

NOTICE OF INTENT

Department of Health  
Bureau of Health Services Financing

Intermediate Care Facilities for Persons  
with Developmental Disabilities  
Licensing Standards  
(LAC 48:I.8595 and 8599)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.8595 and §8599 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2180-2180.5. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing repealed the provisions governing the minimum licensing standards for intermediate care facilities I and II, community homes and group homes, and adopted provisions to incorporate these facilities under a single comprehensive Rule for intermediate care facilities for persons with developmental disabilities (ICFs/DD) (*Louisiana Register*, Volume 38, Number 12).

Act 540 of the 2006 Regular Session of the Louisiana Legislature amended R.S. 29:726(F) to provide for rapid communications in times of disaster or emergencies. In compliance with Act 540, the department promulgated an Emergency

Rule which amended the provisions governing ICFs/DD to require timely filing of electronic reports related to census information and other needed information during declared disasters or emergencies (*Louisiana Register*, Volume 42, Number 4). This proposed Rule is being promulgated to continue the provisions of the April 7, 2016 Emergency Rule.

**Title 48**

**PUBLIC HEALTH - GENERAL**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 85. Intermediate Care Facilities for Persons with Developmental Disabilities**

**Subchapter G. Emergency Preparedness**

**§8595. Emergency Preparedness Plan**

A. The ICF/DD shall ~~have an~~ incorporate an all hazards risk assessment into the facility's emergency preparedness plan which is designed to manage the consequences of medical emergencies, power failures, fire, natural disasters, declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its emergency preparedness plan in the event or occurrence of a disaster or emergency. This plan shall be reviewed, updated and approved by the governing body at least annually. Upon the

department's request, a facility shall present its emergency preparedness plan for review.

B. - B.13. ...

14. The facility's plan shall include how the ICF/DD will notify OHSEP and ~~DHH~~ LDH when the decision is made to shelter in place and whose responsibility it is to provide this notification.

15. - 15.f. ...

C. An ICF/DD shall electronically enter current facility information into the department's ESF-8 Portal or into the current LDH Emergency Preparedness webpage or electronic database for reporting.

1. The following information shall be entered or updated before the fifteenth of each month:

a. operational status;

b. census;

c. emergency contact and destination location information; and

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

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

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

iii. green-residents who do not need specialized transportation may be transported by car, van, bus or wheelchair accessible transportation.

2. An ICF/DD shall also enter or update the facility's information upon request, or as described per notification of an emergency declared by the secretary.

Emergency events may include, but are not limited to:

- a. hurricanes;
- b. floods;
- c. fires;
- d. chemical or biological hazards;
- e. power outages;
- f. tornados;
- g. tropical storms; and
- h. severe weather.

3. Effective immediately, upon notification of an emergency declared by the secretary, all ICFs/DD shall file an electronic report with the ESF-8 Portal or into the current LDH

Emergency Preparedness webpage or electronic database for reporting.

a. The electronic report shall be filed, as prescribed by department, throughout the duration of the emergency declaration.

b. The electronic report shall include, but is not limited to, the following:

i. status of operation;

ii. availability of beds;

iii. generator status;

iv. evacuation status;

v. shelter in place status;

vi. mobility status of clients;

vii. range of ages of clients;

ix. intellectual levels/needs of clients;

and

x. any other client or facility related information that is requested by the department.

NOTE: The electronic report shall not be used to request resources or to report emergency events.

D. The facility's plan shall include a process for tracking during and after the emergency/disaster for on-duty staff and sheltered clients.

E. The facility's plan shall also include a process to share with the client, family, and representative appropriate information from the facility's emergency plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3207 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**§8599. Notification of Evacuation, Relocation, or Temporary Cessation of Operations**

A. In the event that an ICF/DD evacuates, temporarily relocates or temporarily ceases operations at its licensed location as a result of an evacuation order issued by the state, local or parish OHSEP, the ICF/DD must immediately give notice to the Health Standards Section as well as the Office for Citizens with Developmental Disabilities (OCDD) and OHSEP as directed by ~~facsimile or email of the following~~ filing an electronic report with the ESF-8 Portal or into the current LDH Emergency Preparedness webpage or electronic database for reporting:

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3208 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and no direct or indirect cost to the provider to provide the same level of service. These provisions will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, January 26, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary