

## **Chapter 56. Behavioral Health Service Providers**

### **Subchapter A. General Provisions**

#### **§5601. Introduction**

A. Pursuant to R.S. 40:2151-2161, the Department of Health (LDH) hereby establishes licensing standards for behavioral health service (BHS) providers. The purpose of these Chapters is to provide for the development, establishment and enforcement of statewide licensing standards for the care of clients receiving services from BHS providers, to ensure the maintenance of these standards, and to regulate conditions of these providers through a program of licensure that shall promote safe and adequate treatment of clients of BHS providers.

B. In addition to the requirements stated herein, all licensed BHS providers shall comply with applicable local, state, and federal laws and regulations.

C. The following providers shall be licensed under the BHS provider license:

1. substance abuse/addiction treatment facilities;
2. mental health clinics; and
3. any other entity that meets the definition of a BHS provider.

D. Licensed substance abuse/addiction treatment facilities and mental health clinics have one year from the date of

promulgation of the final Rule to comply with all of the provisions herein.

NOTE: Existing licensed substance abuse/addiction treatment facilities and mental health clinics shall be required to apply for a BHS provider license at the time of renewal of their current license(s).

E. The following entities shall be exempt from the licensure requirements for BHS providers:

1. hospitals licensed under R.S. 40:2100 et seq.;
2. crisis receiving centers licensed under 40:2180.11 et seq.;
3. nursing homes licensed under R.S. 40:2009.3 et seq.;
4. psychiatric residential treatment facilities and therapeutic group homes licensed under R.S. 40:2009;
5. facilities or services operated by the federal government;
6. federally qualified health care centers (FQHCs) certified by the federal government;
7. community mental health centers (CMHCs) certified by the federal government, that provide CMHC services allowed by the federal government;
8. home and community-based service (HCBS) providers providing HCBS services under a license issued pursuant to R.S. 40:2120.1 et seq.;
9. an individual licensed mental health professional (LMHP), whether incorporated or unincorporated, or a group practice of LMHPs, providing services under the auspices of and pursuant to the scope of the individual's license or group's licenses;
10. an individual licensed physician, or a group of licensed physicians, providing services under the auspices of and pursuant to the scope of the individual's license or group's licenses;
11. an individual licensed physician assistant, or a group practice of licensed physician assistants, providing services under the auspices of and pursuant to the scope of the individual's license or group's licenses;
12. school-based health clinics/centers that are certified by the Department of Health, Office of Public Health, and enrolled in the Medicaid Program;
13. a health care provider or entity solely providing case management or peer support services, or a combination thereof;
14. a health care provider that meets all of the following criteria:
  - a. was an accredited mental health rehabilitation provider enrolled in the Medicaid Program as of February 28, 2012;

b. was enrolled with the statewide management organization for the Louisiana Behavioral Health Partnership (LBHP) as of March 1, 2012;

c. maintains continuous, uninterrupted accreditation through an LDH authorized accreditation organization;

d. maintained continuous, uninterrupted enrollment with the statewide management organization for the LBHP, and maintains continuous, uninterrupted enrollment with Medicaid managed care entities as of December 1, 2015;

NOTE: This exemption from licensure encompasses those mental health rehabilitation providers performing mental health rehabilitation services as previously regulated by the Medicaid Mental Health Rehabilitation Program. It does not include a mental health rehabilitation provider that performs other services that were not previously regulated under the Medicaid Mental Health Rehabilitation Program (e.g. addiction services, inpatient services, residential services). If a mental health rehabilitation provider performs behavioral health services in addition to those previously regulated under the Medicaid Mental Health Rehabilitation Program, the provider shall be licensed according to these licensing rules.

15. an individual licensed advanced practice registered nurse, or a group practice of licensed advanced practice registered nurses, providing services under the auspices of and pursuant to the scope of the individual's license or group's licenses;

16. rural health clinics (RHCs) providing RHC services under a license issued pursuant to R.S. 40:2197; and

17. facilities or services operated by the Department of Public Safety and Corrections, Corrections Services.

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### **§5603. Definitions**

*Abuse*—the infliction of physical or mental injury or the causing of the deterioration of an individual by means including, but not limited to, sexual *abuse*, or exploitation of funds or other things of value to such an extent that his health or mental or emotional well-being is endangered. Injury may include, but is not limited to: physical injury, mental disorientation, or emotional harm, whether it is caused by physical action or verbal statement or any other act or omission classified as abuse by Louisiana law, including, but not limited to, the *Louisiana Children's Code*.

*Accredited*—the process of review and acceptance by an accreditation body.

*Active Client*—a client that is being treated for addictive disorders at least every 90 days or a client that is being treated for mental health disorders at least every 180 days.

*Addictionologist*—a licensed physician who is either of the following:

1. certified by the American Board of Psychiatry and Neurology with a subspecialty in addiction psychiatry; or

2. certified by the American Board of Addiction Medicine.

*Addiction Outpatient Treatment Program (ASAM Level I)*—an outpatient program that offers comprehensive, coordinated, professionally directed and defined addiction treatment services that may vary in level of intensity and may be delivered in a wide variety of settings. Services are provided in regularly scheduled sessions of fewer than nine contact hours a week.

*Administrative Procedure Act (APA)*—R.S. 49:950 et seq.

*Admission*—the formal acceptance of an individual for assessment and/or therapeutic services provided by the BHS provider.

*Adolescent*—an individual 13 through 17 years of age.

*ADRA*—Addictive Disorder Regulatory Authority.

*Adult*—an individual 18 years of age or older.

*Advance Practice Registered Nurse (APRN)*—a licensed registered nurse who meets the criteria for an *advanced practice registered nurse* as established by the Louisiana State Board of Nursing and is licensed as an *APRN* and in good standing with the Louisiana State Board of Nursing.

*Ambulatory Detoxification with Extended on-site Monitoring (ASAM Level II-D)*—an organized outpatient addiction treatment service that may be delivered in an office setting or health care or behavioral health services provider by trained clinicians who provide medically supervised evaluation, detoxification and referral services. The services are designed to treat the client's level of clinical severity to achieve safe and comfortable withdrawal from mood-altering chemicals and to effectively facilitate the client's entry into ongoing treatment and recovery. The services are provided in conjunction with intensive outpatient treatment services (level II.1).

*ASAM*—American Society of Addiction Medicine.

*Authorized Licensed Prescriber*—a physician, physician assistant, nurse practitioner, or medical psychologist licensed in the state of Louisiana and with full prescriptive authority who is authorized by the BHS provider to prescribe treatment to clients of the specific BHS provider at which he/she practices.

*Behavioral Health Service (BHS) Provider or Provider*—a facility, agency, institution, person, society, corporation, partnership, unincorporated association, group, or other legal entity that provides behavioral health services, presents itself to the public as a *provider* of behavioral health services.

*Behavioral Health Services*—mental health services, substance abuse/addiction treatment services, or a combination of such services, for adults, adolescents and children. Such services may be provided in a residential setting, in a clinic setting on an outpatient basis, or in a home or community setting.

*Building and Construction Guidelines*—structural and design requirements applicable to the BHS provider which does not include occupancy requirements.

*Business Location*—the licensed location and office of the BHS provider that provides services only in the home and/or community.

*Case Management*—the coordination of services, agencies, resources, or people within a planned framework of action toward the achievement of goals established in the treatment plan that may involve liaison activities and collateral contracts with other providers.

*Certified Addiction Counselor (CAC)*—pursuant to R.S. 37:3387.1, any person who, by means of his specific knowledge acquired through formal education and practical experience, is qualified to provide addictive disorder counseling services and is certified by the ADRA as a *CAC*. The *CAC* may not practice independently and may not render a diagnostic impression.

*Change of Ownership (CHOW)*—the sale or transfer whether by purchase, lease, gift or otherwise of a BHS provider by a person/corporation of controlling interest that results in a change of ownership or control of 30 percent or greater of either the voting rights or assets of a BHS provider or that results in the acquiring person/corporation holding a 50 percent or greater interest in the ownership or control of the BHS provider.

*Child*—an individual under the age of 13.

*Client*—any person who has been accepted for treatment or services, including rehabilitation services, furnished by a provider licensed pursuant to this Chapter.

*Client Education*—information that is provided to clients and groups concerning alcoholism and other drug abuse, positive lifestyle changes, mental health promotion, suicide prevention and intervention, safety, recovery, relapse prevention, self-care, parenting, and the available services and resources. Educational group size is not restricted and may be offered as an outreach program.

*Client Record*—a single complete record kept by the provider which documents all treatment provided to the client and actions taken by the provider on behalf of the client. The record may be electronic, paper, magnetic material, film or other media.

*Clinical Services*—treatment services that include screening, assessment, treatment planning, counseling, crisis mitigation and education.

*Clinically Managed High-Intensity Residential Treatment Program (ASAM Level III.5)*—a residential program that offers continuous observation, monitoring, and treatment by clinical staff designed to treat clients experiencing substance-related disorders who have clinically-relevant social and psychological problems, such as criminal activity, impaired functioning and disaffiliation from mainstream values, with the goal of promoting abstinence from substance use and antisocial behavior and affecting a global change in clients' lifestyles, attitudes and values.

*Clinically Managed Low Intensity Residential Treatment Program (ASAM Level III.1)*—a residential program that offers at least five hours a week of a combination of low-intensity clinical and recovery-focused services for substance-related disorders. Services may include individual, group and family therapy, medication management and medication education, and treatment is directed toward applying recovery skills, preventing relapse, improving emotional functioning, promoting personal responsibility and reintegrating the client into the worlds of work, education and family life (e.g., halfway house).

