

1. podiatry;
2. dental;
3. audiology;
4. vision;
5. physical therapy;
6. speech pathology;
7. occupational therapy
8. psychological; and
9. social services.

Applicant—the legal entity that applies for the license to open, conduct, manage or maintain a nursing facility.

Biological—a preparation used in the treatment or prevention of disease that is derived from living organisms or their by-product.

Change of Information (CHOI)—any change in facility information required by regulation or statute to be submitted to the department that does not change the ownership structure and/or respective ownership interests held by stakeholders of the current legal entity.

Change of Ownership (CHOW)—any change in the legal entity responsible for the operation of the nursing facility. Management agreements are generally not changes of ownership if the former owner continues to retain policy responsibility and approve or concur in decisions involving the nursing facility's operation. However, if these ultimate legal responsibilities, authorities and liabilities are surrendered and transferred from the former owner to the new manager, then a change of ownership has occurred. Examples of actions that constitute a change of ownership include, but are not limited to:

1. *unincorporated sole proprietorship*—transfer of title and property of another party constitutes change of ownership;
2. *corporation*—the merger of the provider's corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation, constitutes change of ownership:
 - a. 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;
3. *limited liability company*—the removal, addition or substitution of a member in a limited liability company does not constitute a change of ownership; or
4. *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.

Chapter 97. Nursing Facilities

Subchapter A. General Provisions

§9701. Definitions

Abuse—the willful infliction of injury or the causing of the deterioration of a resident by means including, but not limited to, physical, verbal, emotional, psychological, sexual abuse, exploitation, or extortion of funds or other things of value to such an extent that the resident's health, moral, or emotional well-being is endangered.

1. The determination of abuse shall not be mitigated by a resident's age, ability to comprehend or disability. Abuse determination shall be based on the reasonable person concept.

Administrator—any individual who is or may be charged with the general administration of a nursing facility and who has been licensed and registered by the Board of Examiners of Nursing Home Administrators in accordance with the provisions of *Louisiana Revised Statute* 37:2501.

Advanced Practice Registered Nurse (APRN)—a licensed registered nurse who is certified by a nationally recognized certifying body as having an advanced nursing specialty and who meets the criteria for an advanced practice registered nurse as established by the Louisiana State Board of Nursing. An advanced practice registered nurse shall include:

1. certified nurse midwife;
2. certified registered nurse anesthetist;
3. clinical nurse specialist; or
4. nurse practitioner.

Alzheimer's Special Care Unit—any nursing facility as defined in R.S. 40:2009.2, that segregates or provides a special program or special unit for residents with a diagnosis of probable Alzheimer's disease or related disorder so as to prevent or limit access by a resident to areas outside the designated or separated area, or that advertises, markets, or otherwise promotes the nursing facility as providing specialized Alzheimer/dementia care services.

Ancillary Service—a service such as, but not limited to:

Charge Nurse—an individual who is licensed by the state of Louisiana to practice as an RN or LPN and designated as a charge nurse by the nursing facility.

Chemical Restraint—a psychopharmacologic drug that is used for discipline or convenience and not required to treat medical symptoms.

Controlled Dangerous Substance—a drug, substance or immediate precursor in schedule I through V of R.S. 40:964.

Coronavirus Disease 2019 (COVID-19)—a communicable, contagious, and infectious disease/virus (more specifically, a coronavirus) identified as the cause of an outbreak of respiratory illness first detected in Wuhan, China. COVID-19 is a new disease, caused by a novel (or new) coronavirus that has not previously been seen in humans. Persons with COVID-19 have had a wide range of symptoms reported—ranging from mild symptoms to severe illness.

Culture Change—the common name given to the national movement for the transformation of older adult services, based on person-directed values and practices where the voices of elders and those working with them are considered and respected. Core person-directed values are:

1. choice;
2. dignity;
3. respect;
4. self-determination; and
5. purposeful living.

Designated Contact—resident's legal representative or interested family member.

Dietary Manager—a person who:

1. is a licensed dietitian;
2. is a graduate of a dietetic technician program;
3. has successfully completed a course of study, by correspondence or classroom, which meets the eligibility requirements for certification by the Dietary Manager's Association;
4. has successfully completed a training course at a state approved school (vocational or university) which includes course work in foods, food service supervision and diet therapy. Documentation of an eight-hour course of formalized instruction in diet therapy conducted by the employing nursing facility's qualified dietitian is permissible if the course meets only the foods and food service supervision requirements; or
5. is currently enrolled in an acceptable course of not more than 12 months which will qualify an individual upon completion.

Director of Nursing (DON)—a registered nurse, licensed by the state of Louisiana, who directs and coordinates nursing services in a nursing facility.

Drug Administration—an act in which a single dose of a prescribed drug or biological is given to a resident by an authorized person in accordance with all laws and regulations governing such acts. The complete act of administration entails:

1. removing an individual dose from a previously dispensed, properly labeled container (including a unit dose container);
2. verifying the dose with the physician's orders;
3. giving the individual dose to the proper resident;
4. monitoring the ingestion of the dose; and
5. promptly recording the time and dose given.

Drug Dispensing—an act which entails the interpretation of an order for a drug or biological and, pursuant to the order, the proper selection, measuring, labeling, packaging, and issuance of the drug or biological for a resident or for a service unit of the nursing facility by a licensed pharmacist, physician or dentist.

Legal Representative—a resident's legal guardian or other responsible person as determined by the specific legally recognized status of the relationship (e.g., full interdiction, partial interdiction, continuing tutorship, competent major, or other legally recognized status).

Licensed Bed—a bed set up, or capable of being set up, within 24 hours in a nursing facility for the use of one resident.

Licensed Dietitian—a dietitian who is licensed to practice by the Louisiana Board of Examiners in Dietetics and Nutrition.

Licensed Practical Nurse (LPN)—an individual currently licensed by the Louisiana State Board of Practical Nurse Examiners to practice practical nursing in Louisiana.

Locked Unit or Specialized Care Unit—a restricted section or area of the nursing facility which limits free access of residents suffering from severe dementia, Alzheimer's or other disease process or condition which severely impairs their ability to recognize potential hazards. Such units shall not be established for the sole purpose of housing individuals with mental illness.

Louisiana Department of Health (LDH)—the 'department', previously known as the Department of Health and Hospitals or DHH.

LSC Appeal—equivalent method of compliance related to *Life Safety Code (LSC)* requirements for participation, granted or approved by state and/or federal certification agencies.

Major Alteration—any repair or replacement of building materials and equipment which does not meet the definition of minor alteration.

Medication Attendant Certified (MAC)—a person certified by LDH to administer medications to nursing facility residents.

Medical Director—a physician licensed in Louisiana who directs and coordinates medical care in a nursing facility.

Minor Alteration—repair or replacement of building materials and equipment with materials and equipment of a similar type that does not diminish the level of construction below that which existed prior to the alteration. This does not include any alteration to the function or original design of the construction.

Misappropriation—taking possession of a resident's personal belongings without the resident's permission to do so, or the deliberate misplacement, exploitation or wrongful temporary or permanent use of a resident's belongings or money without the resident's consent.

Neglect—the failure to provide the proper or necessary medical care, nutrition or other care necessary for a resident's well-being, unless the resident exercises his/her right to refuse the necessary care.

Nursing Facility—any private home, institution, building, residence or other place, serving two or more persons who are not related by blood or marriage to the operator, whether operated for profit or not, and including those places operated by a political subdivision of the state of Louisiana which undertakes, through its ownership or management, to provide maintenance, personal care, or nursing services for persons who, by reason of illness or physical infirmity or age, are unable to properly care for themselves. The term does not include the following:

1. a home, institution or other place operated by the federal government or agency thereof, or by the State of Louisiana;

2. a hospital, sanitarium or other medical institution whose principal activity or business is the care and treatment of persons suffering from tuberculosis or from mental diseases;

3. a hospital, sanitarium or other medical institution whose principal activity or business is the diagnosis, care and treatment of human illness through the maintenance and operation of organized facilities;

4. any municipal, parish or private child welfare agency, maternity hospital or lying-in home required by law to be licensed by some department or agency;

5. any sanitarium or institution conducted by and for Christian Scientists who rely on the practice of Christian Science for treatment and healing;

6. any nonprofit congregate housing program which promotes independent living by providing assistance with daily living activities such as cooking, eating, dressing, getting out of bed and the like to persons living in a shared group environment who do not require the medical supervision and nursing assistance provided by nursing facilities. No congregate housing program, except those licensed or operated by the state of Louisiana, shall:

- a. use the term "nursing facility" or any other term implying that it is a licensed health care facility; or

- b. administer medications or otherwise provide any other nursing or medical service; or

7. any adult residential care facility.

Physical Restraint—any physical or mechanical device, material or equipment attached or adjacent to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's body.

Physician—an individual currently licensed by the Louisiana State Board of Medical Examiners to practice medicine and/or surgery in Louisiana.

Physician Assistant—a person who is a graduate of a program accredited by the Council on Medical Education of the American Medical Association or its successors, or who has successfully passed the national certificate examination administered by the National Commission on the Certification of Physicians' Assistants, or its predecessors, and who is approved and licensed by the Louisiana Board of Medical Examiners to perform protocol services under the supervision of a physician or group of physicians approved by the board to supervise such assistant.

Reasonable Person Concept—the degree of actual or potential harm one would expect a reasonable person in a similar situation to suffer as a result of alleged abuse, neglect or misappropriation of a resident's funds.

Registered Nurse (RN)—an individual currently licensed by the Louisiana State Board of Nursing to practice professional nursing in Louisiana.

Registered Pharmacist—an individual currently licensed by the Louisiana Board of Pharmacy to practice pharmacy in Louisiana.

Resident—an individual admitted to the nursing facility by, and upon, the recommendation of a physician, and who is to receive the medical and nursing care ordered by the physician.

Resident Activities Director—an individual responsible for directing or providing the activity services of a nursing facility.

Resident Communication System—a system that registers calls electronically from its place of origin (the resident's bed, toilet or bathing facility) to the place of receivership.

Restorative Care—activities designed to resolve, diminish or prevent the needs that are inferred from the resident's problem; includes the planning, implementation and evaluation of said activities.

Sheltering in Place—the election to stay in place rather than evacuate when an executive order or proclamation of emergency or disaster is issued for the parish in which the nursing facility is located and a voluntary or mandatory evacuation has been declared for its geographic location.

Social Service Designee—an individual responsible for arranging or directly providing medically-related social services in the facility to assist in attaining and maintaining the highest practicable physical, mental, and psychosocial well-being of each resident.

Specialized Mental Health Services—for the purposes of pre-admission screening and resident review (PASRR), specialized services means any service or support recommended by an individualized level II determination that a particular nursing facility resident requires due to mental illness, intellectual disability or related condition, that supplements the scope of services that the nursing facility must provide under reimbursement as nursing facility services.

Specialized Rehabilitative Services—include, but are not limited to:

1. physical therapy;
2. speech language pathology;
3. occupational therapy; and
4. mental health rehabilitative services.

Sponsor—an adult relative, friend or guardian of a resident who has an interest or responsibility in the resident's welfare.

State Fire Marshal (OSFM)—Louisiana Department of Public Safety and Corrections, Office of the State Fire Marshal.

Written Notification—notification in hard copy or electronic format.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

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

§9727. Incident Reporting Requirements

A. A nursing facility shall have written procedures for the reporting and documentation of actual and suspected incidents of abuse, neglect, misappropriation of property/funds and suspicious death. Major injuries of unknown origin (e.g., fractures, burns, suspicious contusions, head injuries, etc.) for which the nursing facility is unable to determine the cause and could possibly be the result of abuse or neglect shall also be reported. Such procedures shall ensure that:

1. a resident is protected from harm during an investigation;
2. immediate verbal reporting is made and a preliminary written report within 24 hours of the incident is submitted to the administrator or his/her designee;
3. notification, as required by HSS, is submitted to HSS within 24 hours of occurrence or discovery of the incident. The nursing facility shall utilize the LDH online tracking incident system (OTIS) or current LDH required database reporting system to provide notification;

NOTE: The nursing facility is required to maintain internet access and to keep the department informed of an active e-mail address at all times.

4. appropriate authorities are to be notified according to state law;
5. immediate, documented attempts are made to notify the resident's legal representative;

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

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

B. The initial written notification submitted to the LDH HSS within 24 hours of occurrence or discovery of the incident shall include:

1. the name of the alleged victim;
2. the name of the accused (if known);
3. the incident category (if applicable);
4. the date and time the incident occurred, if known, and the date and time the incident was discovered;
5. a description of the alleged abuse, neglect, misappropriation of property, and incident of unknown origin from the victim and/or the reporter;
6. documentation of any action taken to protect the resident during the investigation; and
7. any other relevant information available at the time the report is submitted.

C. The nursing facility shall have evidence that the alleged violations are thoroughly investigated and shall ensure protection of the resident from further potential abuse, neglect, and misappropriation of property/funds while the investigation is in progress.

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

1. the alleged victim's name, date of birth, and a complete description of the physical harm, pain or mental anguish;
2. the name, date of birth, address and telephone number of the accused. If the accused is a nursing facility employee, include the Social Security number.
3. the date and time the incident occurred, if known, and the date and time the incident was discovered;
4. a description of the alleged abuse, neglect, misappropriation of property, and incident of unknown origin;
5. a detailed summary of the entity's investigation including all witness' information and all facts that lead to the determination of substantiated, unsubstantiated or unable to verify:
 - a. immediate action taken to protect the alleged victim during the investigation; and
 - b. any action taken toward the accused; and
6. nursing facility administrator/CEO finding.

E. If an alleged violation is verified, the nursing facility shall take appropriate corrective action.

F. If the investigation substantiates abuse, neglect, and/or misappropriation of property against a CNA, the following shall be available, if requested, by HSS:

1. a copy of the NAT-7 verifying termination;
2. the nursing facility abuse policy signed by the CNA;
3. the date and time the incident occurred;
4. the date and time the incident was discovered;
5. a copy of the CNA's statement (signed and dated);
6. a copy of the resident's statement (signed and dated);
7. witness statements (signed and dated); and
8. a copy of the time card for the date and time of the incident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

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

1. The nursing facility shall not use verbal, mental, sexual or physical abuse, corporal punishment or involuntary seclusion.

2. The nursing facility shall develop and operationalize policies and procedures for screening and training employees, protection of the residents and for the prevention, identification, investigation, and reporting of abuse, neglect, mistreatment and misappropriation of property.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

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

§9761. Policies and Procedures

A. There shall be written policies and procedures:

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

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

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

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

5. available to admitting physicians;

6. reflecting awareness of, and provision for, meeting the total medical and psychosocial needs of residents, including admission, transfer and discharge planning; and the range of services available to residents, including frequency of physician visits by each category of residents admitted; and

7. approved by the governing body.

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

facility's residents, the nursing facility shall, within 10 days of notification, respond with an acceptable plan of correction to amend its emergency preparedness plan.

B. A nursing facility shall enter current nursing facility information into Mstat or into the current LDH emergency preparedness webpage or electronic database for reporting.

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

- a. operational status;
- b. census;
- c. emergency contact and destination location information;
- d. emergency evacuation transportation needs categorized by the following types:

- i. red—high risk patients 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; or

- iii. green—residents who need no specialized transportation may be transported by car, van, bus or wheelchair accessible transportation.

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

3. Effective immediately, upon notification of an emergency declared by the secretary, all nursing facilities shall file an electronic report with Mstat or into the current LDH emergency preparedness webpage or electronic database for reporting.

- a. The electronic report shall be filed, as prescribed by the LDH, 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; and

§9767. Emergency Preparedness

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

1. All nursing facilities located in the parishes named in R.S. 40:2009.25(A) shall submit their emergency preparedness information and documentation to the department for review. Upon request, all other nursing facilities shall forward their emergency preparedness information and documentation to the Department of Health (LDH) for review.

2. All nursing facilities' emergency preparedness information and documentation shall, at a minimum, include:

- a. a copy of the nursing facility's emergency preparedness plan;
- b. updates, amendments, modifications or changes to the nursing facility's emergency preparedness plan;
- c. the current census and number of licensed beds; and
- d. the nursing facility location, physical street address with longitude and latitude, and current nursing facility contact information.

3. After reviewing the nursing facility's plan, if the department determines that the plan does not comply with the current minimum licensing requirements or does not promote the health, safety and welfare of the nursing

- vi. other information requested by the department.

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

C. The emergency preparedness plan shall be individualized and site specific. All information included in the plan or submitted with the plan shall be current and correct. At a minimum, the nursing facility shall have a written emergency plan that addresses:

1. the procedures and criteria used for determining when the nursing facility will evacuate, including a listing of specific evacuation determinations for those procedures and criteria;
2. the procedures and criteria used for determining when the nursing facility will shelter in place, including a listing of specific sheltering in place determinations for those procedures and criteria;
3. a primary sheltering host site(s) and alternative sheltering host site(s) outside the area of risk;
 - a. these host sites shall be verified by written agreements or contracts that have been signed and dated by all parties;
 - b. these agreements or contracts shall be verified in writing annually; and
 - c. the nursing facility shall accept only that number of residents for which it is licensed unless prior written approval has been secured from the department or if the nursing facility is acting as a host site during a declared emergency;
4. the policies and procedures for mandatory evacuations shall provide that if the state, parish, or local Office of Homeland Security and Emergency Preparedness (OHSEP) orders a mandatory evacuation of the parish or area in which the nursing facility is located, the nursing facility shall evacuate unless the nursing facility receives a written exemption from the ordering authority prior to the mandated evacuation;
5. the monitoring of emergency alerts or notifications including weather warnings and watches as well as evacuation orders from local and state emergency preparedness officials:
 - a. this monitoring plan shall identify who will perform the monitoring, what equipment will be used for monitoring, and who should be contacted if needed; and
 - b. the nursing facility shall have plans for monitoring during normal daily operations, when sheltering in place or during evacuations;
6. the delivery of essential care and services to residents, whether the residents are housed in the nursing facility, at an off-site location, or when additional residents are housed in the nursing facility during an emergency;
7. the provisions for the management of staff, including provisions for sufficient qualified staff as well as for distribution and assignment of responsibilities and

functions, either within the nursing facility or at another location;

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

- a. a triage system to identify residents who require specialized transportation and medical needs including the number of residents who need:
 - i. red—high risk patients 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; or
 - iii. green—residents who need no specialized transportation may be transported by car, van, bus or wheelchair accessible transportation;
- b. a written transportation contract(s) for the evacuation of residents and staff to a safe location outside the area of risk that is signed and dated by all parties. Vehicles that are owned by, or are at the disposal of the nursing facility, shall have written usage agreements that are signed, dated and shall include verification of ownership; and
 - i. the number and type of vehicles;
 - ii. the capacity of each vehicle;
 - iii. a statement of whether each vehicle is equipped with temperature controls; and
- c. plans to prevent and treat heat related medical illnesses due to the failure of, or the lack of, temperature controls during transport.

NOTE: A copy of a vehicle's title or registration will be sufficient for verification of ownership.

9. the procedures to notify the resident's family or responsible representative of the nursing facility's intent to either shelter in place or evacuate. The nursing facility shall have a designee(s) who is responsible for this notification. If the nursing facility evacuates, notification shall include:

- a. the date and approximate time that the nursing facility is evacuating;
- b. the place or location to which the nursing facility is evacuating, including the:
 - i. name;
 - ii. address; and
 - iii. telephone number;

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

d. notification to the resident's family, legal representative, or designated contact shall be made as far in advance as possible, but at least within 24 hours of the determination to shelter in place or after evacuation when communication is available;

10. the procedures or methods that will be used to directly attach identification to the nursing facility resident. The nursing facility shall designate a staff person to be responsible for this identification procedure. This identification shall remain directly attached to the resident during all phases of an evacuation and shall include the following minimum information, including but not limited to:

- a. current and active diagnosis;
- b. medications, including dosage and times administered;
- c. allergies;
- d. special dietary needs or restrictions; and
- e. next of kin, including contact information;

11. the nursing facility shall designate a staff person who is responsible for ensuring that a sufficient supply of the following items accompanies residents on buses or other transportation during all phases of evacuation:

- a. water;
- b. food;
- c. nutritional supplies and supplements;
- d. medication(s); and
- e. other necessary supplies;

12. the procedures for ensuring that all residents have access to licensed nursing staff and that appropriate nursing services are provided during all phases of the evacuation, including transport of residents:

- a. for buses or vehicles transporting 15 or more residents, licensed nursing staff shall accompany the residents on the bus or vehicle;
- b. a licensed therapist(s) or paramedic may substitute for licensed nursing staff;

13. staffing patterns for sheltering in place and for evacuation, including contact information for such staff;

14. a plan for sheltering in place if the nursing facility determines that sheltering in place is appropriate:

- a. if the nursing facility shelters in place, the nursing facility's plan shall ensure that seven days of necessary supplies are on hand or have written agreements, including timelines, to have supplies delivered prior to the emergency event. Supplies should include, but are not limited to:

- i. drinking water or fluids, a minimum of 1 gallon per day per person sheltering at the nursing facility;
- ii. water for sanitation;
- iii. non-perishable food, including special diets;
- iv. medications;
- v. medical supplies;
- vi. personal hygiene supplies; and
- vii. sanitary supplies;

b. if the nursing facility shelters in place, the nursing facility's plan shall provide for a posted communications plan for contacting emergency services and monitoring emergency broadcasts. The nursing facility shall designate a staff person to be responsible for this function. The communication plan shall include:

- i. the type of equipment to be used;
- ii. back-up equipment to be used if available;
- iii. the equipment's testing schedule; and
- iv. the power supply for the equipment being used;

c. the nursing facility's plan shall include a statement indicating whether the nursing facility has a generator for sheltering in place. If the nursing facility has such a generator, the plan shall provide for a seven day supply of fuel, either on hand or delivered prior to the emergency event. If the nursing facility has such a generator, the plan shall provide a list of the generator's capabilities including:

- i. its ability to provide cooling or heating for all or designated areas in the nursing facility;
- ii. the ability to power an OPH approved sewerage system;
- iii. the ability to power an OPH approved water system;
- iv. the ability to power medical equipment;
- v. the ability to power refrigeration;
- vi. the ability to power lights; and
- vii. the ability to power communications;

d. an assessment of the integrity of the nursing facility's building to include, but not be limited to:

- i. wind load or ability to withstand wind;
- ii. flood zone and flood plain information;
- iii. power failure;
- iv. age of building and type of construction; and
- v. determinations of, and locations of interior safe zones;

e. plans for preventing and treating heat related medical illnesses due to the failure of or the lack of air conditioning while sheltering in place;

f. the nursing facility's plan shall include instructions to notify OHSEP and LDH of the nursing facility's plan to shelter in place; and

g. the nursing facility shall provide to LDH a list of residents sheltering in place;

15. those nursing facilities that are subject to the provisions of R.S. 40:2009.25(A) shall perform a risk assessment to determine the nursing facility's integrity. The integrity of the nursing facility and all relevant and available information shall be used in determining whether sheltering in place is appropriate. All elevations shall be given in reference to sea level or adjacent grade as appropriate. The assessment shall be reviewed and updated annually. The risk assessment shall include the nursing facility's determinations and the following documentation:

- a. the nursing facility's latitude and longitude;
- b. flood zone determination for the nursing facility and base flood elevation, if available;
- i. the nursing facility shall evaluate how these factors will affect the building;
- c. elevations of the building(s), heating ventilation and air conditioning (HVAC) system(s), generator(s), fuel storage, electrical service, water system and sewer motor, if applicable;
- i. the nursing facility shall evaluate how these factors will affect the nursing facility considering projected flood and surge water depths;
- d. an evaluation of the building to determine its ability to withstand wind and flood hazards to include:
 - i. the construction type and age;
 - ii. roof type and wind load;
 - iii. windows, shutters and wind load;
 - iv. wind load of shelter building; and
 - v. location of interior safe zones;
- e. an evaluation of each generator's fuel source(s), including refueling plans, fuel consumption rate and a statement that the output of the generator(s) will meet the electrical load or demand of the required (or designated) emergency equipment;
- f. the determinations of an evaluation of surroundings, including lay-down hazards or objects that could fall on the building and hazardous materials, such as:
 - i. trees;
 - ii. towers;
 - iii. storage tanks;
 - iv. other buildings;
 - v. pipe lines;
 - vi. chemical and biological hazards; and
 - vii. fuels;

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

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

17. the nursing facility's plan shall include clearly labeled and legible floor plan(s) of the nursing facility's building(s). The nursing facility's plan shall include the following:

- a. the areas being used as shelter or safe zones;
- b. the supply and emergency supply storage areas;
- c. the emergency power outlets;
- d. the communications center;
- e. the location of the posted emergency plan:
 - i. the posted location shall be easily accessible to staff; and
 - f. a pre-designated command post.

D. Emergency Plan Activation, Review and Summary

1. The nursing facility's shelter in place plan and evacuation plan shall each be activated at least annually, either in response to an emergency or in a planned drill. The nursing facility's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if a need is indicated by the nursing facility's performance during the emergency event or the planned drill.

2. Nursing facilities subject to the provisions of R.S. 40:2009.25(B) shall submit a summary of the updated plan to the department's nursing facility emergency preparedness manager by March 1 of each year. If changes are made during the year, a summary of the amended plan shall be submitted within 30 days of the modification. All agreements and contracts shall be verified by all parties annually and submitted.

E. The nursing facility's plan shall be submitted to the parish or local OHSEP annually. Any recommendations by the parish or local OHSEP regarding the nursing facility's plan shall be documented and addressed by the nursing facility.

1. For nursing facilities, the following requirements shall be met.

- a. The nursing facility's plan shall include verification of its submission to the parish or local OHSEP.
- b. A copy of any and all response(s) by the nursing facility to the local or parish OHSEP recommendations shall be forwarded to LDH nursing facility emergency preparedness manager.

F. The plan shall be available to representatives of the Office of the State Fire Marshal and the Office of Public Health.

G. The nursing facility's plan shall follow all applicable laws, standards, rules or regulations.

H. Evacuation, Temporary Relocation or Temporary Cessation

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

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

i. the date and approximate time of the evacuation;

ii. the sheltering host site(s) to which the nursing facility is evacuating; and

iii. a list of residents being evacuated, which shall indicate the evacuation site for each resident.

b. Within 48 hours, the nursing facility shall notify the HSS of any deviations from the intended sheltering host site(s) and shall provide HSS with a list of all residents and their locations.

