R.S. 36:254 and R.S. 40:2166.1-2166.8. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 367 of the 2023 Regular Session of the Louisiana Legislature directs the Department of Health to amend the licensing standards for certain inpatient healthcare facilities in order to establish minimum requirements for visitation, including during a declared public health emergency (PHE). In compliance with Act 367, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of adult residential care providers in order to update the requirements for visitation by members of the clergy, immediate family members, and other designated persons during a declared PHE.

**Title 48  
PUBLIC HEALTH-MEDICAL ASSISTANCE  
Part I. General Administration  
Subpart 3. Licensing and Certification**

**Chapter 68. Adult Residential Care Providers**

## Subchapter B. Administration and Organization

### §6831. Visitation by Members of the Clergy During a Declared Public Health Emergency

A. - H. ...

I. Subject to the requirements of §6831.E-G, each ARCP shall allow members of the clergy to visit residents of the ARCP during a declared PHE when a resident, or his legal or designated representative, requests a visit with a member of the clergy, subject to the following conditions and requirements:

1. - 2. ...

3. An ARCP's policy and procedure on clergy visitation~~shall~~, at a minimum, ~~require~~requires the following:

a. that the ARCP shall give special consideration and priority for clergy visitation to residents receiving end-of-life care;

b. that a clergy member ~~will~~may be screened for infectious agents or infectious diseases, utilizing at least the current screening or testing methods and protocols recommended by the Centers for Disease Control and Prevention (CDC), as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods, or protocols, then the ARCP shall utilize those methods and protocols;

c. that a clergy member may not be allowed to visit an ARCP resident if such clergy member has obvious signs or symptoms of an infectious agent, or infectious disease, or if such clergy member tests positive for an infectious agent, or infectious disease;

d. that a clergy member may not be allowed to visit an ARCP resident if the clergy member refuses to comply with the provisions of the ARCP's policy and procedures or refuses to comply with the ARCP's reasonable time, place, and manner restrictions;

e. that a clergy member may be required to wear PPE as determined appropriate by the ARCP, considering the resident's medical condition or clinical considerations; at the ARCP's discretion PPE may be made available by the ARCP to clergy members.

f. that an ARCP's policy and procedure include provisions for compliance with a Louisiana SHO order or emergency notice and with any governor's executive order or proclamation limiting visitation during a declared PHE; ~~and~~

g. that ~~an ARCP's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders,~~ the resident shall have the right to consensual, nonsexual physical contact such as hand holding or ~~guidelines regarding visitation in ARCPs issued by any federal~~

~~government agency during~~ hugging with a declared PHE member of the clergy; and

h. that an ARCP's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in ARCPs issued by any federal government agency during a declared PHE.

4. An ARCP shall submit a written copy of its visitation policies and procedures on clergy member visitation, to the Health Standards Section of the Department of Health (LDH) at the initial licensure survey.

5. After licensure, the facility shall make its visitation policies and procedures available for review by LDH at any time, upon request.

6. An ARCP shall within 24 hours after establishing its written policies and procedures on clergy member visitation, make its written policies and procedures easily accessible from the homepage of its website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1500 (October 2021), amended LR 49:

**§6832. Visitation by Immediate Family Members and Other Designated Persons During a Declared Public Health Emergency**

A. A licensed ARCP shall comply with any federal law, regulation, requirement, order, or guideline regarding visitation in ARCPs issued by any federal government agency during a declared PHE. The provisions of the licensing rules in §6832.B-E shall be preempted by any federal statute, regulation, requirement, order or guideline from a federal government agency that ~~require~~requires an ARCP to restrict resident visitation in a manner that is more restrictive than the rules.

B. - D. ...

E. Subject to the requirements of §6832.A-C, each ARCP shall allow immediate family members and other designated persons to visit a resident of the ARCP during a declared PHE when a resident, or his legal or designated representative, requests a visit with immediate family members and other designated persons, subject to the following conditions and requirements:

1. - 2. ...

3. An ARCP's policy and procedure on visitation by immediate family members and other designated persons ~~shall~~, at a minimum, ~~require~~requires the following:

a. that the ARCP shall give special consideration and priority for visitation by immediate family

members and other designated persons to residents receiving end-of-life care;

b. that visitation by immediate family members of the residents and other designated persons ~~will~~may be screened for infectious agents or infectious diseases, utilizing at least the current screening or testing methods and protocols recommended by the CDC, as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the ARCP shall utilize those methods and protocols;

c. that an immediate family member or other designated person may not be allowed to visit an ARCP resident if such immediate family member or other designated person has obvious signs or symptoms of an infectious agent or infectious disease, or if such immediate family member or other designated person tests positive for an infectious agent or infectious disease;

d. that an immediate family member or other designated ~~persons~~person may not be allowed to visit an ARCP resident if the immediate family member ~~and~~or other designated persons refuses to comply with the provisions of the ARCP's policy and procedure or ~~refuses to comply with the provisions of the ARCP's policy and procedure or~~ refuses to comply with the ARCP's reasonable time, place, and manner restrictions;

e. that immediate family members and other designated persons may be required to wear PPE as determined appropriate by the ARCP, considering the resident's medical condition or clinical consideration; at the ARCP's discretion, PPE may be made available by the ARCP to immediate family members and other designated persons;

f. that an ARCP's policy and procedure include provisions for compliance with a Louisiana SHO order or emergency notice and with any governor's executive order or proclamation limiting visitation during a declared PHE; ~~and~~

g. that ~~an ARCP's policy~~ the resident and ~~procedure include provisions for compliance with any federal law, regulations, requirements, orders,~~ an immediate family member or ~~guidelines regarding visitation in ARCPs issued by any federal government agency during a declared PHE.~~ other designated person shall have the right to consensual, nonsexual physical contact such as hand holding or hugging; and

h. that an ARCP's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in ARCPs issued by any federal government agency during a declared PHE.

4. An ARCP shall submit a written copy of its visitation policies and procedures on family members and other

designated persons' visitation, to the Health Standards Section of LDH at the initial licensure survey.

5. After licensure, the facility shall make its visitation policies and procedures available for review by LDH at any time, upon request.

6. An ARCP shall within 24 hours after establishing its written policies and procedures on family members and other designated persons' visitation, make its written policies and procedures easily accessible from the homepage of its website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1500 (October 2021), amended LR 49:

#### **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 a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring that the requirements for visitation during a declared public health emergency by clergy, immediate family members, and other persons designated by residents of the facility comply with legislative mandates.



### **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 September 29, 2023.

### **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 September 11, 2023. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on September 28, 2023 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 September 11, 2023. 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.

Stephen R. Russo, JD

Secretary