*Clinically Managed Medium-Intensity Residential Treatment Program (ASAM Level III.3)*—a residential program that offers at least 20 hours per week of a combination of medium-intensity clinical and recovery-focused services in a structured recovery environment to support recovery from substance-related disorders; is frequently referred to as extended or long term care.

*Clinically Managed Residential Detoxification or Social Detoxification (ASAM LEVEL III.2D)*—an organized residential program utilizing 24 hour active programming and containment provided in a non-medical setting that provides relatively extended, sub-acute treatments, medication monitoring observation, and support in a supervised environment for a client experiencing non-life threatening withdrawal symptoms from the effects of alcohol/drugs and impaired functioning and who is able to participate in daily residential activities.

*Community Psychiatric Support and Treatment (CPST)*—goal-directed supports and solution-focused interventions intended to achieve identified goals or objectives as set forth in the client's individualized treatment plan. These supports and interventions are designed to improve behavioral health outcomes by utilizing evidence-based driven care.

*Compulsive Gambling*—persistent and recurrent maladaptive gambling behavior that disrupts personal, family, community, or vocational pursuits, and is so designated by a court, or diagnosed by a licensed physician or LMHP.

*Controlled Dangerous Substance*—any substance defined, enumerated, or included in federal or state statute or regulations or any substance which may hereafter be designated as a *controlled dangerous substance* by amendment or supplementation of such regulations or statute. The term shall not include distilled spirits, wine, malt beverages, or tobacco.

*Core Services*—the essential and necessary elements required of every BHS provider, when indicated, including assessment, orientation, client education, consultation with professionals, counseling services, referral, crisis mitigation, medication management, rehabilitation services, and treatment.

*Counselor in Training (CIT)*—a person currently registered with the Addictive Disorder Regulatory Authority (ADRA) and pursuing a course of training in substance abuse/addiction treatment counseling which includes

educational hours, practicum hours, and direct, on-site supervision.

*Crime of Violence*—an offense listed as a *crime of violence* in R.S. 14:2.

*Crisis Intervention*—face to face intervention provided to a client who is experiencing a psychiatric crisis. The services are designed to interrupt and/or ameliorate a crisis experience, via a preliminary assessment, immediate crisis resolution and de-escalation with referral and linkage to appropriate community services to avoid more restrictive levels of treatment.

*Crisis Mitigation Services*—a BHS provider's assistance to clients during a crisis that provides 24-hour on call telephone assistance to prevent relapse or harm to self or others, to provide referral to other services, and to provide support during related crises. Referral to 911 or a hospital's emergency department alone does not constitute crisis mitigation services.

*Deemed Status*—following the issuance of an initial license, the department's acceptance of the BHS provider's accreditation as compliance with this Chapter in lieu of on-site licensing surveys.

*Department*—the Louisiana Department of Health (LDH) or any office or agency thereof designated by the secretary to administer the provisions of this Chapter.

*Dependent Children*—any child/adolescent under the age of 18 that relies on the care of a parent or legal guardian.

*Diagnosis*—the act of identifying a disease or behavioral health disorder as defined by the current version of the Diagnostic and Statistical Manual (DSM). A *diagnosis* is determined by a qualified LMHP or physician based on comprehensive assessment of physical evidence (if related to diagnosis), signs and symptoms, clinical and psycho-social evidence, and individual/family history.

*Direct Care Staff*—any member of the staff, including an employee, contractor or volunteer, that provides the services delineated in the comprehensive treatment plan. Food services, maintenance, and clerical staff are not considered as *direct care staff*.

*Disaster or Emergency*—a local, community-wide, regional or statewide declared health crisis or event.

*Dispense or Dispensing*—the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient. *Dispense* necessarily includes a transfer of possession of a drug or device to the patient or the patient's agent.

*Dispensing Physician*—any physician in the state of Louisiana who is registered as a *dispensing physician* with the Louisiana State Board of Medical Examiners and who dispenses to his/her patients any drug, chemical, or medication, except a bona fide medication sample.

*Division of Administrative Law (DAL)*—the Louisiana Department of State Civil Service, Division of Administrative Law or its successor.

*Exploitation*—act or process to use (either directly or indirectly) the labor or resources of an individual or organization for monetary or personal benefit, profit, or gain.

*Facility Need Approval (FNA)*—the letter of approval from the Office of Behavioral Health which is required for licensure applicants for opioid treatment programs prior to applying for a BHS provider license or the letter of approval from the Facility Need Review Committee within the department which is required for licensure applicants for PSR or CPST services prior to applying for a BHS provider license.

*FDA*—the United States Food and Drug Administration.

*Financial Viability*—the provider seeking licensure is able to provide verification and continuous maintenance of all of the following pursuant to R.S. 40:2153:

1. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000;
2. general and professional liability insurance of at least \$500,000; and
3. workers' compensation insurance.

*Geographic Service Area*—the geographic area and location that a BHS provider's license allows services to be provided; for purposes of this licensing rule, geographic service area shall be as follows:

1. for providers operated by a human service district or authority, the geographic service area shall be the parishes and jurisdiction of the district or authority as defined in statute; and
2. for all other BHS providers, the geographic service area shall be the parish in which that provider has its business office and any contiguous parishes.

*Grievance*—a formal or informal written or verbal complaint that is made to the provider by a client or the client's family or representative regarding the client's care, abuse or neglect when the complaint is not resolved by staff present at the time of the complaint.

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

*High Risk Behavior*—includes substance abuse, gambling, violence, academic failure, delinquency behavior, and mental health issues such as depression, anxiety, and suicidal ideations.

*Human Services District or Authority*—an existing or newly created local governmental entity with local accountability and management of behavioral health and developmental disabilities services as well as any public health or other services contracted to the district by the department.

*Human Services Field*—an academic program with a curriculum content in which at least 70 percent of the required courses are in the study of behavioral health or human behavior.

*Intensive Outpatient Treatment Program (ASAM Level II.1)*—professionally directed assessment, diagnosis, treatment and recovery services provided in an organized non-residential treatment setting, including individual, group, family counseling and psycho-education on recovery as well as monitoring of drug use, medication management, medical and psychiatric examinations, crisis mitigation coverage and orientation to community-based support groups. Services may be offered during the day, before or after work or school, in the evening or on a weekend, and the program shall provide nine or more hours of structured programming per week for adults and six or more hours of structured programming per week for children/adolescents.

*LDH Authorized Accreditation Organization*—any organization authorized by LDH to accredit behavioral health providers.

*Level of Care*—intensity of services provided by the provider.

*Licensed Addiction Counselor (LAC)*—any person who, by means of his specific knowledge, acquired through formal education and practical experience, is qualified to provide addiction counseling services and is licensed by the ADRA as a licensed addiction counselor pursuant to R.S. 37:3387.

*Licensed Clinical Social Worker (LCSW)*—a person duly licensed to independently practice clinical social work under R.S. 37:2702 et seq.

*Licensed Marriage and Family Therapist (LMFT)*—a person to whom a license has been issued and who is licensed to perform the professional application of psychotherapeutic and family systems theories and techniques in the assessment and treatment of individuals, couples and families. An LMFT is not permitted to diagnose a behavioral health disorder under his/her scope of practice under state law.

*Licensed Mental Health Professional (LMHP)*—an individual who is currently licensed and in good standing in the state of Louisiana to practice within the scope of all applicable state laws, practice acts and the individual's professional license, as one of the following:

1. medical psychologist;
2. licensed psychologist;
3. licensed clinical social worker (LCSW);
4. licensed professional counselor (LPC);
5. licensed marriage and family therapist (LMFT);
6. licensed addiction counselor (LAC);
7. advance practice registered nurse (APRN); or
8. licensed rehabilitation counselor (LRC).

*Licensed Professional Counselor*—any person who holds himself out to the public for a fee or other personal gain, by any title or description of services incorporating the words “*licensed professional counselor*” or any similar term, and who offers to render professional mental health counseling services denoting a client-counselor relationship in which the counselor assumes responsibility for knowledge, skill and ethical considerations needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to practice mental health counseling.

*Licensed Psychologist*—any person licensed as a psychologist pursuant to R.S. 37:2352.

*Licensed Rehabilitation Counselor (LRC)*—any person who holds himself out to the public, for a fee or other personal gain, by any title or description of services incorporating the words “*licensed professional vocational rehabilitation counselor*” or any similar terms, and who offers to render professional rehabilitation counseling services denoting a client-counselor relationship in which the counselor assumes responsibility for knowledge, skill, and ethical considerations needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to engage in the practice of rehabilitation counseling. An *LRC* is also known as a licensed professional vocational rehabilitation counselor. An *LRC* is not permitted to provide assessment or treatment services for substance abuse/addiction, mental health or co-occurring disorders under his/her scope of practice under state law.

*Master's-Prepared*—an individual who has completed a master's degree in social work or counseling, but has not met the requirements for licensing by the appropriate state board.

*Medical Psychologist*—a licensed psychological practitioner who has undergone specialized training in clinical psychopharmacology and has passed a national proficiency examination in psychopharmacology approved by the Louisiana State Board of Medical Examiners.

*Medically Managed Residential Detoxification (Medically Supported Detoxification) (ASAM Level III.7D)*—a residential program that provides 24-hour observation, monitoring and treatment delivered by medical and nursing professionals to clients whose withdrawal signs and symptoms are moderate to severe and thus require residential care, but do not need the full resources of an acute care hospital.

*Medically Monitored Intensive Residential Treatment Program (ASAM Level III.7)*—a residential program that provides a planned regimen of 24-hour professionally directed evaluation, observation, medical monitoring and addiction treatment to clients with co-occurring psychiatric and substance disorders whose disorders are so severe that they require a residential level of care but do not need the full resources of an acute care hospital. The program provides 24 hours of structured treatment activities per week, including, but not limited to, psychiatric and substance use assessments, diagnosis treatment, and habilitative and rehabilitation services.