c. If there was no damage to the licensed location due to the emergency and there was no power outage of HVAC (either through regular service or generator) of more than 48 hours at the licensed location due to the emergency event, the nursing facility may reopen at its licensed location and shall notify HSS within 24 hours of reopening. The nursing facility shall comply with OPH and OSFM and have clearance from the local office of emergency preparedness.

d. For all other evacuations, temporary relocations, or temporary cessation of operations due to an emergency event, a nursing facility shall submit to Health Standards a written request to reopen, prior to reopening at the licensed location. That request shall include:

i. damage report;

ii. extent and duration of any power outages;

iii. re-entry census;

iv. staffing availability;

v. access to emergency or hospital services; and

vi. availability and/or access to food, water, medications and supplies.

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

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

a. approval of reopening without survey;

b. surveys required before approval to reopen will be granted. This may include surveys by the OPH, OSFM and HSS; or

c. denial of reopening.

4. The purpose of the surveys referenced above is to assure that the nursing facility is in compliance with the licensing standards including, but not limited to, the structural soundness of the building, the sanitation code, staffing requirements and the execution of emergency plans.

a. The Health Standards Section, in coordination with state and parish OHSEP, will determine the nursing facility's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services and necessary supplies.

b. The Health Standards Section will give priority to reopening surveys.

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

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of all injuries and deaths of residents that occurred during execution of the plan, evacuation and temporary relocation including the date, time, causes and circumstances of the injuries and deaths.

I. Sheltering in Place. If a nursing facility shelters in place at its licensed location during an emergency event, the following will apply.

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

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths.

J. Unlicensed Sheltering Sites

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

a. The request shall be submitted in writing to HSS and shall be based upon information that the nursing facility's residents will return to its licensed location, or be placed in alternate licensed nursing facility beds within the extension period requested.

b. The extension shall only be granted for good cause shown and for circumstances beyond the control of the nursing facility.

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

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

K. Inactivation of License due to Declared Disaster or Emergency

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

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

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

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

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

NOTE: Pursuant to these provisions, an extension of the 60 day deadline may be granted at the discretion of the department.

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

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

c. the licensed nursing facility continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines; and

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

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

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

a. the nursing facility shall submit a written license reinstatement request to the licensing agency of the department within two years of the Executive Order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

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

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

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

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

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

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

L. Inactivation of License due to Non-Declared Emergency or Disaster

1. A licensed nursing facility in an area or areas which have been affected by a non-declared emergency or disaster

may seek to inactivate its license, provided that the following conditions are met:

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

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

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

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

iv. the licensed nursing facility'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.

b. the licensed nursing facility continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines; and

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

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

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

4. The licensed nursing facility shall resume operating as a nursing facility in the same service area within one year of the approval of renovation/construction plans by OSFM and OPH as required.

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

5. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a nursing facility which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

a. the nursing facility shall submit a written license reinstatement request to the licensing agency of the department;

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

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

6. Upon receiving a completed written request to reinstate a nursing facility license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the facility has met the requirements for licensure including the requirements of this Subsection.

NOTE: The licensed bed capacity of the reinstated license shall not exceed the licensed bed capacity of the nursing facility at the time of the request to temporarily inactivate the license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

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

D. Any construction-related waiver or variance request of any provision of the LAC *Title 51, Public Health—Sanitary Code* shall be submitted in writing to the state health officer for his/her consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

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

Subchapter B. Physical Environment

§9911. General Provisions

A. The nursing facility shall be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel, and the public.

B. The nursing facility shall provide a safe, clean, orderly, homelike environment.

C. If the nursing facility determines that a licensing provision of this Subchapter B prohibits the provision of a culture change environment, the nursing facility may submit a written waiver request to the Health Standards Section (HSS) of the Department of Health (LDH), asking that the provision be waived and providing an alternative to the licensing provision of this subchapter. The department shall consider such written waiver request, shall consider the health and safety concerns of such request and the proposed alternative, and shall submit a written response to the nursing facility within 60 days of receipt of such waiver request.