*Medication Administration*—preparation and/or giving of a legally prescribed individual dose of medication to a client by qualified staff including observation and monitoring of a client's response to medication.

*Mental Health Clinic*—an entity through which outpatient behavioral health services are provided, including screening, diagnosis, management or treatment of a mental disorder, mental illness, or other psychological or psychiatric condition or problem and 24-hour emergency services that are provided either directly or through formal affiliation with other agencies by an interdisciplinary team of mental health professionals and subordinates in accordance with a plan of treatment or under the direction of a psychiatrist or another qualified physician with psychiatric consultation.

*Mental Health Rehabilitation (MHR)*—an outpatient healthcare program provider of any psychosocial rehabilitation (PSR), crisis intervention (CI) and/or community psychiatric support and treatment (CPST) services that promotes the restoration of community functioning and well-being of an individual diagnosed with a mental health or mental or emotional disorder. The MHR provider utilizes evidence based supports and interventions designed to improve individual and community outcomes.

*Mental Health Rehabilitation Services (MHRS)*—outpatient services for adults with serious mental illness and children with emotional/behavioral disorders which are medically necessary to reduce the disability resulting from mental illness and assist in the recovery and resiliency of the recipient. These services are home and community-based and are provided on an as needed basis to assist recipients in coping with the symptoms of their illness. The intent of MHRS is to minimize the disabling effects on the individual's capacity for independent living and to prevent or limit the periods of inpatient treatment.

*Mental Health Service*—a service related to the screening, diagnosis, management, or treatment of a mental disorder, mental illness, or other psychological or psychiatric condition or problem.

*Minor*—any person under the age of 18.

*Mothers with Dependent Children Program or Dependent Care Program*—a program that is designed to provide substance abuse/addiction treatment to mothers with dependent children who remain with the parent while the parent is in treatment.

*Neglect*—the failure to provide the proper or necessary medical care, nutrition or other care necessary for a client's well-being or any other act or omission classified as *neglect* by Louisiana law.

*Non-Ambulatory*—unable to walk or accomplish mobility without assistance.

*Non-Prescription Medication*—medication that can be purchased over-the-counter without an order from a licensed practitioner.

*Nurse*—any registered *nurse* licensed and in good standing with the Louisiana State Board of Nursing or any

practical *nurse* licensed and in good standing with the Louisiana State Board of Practical Nurse Examiners.

*OBH*—the LDH Office of Behavioral Health.

*Off-Site*—a parent facility’s alternate program that provides behavioral health services on a routine basis in a geographic location that:

1. is detached from the parent provider;
2. is owned by, leased by or donated or loaned to the parent provider for the purpose of providing behavioral health services; and
3. has a sub-license issued under the parent facility’s license.

*OHSEP*—Office of Homeland Security and Emergency Preparedness.

*On Call*—immediately available for telephone consultation and less than one hour from ability to be on duty.

*On Duty*—scheduled, present and awake at the site to perform job duties.

*OPH*—the LDH Office of Public Health.

*Opioid Treatment Program*—a program that engages in medication-assisted opioid treatment of clients with an opioid agonist treatment medication.

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

*Outpatient Clinic*—a BHS provider that provides behavioral health services on-site at the provider’s geographic location but is not a residential provider.

*Outpatient Services*—behavioral health services offered in an accessible non-residential setting to clients whose physical and emotional status allows them to function in their usual environment.

*Parent Facility*—the main building or premises of a behavioral health service provider where services are provided on-site and administrative records are maintained.

*Partial Hospital Program (PHP-ASAM Level II.5)*—an organized outpatient service that delivers treatment to adolescents and adults. This level encompasses services that meet the multidimensional instability and complex needs of people with addiction and co-occurring conditions which do not require 24-hour care.

*Physical Environment*—the BHS provider’s licensed exterior and interior space where BH services are rendered.

*Physician*—an individual who is currently licensed and in good standing in the state of Louisiana to practice medicine in Louisiana and who is acting within the scope of all applicable state laws and the individual’s professional license.

*Physician Assistant*—an individual who is currently approved and licensed by and in good standing with the Louisiana State Board of Medical Examiners to perform

medical services under the supervision of a physician or group of physicians who are licensed by and registered with the Louisiana State Board of Medical Examiners to supervise a *physician assistant*, and who is acting within the scope of all applicable state laws and the individual’s professional license.

*Plan Review*—the process of obtaining approval for construction plans and specifications for the BHS provider.

*Prescription Medication*—medication that requires an order from a licensed practitioner and that can only be dispensed by a pharmacist on the order of a licensed practitioner or a dispensing physician and requires labeling in accordance with R.S. 37:1161 et seq.

*Professional Board(s)*—the entity responsible for licensure or certification for specific professions (e.g., nursing, counselors, social workers, physicians, etc.).

*Psychosocial Rehabilitation (PSR)*—face to face intervention with the client designed to assist with compensating for or eliminating functional deficits and interpersonal and/or environmental barriers associated with his/her mental illness.

*Qualifying Experience*—experience used to qualify for any position that is counted by using 1 year equals 12 months of full-time work.

*Recovery Focused Services*—services such as life skills training, job readiness, self-help meetings, parenting skills, training and recreation activities that should be coordinated with clinical services.

*Referral*—the BHS provider identifies needed services not provided by the provider and assists the client/family to optimally utilize the available support systems and community resources to meet the client’s needs.

*Registered Addiction Counselor (RAC)*—pursuant to R.S. 37:3387.2, any person who, by means of his/her specific knowledge acquired through formal education and practical experience, is qualified to provide addictive disorder counseling services and is registered by the ADRA as a RAC. The RAC may not practice independently and may not render a diagnostic impression.

*Rehabilitative Services*—services intended to promote the maximum reduction of symptoms and/or restoration of the client to his/her best age-appropriate functional level according to an individualized treatment plan.

*Residential Treatment Program*—a planned regimen of 24-hour professionally-directed evaluation, observation, monitoring and treatment of behavioral health conditions according to a treatment plan.

*Secretary*—the secretary of the Department of Health or his/her designee.

*Self-Administration*—the client’s preparation and direct application of a medication to his/her own body by injection, inhalation, ingestion or any other means.

*Shelter in Place*—a provider’s decision to stay on-site rather than evacuate during a disaster or emergency.

*Site/Premises*—a single identifiable geographical location owned, leased, or controlled by a provider where any element of treatment is offered or provided. Multiple buildings may be contained in the license only if they are connected by walk-ways and not separated by public streets, or have different geographical addresses.

*Staff*—individuals who provide services for the provider including employees, contractors, consultants and volunteers.

*State Opioid Authority (SOA)*—the agency or other appropriate officials designated by the governor or his/her designee, to exercise the responsibility and authority within the state for governing the treatment of opiate addiction with an opioid drug. The *state opioid authority* for the state of Louisiana is the Office of Behavioral Health.

*Stock Medication*—any medication obtained through a pharmacy or pharmacy contract that is not designated for a specific client.

*Substance Abuse/Addiction Treatment Service*—a service related to the screening, diagnosis, management, or treatment for the abuse of or addiction to controlled dangerous substances, drugs or inhalants, alcohol, problem gambling or a combination thereof; may also be referred to as *substance use disorder service*.

*Take-Home Dose(s)*—a dose of opioid agonist treatment medication dispensed by a dispensing physician or pharmacist to a client for unsupervised use, including for use on Sundays, state and federal holidays, and emergency closures per LDH directive.

*Therapeutic Counseling Services or Sessions*—individual or group therapeutic treatment that teaches skills to assist clients, families, or groups in achieving objectives through exploration of a problem and its ramifications, examination of attitudes and feelings, consideration of alternative solutions and decision making and problem solving. *Therapeutic counseling sessions* consist of no more than 15 clients and last at least 15 minutes.

*Treatment*—the application of planned procedures to identify and change patterns of behaviors that are maladaptive, destructive and/or injurious to health; or to restore appropriate levels of physical, psychological and/or social functioning.

*Treatment Plan*—the provider’s documentation of the client’s issues, needs, ongoing goals and objectives of care based on admission information and updated based on the client’s response to treatment.

*Unlicensed Professional (UP)*—for purposes of this Rule, any unlicensed behavioral health professional who cannot practice independently or without supervision by a LHMP. This includes but is not limited to CACs, RACs and unlicensed addiction counselors, social workers or psychologists.

*Volunteer*—an individual who offers services on behalf of the provider for the benefit of the provider willingly and without pay.

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## Subchapter B. Licensing

### §5605. General Provisions

A. All BHS providers shall be licensed by the LDH. It shall be unlawful to operate as a BHS provider without a license issued by the department.

B. A BHS provider license authorizes the provider to provide behavioral health services.

C. A BHS provider license shall:

1. be issued only for the person/entity and premises named in the license application;
2. be valid only for the BHS provider to which it is issued and only for one geographic address of that provider approved by LDH;
3. be valid for up to one year from the date of issuance, unless revoked, suspended, or modified prior to that date, or unless a provisional license is issued;
4. expire on the expiration date listed on the license, unless timely renewed by the BHS provider;
5. be invalid if sold, assigned, donated or transferred, whether voluntary or involuntary;
6. be posted in a conspicuous place on the licensed premises at all times;
7. be valid for only one geographic service area; and
8. enable the BHS provider to render delineated behavioral health services within its geographic service area as defined in Section 5603.

D. To be considered operational and retain licensed status, the BHS provider shall meet the following applicable operational requirements.

1. A BHS provider providing on-site services shall:
  - a. have established operational hours for a minimum of 20 hours per week, as indicated on the license application or change notification approved by LDH;
  - b. have services available and the required direct care staff on duty at all times during operational hours to meet the needs of the clients;
  - c. be able to accept referrals during operational hours; and
  - d. at any time that the BHS provider has an interruption in services or a change in the licensed location



due to an emergency situation, the provider shall notify the HSS no later than the next business day.

2. A BHS provider providing services only in the home and community shall:

- a. have a business location which conforms to the provisions of §5691.B of this Chapter;
- b. have at least one employee on duty at the business location during stated hours of operation; and
- c. have direct care staff and professional services staff employed and available to be assigned to provide services to persons in their homes or in the community upon referral for services.

E. The licensed BHS provider shall abide by any state and/or federal law, rule, policy, procedure, manual or memorandum pertaining to BHS providers.

F. Provider Names. A BHS provider is prohibited from using:

1. the same name as another provider;
2. a name that resembles the name of another provider;
3. a name that may mislead the client or public into believing it is owned, endorsed or operated by the state of Louisiana when it is not.

G. Off-Sites. A licensed BHS provider may have an off-site location with the approval of HSS that meets the following requirements.

1. The off-site may share a name with the parent facility if a geographic indicator (e.g. street, city or parish) is added to the end of the off-site name.
2. Each off-site shall be licensed as an off-site under the parent facility's license.
3. The off-site shall have written established operating hours.
4. The off-site shall operate within the same geographic service area, as defined in Section 5603, as the parent facility.
5. A residential off-site shall be reviewed under the plan review process.
6. An initial survey may be required prior to opening a residential off-site.
7. An off-site shall have staff to comply with all requirements in this Chapter and who are present during established operating hours to meet the needs of the clients.
8. Personnel records and client records may be housed at the parent facility.
9. Clients who do not receive all treatment services at an off-site may receive the services at the parent facility or be referred to another licensed provider that provides those services.

10. The off-site may offer fewer services than the parent facility and/or may have less staff than the parent facility.

11. The off-site together with the parent facility provides all core functions of a BHS provider and meets all licensing requirements of a BHS provider.

#### H. Plan Review

1. Plan review is required for outpatient clinics and residential BHS provider locations where direct care services or treatment will be provided, except for the physical environment of a substance abuse/addiction treatment facility or licensed mental health clinic at the time of this Chapter's promulgation.

2. Notwithstanding the provisions in this Section, any entity that will operate as a BHS provider and is required to go through plan review shall complete the plan review process and obtain approval for its construction documents in accordance with:

- a. R.S. 40:1574;
- b. the current *Louisiana Administrative Code* (LAC) provisions;
- c. OSFM requirements; and
- d. the requirements for the provider's physical environment in Subchapter H of this Chapter.

3. Any change in the type of the license shall require review for requirements applicable at the time of licensing change.

4. Upon plan review approval, the provider shall submit the following to the department:

- a. a copy of the final construction documents approved by OSFM; and
- b. OSFM's approval letter.

#### I. Waivers

1. The secretary of the LDH may, within his/her sole discretion, grant waivers to building and construction guidelines which are not part of or otherwise required under the provisions of the *LAC Title 51, Public Health Sanitary Code* or the OSFM.

2. In order to request a waiver, the provider shall submit a written request to HSS that demonstrates:

- a. how client safety and quality of care are not compromised by the waiver;
- b. the undue hardship imposed on the provider if the waiver is not granted; and
- c. the provider's ability to completely fulfill all other requirements of service.

3. The department will make a written determination of each waiver request.

4. Waivers are not transferable in a change of ownership or geographic change of location, and are subject

to review or revocation upon any change in circumstances related to the waiver.

J. The BHS provider shall maintain and make available to the department any information or records related to compliance with this Chapter.

K. The BHS provider shall permit designated representatives of the department, in performance of their duties, to:

1. inspect all areas of the BHS provider's operations; and
2. conduct interviews with any provider staff member, client or other person as necessary.

L. An owner, officer, member, manager, administrator, clinical director, medical director, managing employee or clinical supervisor is prohibited from being a BHS provider, who has been convicted of or entered a guilty or nolo contendere plea to a felony related to:

1. violence, abuse or neglect against a person;
2. sexual misconduct and/or any crimes that requires the person to register pursuant to the Sex Offenders Registration Act;
3. cruelty, exploitation or the sexual battery of a juvenile or the infirmed;
4. the misappropriation of property belonging to another person;
5. a crime of violence;
6. an alcohol or drug offense, unless the offender has:
  - a. completed his/her sentence, including the terms of probation or parole, at least five years prior to the ownership of or working relationship with the provider; and
  - b. been sober per personal attestation for the last two years;
7. possession or use of a firearm or deadly weapon;
8. Medicare or Medicaid fraud; or
9. fraud or misappropriation of federal or state funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2162.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1687 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1380 (July 2017), LR 46:588 (April 2020).

#### **§5606. License Restrictions**

A. A BHS provider shall provide only those services or modules:

1. specified on its license; and
2. only to clients residing in the provider's designated geographic service area or at the provider's licensed location.

B. A BHS provider may apply for a waiver from the Health Standards Section (HSS) to provide home or community services to a client residing outside of the provider's designated geographic service area only under the following conditions:

1. A waiver may be granted by HSS if there is no other BHS provider in the client's service area that is licensed and that has the capacity to provide the required services to the client.
2. The provider shall submit a written waiver request to HSS.
3. The written waiver request shall be specific to one client and shall include the reasons for which the waiver is requested.
4. HSS shall approve or deny the waiver request within 30 days of receipt of the written waiver request, and shall provide written notice to the provider via mail or electronic transmission (email or facsimile).
5. The provider shall notify the client of HSS's decision.

C. The provider shall not provide services to a client residing outside of the provider's designated geographic service area unless the provider has received a written waiver request approval from HSS.

D. There is no appeal from a decision by HSS to deny a waiver request under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2162.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 46:588 (April 2020).

#### **§5607. Initial Licensure Application Process**

A. Any entity, organization or person seeking to operate as a BHS provider shall submit a completed initial license application packet to the department for approval. Initial BHS provider licensure application packets are available from HSS.

B. The completed initial licensing application packet shall include:

1. a completed BHS provider licensure application;
2. the non-refundable licensing fee established by statute;
3. the plan review approval letter from OSFM, if applicable;
4. the on-site inspection report with approval for occupancy by the OSFM, if applicable;
5. the health inspection report with recommendation for licensure from the Office of Public Health;
6. a current (within 90 days prior to the submission of the application packet) statewide criminal background check, including sex offender registry status, on all owners and managing employees;

7. except for governmental entities, proof of financial viability;

8. an organizational chart and names, including position titles of key administrative personnel and governing body;

9. a legible floor sketch or drawing of the premises to be licensed;

10. a letter of intent detailing the type of BHS provider operated by the licensee and the types of services or specializations that will be provided by the BHS provider (e.g. addiction treatment program, mental health program, residential provider, outpatient provider, opioid treatment program);

11. if operated by a corporate entity, such as a corporation or a limited liability company, current proof of registration and status with the Louisiana Secretary of State; and

12. any other documentation or information required by the department for licensure including, but not limited to, documentation for opioid treatment programs, such as a copy of the OBH FNA letter.

#### C. Deadline for Submitting Initial Licensure Application for Unlicensed Agencies

1. Any unlicensed agency that is a provider of any psychosocial rehabilitation, crisis intervention and/or community psychiatric support and treatment services prior to the promulgation of this Rule and is required to be licensed as a BHS provider has 180 days from the promulgation of this Rule to submit an initial licensing application packet to HSS.

2. Any such unlicensed agency may continue to operate without a license during the licensing process until the department acts upon the initial license application and any and all appeal processes associated with the initial licensure is complete or the delay for taking an appeal has expired, whichever is later.

3. The department has the authority to issue a cease and desist order and pursue legal action for failure to comply with the deadline for submitting an initial licensure application. The cease and desist order shall require immediate discharge of all current clients and no new clients shall be admitted.

D. If the initial licensing packet is incomplete, the applicant shall:

1. be notified of the missing information; and
2. have 90 days from receipt of the notification to submit the additional requested information; if not submitted, the application shall be closed.

E. Once the initial licensing application is approved by the department, notification of such approval shall be forwarded to the applicant.

F. The applicant shall notify the department of initial licensing survey readiness within the required 90 days of

receipt of application approval. If an applicant fails to notify the department of initial licensing survey readiness within 90 days, the application shall be closed.

G. If an initial licensing application is closed, an applicant who seeks to operate as a BHS provider shall submit:

1. a new initial licensing packet;
2. non-refundable licensing fee; and
3. facility need approval, if applicable

H. Applicants shall be in compliance with all applicable federal, state, departmental or local statutes, laws, ordinances, rules, regulations and fees before the BHS provider will be issued an initial license to operate.

I. A BHS provider is prohibited from providing behavioral health services to clients during the initial application process and prior to obtaining a license, unless the applicant qualifies as one of the following facilities:

1. a licensed mental health clinic;
2. a licensed substance abuse/addiction treatment facility; or
3. an agency that is a provider of psychosocial rehabilitation, community psychiatric support and treatment, and/or crisis intervention services.

J. Off-Sites. In order to operate an off-site, the provider shall submit:

1. a request for opening an off-site location;
2. a completed application, including established operational hours;
3. payment of applicable fees;
4. current on-site inspection reports from OSFM and OPH; and
5. for any residential off-site, plan review approval from OSFM.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1688 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1381 (July 2017).

**§5615. Renewal of License**

A. A BHS provider license shall expire on the expiration date listed on the license, unless timely renewed by the BHS provider.

B. To renew a license, the BHS provider shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet shall include:

1. the license renewal application;
2. a current OSFM report (for on-site and residential services);
3. a current OPH inspection report (for on-site and residential services);
4. the non-refundable license renewal fee as established by statute;
5. except for governmental entities, proof of financial viability;
6. payment of any outstanding fees, fines or monies owed to the department; and
7. any other documentation required by the department.

C. The department may perform an on-site survey and inspection of the provider upon renewal.

D. Failure to submit a completed license renewal application packet prior to the expiration of the current license may result in the voluntary non-renewal of the BHS provider license upon the license expiration.

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

F. If a licensed BHS provider has been issued a notice of license revocation or suspension, and the provider's license is due for annual renewal, the department shall deny the license renewal application and shall not issue a renewal license.

**G. Voluntary Non-Renewal of a License**

1. If a provider fails to timely renew its license, the license:

- a. expires on the license's expiration date; and
- b. is considered a non-renewal and voluntarily surrendered.

2. There is no right to an administrative reconsideration or appeal for a voluntary surrender or non-renewal of the license.

3. If a provider fails to timely renew its license, the provider shall immediately cease providing services. If the provider is actively treating clients, the provider shall:

a. within two days of voluntary non-renewal, provide written notice to HSS of the number of clients receiving treatment;

b. within two days of voluntary non-renewal, provide written notice to each active client's prescribing physician and to every client, or, if applicable, the client's parent or legal guardian, of the following:

- i. voluntary non-renewal of license;
- ii. date of closure; and
- iii. plans for the transition of the client;

c. discharge and transition each client in accordance with this Chapter within 15 days of the license's expiration date; and

d. provide written notice to HSS of the location where client and personnel records will be stored and the name, address and telephone number of the person responsible for the records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1691 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1381 (July 2017).

**§5643. Core Staffing Personnel Qualifications and Responsibilities**

A. All BHS providers shall abide by the following minimum core staffing requirements and shall meet the additional requirements. All BHS providers shall also meet the additional requirements for each specialized program or module pursuant to the provisions of this Chapter as applicable to each BHS provider.

B. Professional Staffing Standards. All BHS providers shall, at a minimum, have the following staff:

1. a medical director who:

a. is a physician, or an advanced practice registered nurse, or a medical psychologist, with a current, unrestricted license to practice in the state of Louisiana with two years of qualifying experience in treating psychiatric disorders;

EXCEPTION: Mental health rehabilitation providers exclusively providing the evidence-based practice multi-systemic therapy (MST), functional family therapy (FFT), or Homebuilders® are excluded from the requirement of having a medical director. Such shall have a clinical director in accordance with §5643.B.2.

b. has the following assigned responsibilities:

i. ensures that the necessary medical services are provided to meet the needs of the clients;

ii. provides oversight for provider policy/procedure, client plans of care (POCs) and staff regarding the medical needs of the clients according to the current standards of medical practice;

iii. directs the specific course of medical treatment for all clients;

iv. reviews reports of all medically related accidents/incidents occurring on the premises and identify hazards to the administrator;

v. participates in the development and implementation of policies and procedures for the delivery of services;

vi. periodically reviews delivery of services to ensure care meets the current standards of practice; and

vii. participates in the development of new programs and modifications;

c. has the following responsibilities or designates the duties to a qualified practitioner:

i. writes the admission and discharge orders;

ii. writes and approves all prescription medication orders;

iii. develops, implements and provides education regarding the protocols for administering prescription and non-prescription medications on-site;

iv. provides consultative and on-call coverage to ensure the health and safety of clients;

v. collaborates with the client's primary care physician and psychiatrists as needed for continuity of the client's care; and

d. may also fulfill the role of the clinical director, if the individual is qualified to perform the duties of both roles;

2. a clinical director who, for those mental health rehabilitation providers which exclusively provide the evidenced-based practice multi-systemic therapy (MST), functional family therapy (FFT) or Homebuilders®:

a. is a licensed psychiatrist, psychologist, clinical social worker, professional counselor (LPC) or marriage and family therapist (LMFT) with a minimum of two years qualifying experience in treating psychiatric disorders and who maintains a current, unrestricted license to practice in the state of Louisiana;

b. has the following assigned responsibilities:

i. ensures that the necessary services are provided to meet the needs of the clients;

ii. provides oversight for provider policy/procedure, client plans of care (POCs) and staff regarding the clinical needs of the clients according to the current standards of clinical practice;

iii. directs the specific course of clinical treatment for all clients;

iv. reviews reports of all accidents/incidents occurring on the premises and identifies hazards to the administrator;

v. participates in the development and implementation of policies and procedures for the delivery of services;

vi. periodically reviews delivery of services to ensure care meets the current standards of practice; and

vii. participates in the development of new programs and modifications; and

c. has the following responsibilities or designates the duties to a qualified practitioner:

i. provides consultative and on-call coverage to ensure the health and safety of clients; and

ii. collaborates with the client's primary care physician and psychiatrist as needed for continuity of the client's care;

3. an administrator who:

a. has either a bachelor's degree from an accredited college or university or one year of qualifying experience that demonstrates adequate knowledge, experience and expertise in business management;

b. is responsible for the on-site day to day operations of the BHS provider and supervision of the

overall BHS provider's operation commensurate with the authority conferred by the governing body; and

c. shall not perform any programmatic duties and/or make clinical decisions unless licensed to do so;

4. a clinical supervisor who, with the exception of opioid treatment programs:

a. is an LMHP that maintains a current and unrestricted license with its respective professional board or licensing authority in the state of Louisiana;

b. shall be on duty and on call as needed;

c. has two years of qualifying clinical experience as an LMHP in the provision of services provided by the provider;

d. shall have the following responsibilities:

i. provide supervision utilizing evidenced-based techniques related to the practice of behavioral health counseling;

ii. serve as resource person for other professionals counseling persons with behavioral health disorders;

iii. attend and participate in care conferences, treatment planning activities, and discharge planning;

iv. provide oversight and supervision of such activities as recreation, art/music or vocational education;

v. function as client advocate in treatment decisions;

vi. ensure the provider adheres to rules and regulations regarding all behavioral health treatment, such as group size, caseload, and referrals;

vii. provide only those services that are within the person's scope of practice; and

viii. assist the clinical director and/or medical director and governing body with the development and implementation of policies and procedures;

5. nursing staff who, for those BHS providers whose services include medication management and/or addiction treatment services,:

a. provide the nursing care and services under the direction of a registered nurse necessary to meet the needs of the clients; and

b. have a valid current nursing license in the State of Louisiana.

i. A BHS provider with clients who are unable to self-administer medication shall have a sufficient number of nurses on staff to meet the medication needs of its clients.

ii. Nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement

C. Other Staffing Requirements. The provider shall abide by the following staffing requirements that are applicable to its provider:

1. Licensed Mental Health Professionals

a. The provider shall maintain a sufficient number of LMHPs, who are licensed to practice independently in the state of Louisiana to diagnose and treat mental illness and/or substance abuse, to meet the needs of the provider's clients.

b. The LMHP has the following responsibilities:

i. provide direct care to clients utilizing the core competencies of addiction counseling and/or mental health counseling and may serve as primary counselor to specified caseload;

ii. serve as resource person for other professionals in their specific area of expertise;

iii. attend and participate in individual care conferences, treatment planning activities, and discharge planning;

iv. provide on-site and direct professional supervision of any unlicensed professional or inexperienced professional;

v. function as the client's advocate in all treatment decisions affecting the client; and

vi. prepare and write notes or other documents related to recovery (e.g. assessment, progress notes, treatment plans, discharge, etc.).

2. Unlicensed Professionals

a. The provider shall maintain a sufficient number of unlicensed professionals (UPs) to meet the needs of its clients.

b. The UP shall:

i. provide direct care to clients and may serve as primary counselor to specified caseload under clinical supervision;

ii. serve as resource person for other professionals and paraprofessionals in their specific area of expertise;

iii. attend and participate in individual care conferences, treatment planning activities and discharge planning;

iv. function as the client's advocate in all treatment decisions affecting the client; and

v. prepare and write notes or other documents related to recovery (e.g. assessment, progress notes, treatment plans, etc.).

3. Direct Care Aides

a. A residential provider shall have a sufficient number of direct care aides to meet the needs of the clients.

b. A provider that provides outpatient services shall use direct care aides as needed.

c. Direct care aides shall meet the following minimum qualifications:

i. has obtained a high school diploma or equivalent;

ii. be at least 18 years old in an adult provider and 21 years old in a provider that treats children and/or adolescents.

d. Direct care aides shall have the following responsibilities:

i. ensure a safe environment for clients;

ii. exercise therapeutic communication skills;

iii. take steps to de-escalate distressed clients;

iv. observe and document client behavior;

v. assist with therapeutic and recreational activities;

vi. monitor clients' physical well-being;

vii. provide input regarding client progress to the interdisciplinary team;

viii. oversee the activities of the facility when there is no professional staff on duty;

ix. possess adequate orientation and skills to assess situations related to relapse and to provide access to appropriate medical care when needed; and

x. function as client advocate.

4. Volunteers

a. If a BHS provider utilizes volunteers, the provider shall ensure that each volunteer is:

i. supervised to protect clients and staff;

ii. oriented to the provider, job duties, and other pertinent information;

iii. trained to meet requirements of duties assigned;

iv. given a written job description or written agreement;

v. identified as a volunteer;

vi. trained in privacy measures;

vii. required to sign a written confidentiality agreement; and

viii. required to submit to a statewide criminal background check by an agency authorized by the Office of the State Police to conduct criminal background checks prior to providing direct care.

b. If a BHS provider utilizes student volunteers, it shall ensure that each student volunteer:

i. has current registration with the applicable Louisiana professional board, when required, and is in good standing at all times that is verified by the provider;

ii. is actively pursuing a degree in a human service field or professional level licensure or certification at all times;

iii. provides direct client care utilizing the standards developed by the professional board;

iv. provides care only under the direct supervision of the appropriate supervisor; and

v. provides only those services for which the student has been trained and deemed competent to perform.

c. A volunteer's duties may include:

i. direct care activities only when qualified provider personnel are present;

ii. errands, recreational activities; and

iii. individual assistance to support services.

d. The provider shall designate a volunteer coordinator who:

i. has the experience and training to supervise the volunteers and their activities; and

ii. is responsible for selecting, evaluating and supervising the volunteers and their activities.

#### 5. Care Coordinator

a. The provider shall ensure that each care coordinator:

i. has a high school diploma or equivalent;

ii. is at least 18 years old in an adult provider and 21 years old in provider that treats children and/or adolescents; and

iii. has been trained to perform assigned job duties.

E. Multiple Positions. If a BHS provider employs a staff member in more than one position, the provider shall ensure that:

1. the person is qualified to function in both capacities; and

2. one person is able to perform the responsibilities of both jobs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1700 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1383 (July 2017).

### §5645. Personnel Records

A. A BHS provider shall maintain a personnel file for each employee and direct care staff member. Each record shall contain:

1. the application for employment and/or resume, including contact information and employment history for the preceding five years, if applicable;

2. reference letters from former employer(s) and personal references or written documentation based on telephone contact with such references;

3. any required medical examinations or health screens;

4. evidence of current applicable credentials/certifications for the position;

5. annual performance evaluations;

6. personnel actions, other appropriate materials, reports and notes relating to allegations of abuse, neglect and misappropriation of clients' funds;

7. the employee's starting and termination dates;

8. proof of attendance of orientation, training and in-services;

9. results of statewide criminal background checks by an agency authorized by the Office of State Police to conduct criminal background checks on all direct care staff;

10. job descriptions and performance expectations;

11. prior to hiring the unlicensed direct care staff member, and once employed, at least every six months thereafter or more often, the provider shall have documentation of reviewing the Louisiana state nurse aide registry and the Louisiana direct service worker registry to ensure that each unlicensed direct care staff member does not have a negative finding on either registry; and

12. a written confidentiality agreement signed by the staff upon hire and subsequently per provider's policy.

B. A BHS provider shall retain personnel files for at least three years following termination of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1702 (September 2015).



2. that is at least 25 square feet per client and no less than 150 square feet, exclusive of bedrooms or sleeping areas, bathrooms, areas restricted to staff, laundry rooms and office areas; and

3. that contains a sufficient number of tables and chairs for eating meals.

C. The facility's physical environment shall have a designated room(s) or area(s) to allow for private and group discussions and counseling sessions that:

1. safely accommodates the clients being served;
2. has adequate space to meet the client's needs in the therapeutic process; and
3. is exclusive of bedrooms, bathrooms and common areas.

D. Client Bedrooms. The provider shall ensure that each client bedroom in the facility:

1. contains at least 80 square feet for single bedrooms, exclusive of fixed cabinets, fixtures, furniture and equipment;
2. contains at least 60 square feet per bed for multi-bedrooms, exclusive of fixed cabinets, fixtures, and equipment;
3. has at least a 7 1/2 foot ceiling height over the required area except in a room with varying ceiling height, only portions of the room with a ceiling height of at least 7 1/2 feet are allowed in determining usable space;
4. has at least 2 foot minimum clearance at the foot of each bed; and
5. contains no more than four beds;

EXCEPTION: Providers licensed as substance abuse/addiction treatment residential facilities at the time this Rule is promulgated that have more than four clients per bedroom, may maintain the existing bedroom space that allows more than four clients per bedroom provided that the bedroom space has been previously approved by a LDH waiver. This exception applies only to the currently licensed physical location.

6. has at least three feet between beds;
7. has designated storage space for the client's:
  - a. clothes;
  - b. toiletries; and
  - c. personal belongings;
8. has a screened window that opens to the outside;
9. has sheets, pillow, bedspread and blankets for each client that are clean and in good repair and discarded when no longer usable;
10. has sufficient headroom to allow the occupant to sit up; and
11. contains a bed(s) that:
  - a. is longer than the client is tall;

#### **§5669. Interior Space for Residential Facilities**

A. The provider shall evaluate each client's physical, emotional and medical needs and the physical environment of the facility in order to ensure the safety and well-being of all admitted clients.

B. Common Area. The facility's physical environment shall have a designated space accessible to the clients:

1. to be used for group meetings, dining, visitation, leisure and recreational activities;

- b. is no less than 30 inches wide;
- c. is of solid construction;
- d. has a clean, comfortable, nontoxic fire retardant mattress; and
- e. is appropriate to the size and age of the client.

E. The provider shall:

- 1. prohibit any client over the age of five years to occupy a bedroom with a member of the opposite sex who is not in the client's immediate family;
- 2. require separate bedrooms and bathrooms for adults, and children/adolescents, except in the Mothers with Dependent Children Program, and for males and females;
- 3. prohibit adults and children/adolescents from sharing the same space, except in the Mothers with Dependent Children Program;
- 4. require sight and sound barriers between adult area/wing and the adolescent area/wing;
- 5. for facilities with child/adolescent clients, ensure that the age of clients sharing bedroom space is not greater than four years in difference unless contraindicated based on diagnosis, the treatment plan or the behavioral health assessment of the client;
- 6. ensure that each client has his/her own bed;
- 7. prohibit mobile homes from being used as client sleeping areas; and
- 8. prohibit bunk beds in the following programs:
  - a. clinically managed residential detoxification (ASAM level III.2D);
  - b. Clinically Managed High Intensity Residential Program (ASAM level III.5);
  - c. medically monitored intensive residential treatment (ASAM level III.7); and
  - d. medically monitored residential detoxification (ASAM level III.7D).

F. Bathrooms

- 1. In accordance with the Louisiana state *Sanitary Code*, a provider shall have bathrooms equipped with lavatories, toilets, tubs and/or showers for use by the clients located within the provider and the following:
  - a. shatterproof mirrors secured to the walls at convenient heights; and
  - b. other furnishings necessary to meet the clients' basic hygienic needs.
- 2. The provider shall have the ratio of lavatories, toilets, tubs and/or showers to clients required by the Louisiana state *Sanitary Code*.

3. A provider shall have at least one separate toilet, lavatory, and bathing facility for the staff located within the provider.

4. In a multi-level facility, there shall be at least one a full bathroom with bathing facility reserved for client use on each client floor.

5. Each bathroom shall be located so that it opens into a hallway, common area or directly into the bedroom. If the bathroom only opens directly into a bedroom, it shall be for the use of the occupants of that bedroom only.

6. The provider shall ensure that each client has personal hygiene items, such as a toothbrush, toothpaste, shampoo, and soap as needed.

H. Kitchen

1. If a BHS provider prepares meals on-site, the BHS provider shall have a full service kitchen that meets the requirements of the Louisiana state *Sanitary Code* and:

- a. includes a cooktop, oven, refrigerator, freezer, hand washing station, storage and space for meal preparation;
- b. is inspected and approved annually by OPH;
- c. has the equipment necessary for the preparation, serving, storage and clean-up of all meals regularly served to all of the clients and staff; and
- d. contains trash containers covered and made of metal or United Laboratories-approved plastic;

2. A BHS provider that does not prepare meals on-site shall have a nourishment station or a kitchenette, that includes:

- a. a sink;
- b. a work counter;
- c. a refrigerator;
- d. storage cabinets;
- e. equipment for preparing hot and cold nourishments between scheduled meals; and
- f. space for trays and dishes used for nonscheduled meal service.

I. Laundry. The provider shall have a laundry space complete with a ratio of 1:20 washers and dryers to meet the needs of the clients.

J. Staff Quarters. The provider utilizing live-in staff shall provide adequate, separate living space with a private bathroom for staff usage only.

K. The provider shall ensure that all closets, bedrooms and bathrooms are equipped with doors that can be readily opened from both sides.

L. The provider shall ensure that outside doors and windows prohibit an outsider from gaining unauthorized ingress.

## Subchapter J. Safety and Emergency Preparedness

### §5673. Infection Control

A. The provider shall provide a sanitary environment to avoid source(s) and transmission of infections and communicable diseases.

B. The provider shall have an active Infection Control Program that requires:

1. reporting of infectious disease in accordance with CDC and state OPH guidelines;
  2. monitoring of:
    - a. the spread of infectious disease;
    - b. hand washing;
    - c. staff and client education; and
    - d. incidents of specific infections in accordance with OPH guidelines;
  3. corrective actions; and
  4. a designated infection control coordinator who:
    - a. develops and implements policies and procedures related to infection control; and
    - b. has training and/or experience in infection control;
  5. universal precautions; and
  6. strict adherence to all sanitation requirements.
- C. The provider shall maintain a clean and sanitary environment and shall ensure that:
1. supplies and equipment are available to staff;
  2. consistent ongoing monitoring and cleaning of all areas of the provider;

3. methods used for cleaning, sanitizing, handling and storing of all supplies and equipment prevent the transmission of infection;

4. procedures are posted for sanitizing kitchen, kitchen, bathroom and laundry areas in accordance with the *Louisiana Sanitary Code*; and

5. storage, handling, and removal of food and waste will not spread disease, cause noxious odor, or provide a breeding place for pests.

D. The provider may enter into a written contract for housekeeping services necessary to maintain a clean and neat environment.

E. The provider shall have an effective pest control plan.

F. After discharge of a client, the residential provider shall:

1. clean the bed, mattress, cover, bedside furniture and equipment;

2. ensure that mattresses, blankets and pillows assigned to clients are in sanitary condition; and

3. ensure that the mattress, blankets and pillows used for a client with an infection is sanitized before assigned to another client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1709 (September 2015).

**§5677. Inactivation of License due to a Declared  
Disaster or Emergency**

A. A licensed BHS provider located in a parish which is the subject of an executive order or proclamation of emergency or disaster issued, may seek to inactivate its license for a period not to exceed one year, provided that the provider:

1. submits written notification to HSS within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the BHS provider has experienced an interruption in the provisions of services and an inability to resume services as a result of events that are the subject of such executive order or proclamation of emergency or;

b. the BHS provider intends to resume operation as a BHS provider in the same service area;

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

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

e. lists the clients and the location of the discharged or transferred clients;

2. submits documentation of the provider's interruption in services and inability to resume services as a result of the emergency or disaster;

3. resumes operating as a BHS provider in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with state statute;

4. continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil fines; and

5. continues to submit required documentation and information to the department.

B. Upon receiving a completed request to inactivate a BHS provider license, the department may issue a notice of inactivation of license to the BHS provider.

C. In order to obtain license reinstatement, a BHS provider with a department-issued notice of inactivation of license shall:

1. submit a written license reinstatement request to HSS 60 days prior to the anticipated date of reopening that includes:

a. the anticipated date of opening, which is within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with state statute;

b. a request to schedule a licensing survey; and

c. a completed licensing application with appropriate licensing fees and other required documents, if applicable;

2. submit written approvals for occupancy from OSFM and OPH.

D. Upon receiving a completed written request to reinstate a BHS provider license, the department shall conduct a licensing survey.

E. If the BHS provider meets the requirements for licensure and the requirements under this subsection, the department shall issue a notice of reinstatement of the BHS provider license.

F. During the period of inactivation, the department prohibits change of ownership of the provider.

G. The provisions of this Section shall not apply to a BHS provider which has voluntarily surrendered its license.

H. Failure to request inactive status when the license becomes nonoperational due to a disaster or emergency and/or failure to comply with any of the provisions of this subsection shall be deemed a voluntary surrender of the BHS provider license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1711 (September 2015).

**§5691. Behavioral Health Service Providers with a  
Mental Health Program that Provide Services  
Only in the Home and Community**

A. The BHS provider with only a home and community-based mental health program shall notify HSS of the parishes in the state of Louisiana in which it will provide services. The parishes shall be contiguous.

B. Business Office. The provider offering behavioral health services only in the home or community shall have a business location that:

1. is part of the licensed location of the BHS provider;
2. is located in a parish where the provider offers services;
3. has at least one employee on duty in the business office during hours of operation listed on the approved license application;
4. stores the administrative files, including governing body documents, contracts to which the provider is a party, insurance policies, budgets and audit reports, personnel files, client records, policies and procedures, and other files or documents the BHS provider is required to maintain; and
5. is not located in an occupied personal residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1713 (September 2015).

**Subchapter M. Additional  
Requirements for Substance  
Abuse/Addiction Treatment Programs**

NOTE: In addition to the requirements applicable to all BHS providers, a provider that provides substance abuse/addiction treatment services shall meet the requirements of Subchapter M.

### **§5695. Addiction Outpatient Treatment Program (ASAM Level I)**

#### **A. The BHS provider shall:**

1. only admit clients clinically appropriate for ASAM level I into this program;
2. provide fewer than nine contact hours per week for adults and fewer than six hours per week for children/adolescents; and
3. review and update the treatment plan in collaboration with the client as needed or at a minimum of every 90 days.

#### **B. Staffing. The provider shall ensure that:**

1. there are physician services available as needed for the management of psychiatric and medical needs of the clients;
  - a. physician services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement;
2. there is a clinical supervisor available on site for supervision as needed, and available on call at all times;
3. there is at least one LMHP or UP on-site when clinical services are being provided;
4. each LMHP/UP's caseload does not exceed 1:50 active clients; and
5. there are nursing services available as needed to meet the nursing needs of the clients.
  - a. Nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1714 (September 2015).

### **§5697. Intensive Outpatient Treatment Programs (ASAM Level II.1)**

#### **A. The provider shall:**

1. only admit clients clinically appropriate for ASAM level II.1 into this program;
2. maintain a minimum of 9 contact hours per week for adults, at a minimum of three days per week, with a maximum of 19 hours per week;
3. maintain a minimum of 6 hours per week for children/adolescents, at a minimum of three days per week, with a maximum of 19 hours per week; and

4. review and update the treatment plan in collaboration with the client as needed or at a minimum of every 30 days.

#### **B. Staffing. The provider shall ensure that:**

1. a physician is on site as needed for the management of psychiatric and medical needs and on call 24 hours per day, seven days per week;
2. there is a clinical supervisor on-site 10 hours a week and on call 24 hours per day, seven days per week;
3. there is at least one LMHP or UP on site when clinical services are being provided;
4. each LMHP/UP caseload does not exceed 1:25 active clients; and
5. there are nursing services available as needed to meet the nursing needs of the clients.

a. Nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1714 (September 2015).

### **§5698. Partial Hospitalization Services (substance abuse only) (ASAM Level II.5)**

#### **A. The provider shall:**

1. only admit clients clinically appropriate for ASAM level II.5 into this program;
  - a. services may be offered during the day or evening hours, before or after work or on weekends, while also allowing the patient to apply their new skills and strategies in the community;
2. maintain a minimum of 20 contact hours per week for adults, at a minimum of three days per week;
3. maintain a minimum of 20 hours per week for children/adolescents, daily or as specified in the patient's treatment plan and may occur during school hours;

a. adolescents shall have access to educational services; or

b. the provider shall be able to coordinate with the school system to ensure that the adolescent's educational needs are met; and

4. review and update the treatment plan in collaboration with the client as needed or at a minimum of every 30 days.

#### **B. Staffing. The provider shall ensure that:**

1. a licensed physician is on site as needed for the management of psychiatric and medical needs and on call 24 hours per day, seven days per week;



2. there is a clinical supervisor on-site 10 hours a week and on call 24 hours per day, seven days per week;
3. there is at least one LMHP or UP on site when clinical services are being provided;
4. each LMHP/UP caseload does not exceed 1:25 active clients; and
5. there are nursing services available as needed to meet the nursing needs of the clients.

a. Nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1387 (July 2017).

**§5699. Ambulatory Detoxification with Extended On-Site Monitoring (ASAM Level II-D) (Adults Only)**

A. The BHS provider shall:

1. only admit clients clinically appropriate for ASAM level II-D into this program;
2. review and update the treatment plan in collaboration with the client as needed or at a minimum of every 30 days; and
3. ensure that level II-D services are offered in conjunction with intensive outpatient treatment services (ASAM level II.1);

B. Staffing. The provider shall ensure that:

1. a physician is on-site at least 10 hours per week during operational hours and on-call 24 hours per day, seven days per week;
2. there is a LMHP or UP on site 40 hours per week;
3. each LMHP/UP caseload does not exceed 1:25 active clients;
4. there is a licensed nurse on call 24 hours per day, seven days per week and on site no less than 40 hours a week; and
5. there is a RN on-site as needed to perform nursing assessments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1715 (September 2015).

**§5701. Clinically Managed Low-Intensity Residential Treatment Program (ASAM Level III.1)**

A. The BHS provider shall:

1. only admit clients clinically appropriate for ASAM level III.1 into its Clinically Managed Low-Intensity Residential Treatment Program;
2. offer at least five hours per week of a combination of low-intensity clinical and recovery focused services, including:
  - a. individual therapy;
  - b. group and family therapy;
  - c. medication management; and
  - d. medication education;
3. ensure that the treatment plan is reviewed in collaboration with the client at least every 90 days;
4. provide case management that is:
  - a. provided by a care coordinator who is on duty as needed; or
  - b. assumed by the clinical staff.

B. Staffing

1. The provider shall have a clinical supervisor available for clinical supervision and by telephone for consultation.

2. There shall be at least one LMHP or UP on duty at least 40 hours a week.

3. Adult Staffing Patterns

a. The LMHP/UP caseload shall not exceed 1:25 active clients.

b. There shall be at least one direct care aide on duty during each shift.

4. Children/Adolescent Staffing Patterns

a. The UP caseload shall not exceed 1:8 active clients.

b. The provider shall have at least two direct care aides on duty during each shift.

c. There shall be a ratio of 1:8 direct care aides during all shifts and a ratio of 1:5 direct care aides on therapy outings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1715 (September 2015).

**§5703. Clinically Managed Residential Detoxification (Social Detoxification) (ASAM Level III.2D)**

A. The provider shall:

1. only admit clients clinically appropriate for ASAM level III.2D into its Clinically Managed Residential Detoxification Program;
2. screen each client upon arrival for at least the following to ensure proper placement:

- a. withdrawal potential;
  - b. biomedical conditions; and
  - c. cognitive/emotional complications;
3. have at least one staff member on each shift trained in cardiopulmonary resuscitation (CPR);
4. develop and implement an individualized stabilization/treatment plan in collaboration with the client that:
- a. shall be reviewed and signed by the UP and the client; and
  - b. shall be filed in the client's record within 24 hours of admission;
5. provide case management that is:
- a. provided by a care coordinator who is on duty as needed; or
  - b. assumed by the clinical staff.

**B. Emergency Admissions**

1. If a client is admitted under emergency circumstances, the admission process may be delayed until the client can be interviewed, but no longer than 24 hours unless assessed and evaluated by a physician.
2. The provider shall orient the direct care staff to monitor, observe and recognize early symptoms of serious illness associated with detoxification and to access emergency services promptly.

**C. Staffing. The provider shall ensure that:**

- 1. there is a physician on call 24 hours per day, seven days per week and on duty as needed for management of psychiatric and medical needs of the clients;
- 2. there is a clinical supervisor available for clinical supervision when needed and by telephone for consultation;
- 3. there is at least one LMHP or UP available on site at least 40 hours per week; and
- 4. for adults:
  - a. each LMHP/UP's caseload shall not exceed 1:25;
  - b. there is at least one direct care aide per shift with additional as needed;
- 5. for children/adolescents:
  - a. each LMHP/UP's caseload shall not exceed 1:16;
  - b. there are at least two direct care aides per shift with additional as needed; and
  - c. the ratio of aides to clients shall not exceed 1:10.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1715 (September 2015).

**§5705. Clinically Managed Medium-Intensity Residential Treatment (ASAM Level III.3) (Adult Only)**

**A. The provider shall:**

- 1. only admit clients clinically appropriate for ASAM level III.3 into its Clinically Managed Medium-Intensity Residential Program;
- 2. offer at least 20 hours per week of a combination of medium-intensity clinical and recovery-focused services;
- 3. ensure that the treatment plan is reviewed in collaboration with the client as needed or at a minimum of every 90 days and documented accordingly; and
- 4. provide case management that is:
  - a. provided by a care coordinator who is on duty as needed; or
  - b. assumed by the clinical staff.

**B. Staffing. The provider shall ensure that:**

- 1. there is a physician on call 24 hours per day and on duty as needed for management of psychiatric and medical needs;
- 2. there is a clinical supervisor available for clinical supervision when needed and by telephone for consultation;
- 3. there is 24 hour on-call availability by an RN plus a licensed nurse on duty whenever needed to meet the professional nursing requirements;
- 4. there is a LMHP or UP on site 40 hours a week to provide direct client care;
- 5. each LMHP/UP caseload shall not exceed 1:12; and
- 6. there is at least one direct care aide on duty for each shift plus additional aides as needed.

**C. Mothers with Dependent Children Program (Dependent Care Program)**

1. A provider's Mothers with Dependent Children Program shall:
- a. meet the requirements of ASAM level III.3;
  - b. provide weekly parenting classes where attendance is required;
  - c. address the specialized needs of the parent;
  - d. provide education, counseling, and rehabilitation services for the parent that further addresses:
    - i. the effects of chemical dependency on a woman's health and pregnancy;
    - ii. parenting skills; and
    - iii. health and nutrition;
  - e. regularly assess parent-child interactions and address any identified needs in treatment; and
  - f. provide access to family planning services.

## 2. Child Supervision

a. The provider shall ensure that it provides child supervision appropriate to the age of each child when the mother is not available to supervise her child.

b. The provider shall ensure that its child supervision is provided by either:

i. the provider's on-site program with all staff members who:

(a). are at least 18 years old;

(b). have infant CPR certification; and

(c). have at least eight hours of training in the following areas prior to supervising children independently:

(i). chemical dependency and its impact on the family;

(ii). child development and age-appropriate activities;

(iii). child health and safety;

(iv). universal precautions;

(v). appropriate child supervision techniques; and

(vi). signs of child abuse; or

ii. a licensed day care provider pursuant to a written agreement with the provider.

c. The provider shall maintain a staff-to-child ratio that does not exceed 1:3 for infants (18 months and younger) and 1:6 for toddlers and children.

d. Child Specialist. The provider shall have a child specialist who:

i. is available to provide staff training, evaluate effectiveness of direct care staff, and plan activities, for at least one hour per week per child;

ii. has 90 clock hours of education and training in child development and/or early childhood education; and

iii. has one year of documented experience providing services to children.

e. Clients shall not supervise another parent's child or children without written consent from the legal guardian and staff approval.

f. Staff shall check all diapers frequently and change as needed, dispose of the diapers in a sealed container and sanitize the changing area.

## 3. Clinical Care for Children. The provider shall:

a. address the specialized and therapeutic needs and care for the dependent children and develop an individualized plan of care to address those needs, to include goals, objectives and target dates;

b. provide age-appropriate education, counseling, and rehabilitation services for children that address or include:

i. the emotional and social effects of living with a chemically dependent care-giver;

ii. early screening and intervention of high risk behavior and when indicated provide or make appropriate referrals for services;

iii. screening for developmental delays; and

iv. health and nutrition;

c. ensure that all children have access to medical care when needed;

d. ensure that children are administered medication according to the label by the parent or licensed staff qualified to administer medications; and

e. ensure that if licensed staff will be administering medications, the provider:

i. obtains written consent from the parent to administer the prescribed and over the counter medications, including identifying information relative to dosage, route, etc.;

ii. assumes full responsibility for the proper administration and documentation of the medications; and

iii. ensures original labeled medication containers with name, dosage, route, etc. are obtained prior to medication administration.

f. maintain current immunization records and allergy records for each child at the program site; and

g. obtain consent for emergency medical care for each child at admission.

## 4. Child Services

a. The daily activity schedule for the children shall include a variety of structured and unstructured age-appropriate activities.

b. School age children shall have access to school.

c. The health, safety, and welfare of the children shall be protected at all times.

d. Behavior management shall be fair, reasonable, consistent, and related to the child's behavior. Physical discipline is prohibited.

e. The children shall be well-groomed and dressed weather-appropriate.

f. An adequate diet for childhood growth and development, including two snacks per day, shall be provided to each child.

5. The program shall develop, implement and comply with written policies and procedures that:

a. address abuse and/or neglect of a child;

b. prohibit children under the age of 18 months from sleeping in bed with their mothers;

c. require a current schedule showing who is responsible for the children at all times;

d. address isolating parents and children who have communicable diseases and providing them with appropriate care and supervision; and

e. identify those persons authorized to remove a child from the facility other than legal guardian or parent.

#### 6. Safety and Emergency Preparedness

a. The program shall develop and implement an emergency preparedness plan that includes provisions and services for the clients and children.

b. The program shall ensure that all toys and equipment are age appropriate, in good order and safe condition, and in accordance with manufacturer's recommendations.

c. Staff, volunteers, and parents shall use universal precautions at all times.

d. The provider shall ensure that only the legal guardian or a person authorized by the legal guardian may remove a child from the provider.

e. If an individual shows documentation of legal custody, staff shall record the person's identification before releasing the child.

#### 7. Physical Environment

a. The program shall provide potty chairs for small children and sanitize them after each use.

b. The program shall provide age-appropriate bathing facilities. Infants shall not be bathed in sinks.

c. Each child shall be provided with his/her own bed.

d. Infants up to 18 months shall sleep in either a bassinet or cribs appropriate to the size of the child.

e. The provider shall provide a variety of age-appropriate equipment, toys, and learning materials for the children/adolescents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1716 (September 2015).

### **§5707. Clinically Managed High-Intensity Residential (ASAM Level III.5)**

A. The provider shall:

1. admit only clients clinically appropriate for ASAM level III.5 into its Clinically Managed High Intensity Residential Treatment Program;

2. the treatment plan is reviewed in collaboration with the client as needed, or at a minimum of every 30 days and documented accordingly;

3. provide case management that is:

a. provided by a care coordinator who is on duty as needed; or

b. assumed by the clinical staff.

B. Staffing. The provider shall ensure that:

1. there is a physician on call 24 hours per day, seven days per week, and on duty as needed for management of psychiatric and medical needs of the clients;

2. there is a clinical supervisor available for clinical supervision when needed and by telephone for consultation;

3. the provider shall have one licensed RN on call 24/7 to perform nursing duties for the provider; and

4. there shall be at least one LMHP or UP on duty at least 40 hours per week;

5. for adult staffing patterns:

a. each LMHP/UP's caseload shall not exceed 1:12;

b. there shall be at least one direct care aide on duty on all shifts with additional as needed; and

c. there shall be at least one licensed nurse on duty during the day and evening shifts to meet the nursing needs of the clients. Nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement;

6. for children/adolescent staffing patterns:

a. each LMHP/UP's caseload shall not exceed 1:8; and

b. there shall be at least two direct care aides on duty during all shifts with additional as needed. The ratio of aides to clients shall not exceed 1:8. On therapy outings, the ratio shall be at least 1:5;

c. there shall be a psychologist available when needed; and

d. there shall be a licensed nurse on duty to meet the nursing needs of the clients.

i. Nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1717 (September 2015).

**§5709. Medically Monitored Intensive Residential  
(ASAM Level III.7) (Adults Only)**

A. The provider shall:

1. admit only clients clinically appropriate for ASAM level III.7 into its Medically Monitored Intensive Residential Treatment Program; and
2. the treatment plan is reviewed and updated in collaboration with the client as needed, or at a minimum of every 30 days and documented accordingly;
3. provide case management that is:
  - a. provided by a care coordinator who is on duty as needed; or
  - b. assumed by the clinical staff.

B. Staffing. The provider shall ensure that:

1. there is a physician on call 24 hours per day, seven days per week, and on duty as needed for management of psychiatric and medical needs;
2. there is a clinical supervisor available for clinical supervision when needed and by telephone for consultation;
3. there is at least one LMHP or UP on duty at least 40 hours/week;
4. there is at least one RN on call 24 hours per day, seven days per week to perform nursing duties and at least one licensed nurse is on duty during all shifts with additional licensed nursing staff to meet the nursing needs of the clients;
5. its on-site nursing staff is solely responsible for III.7 program and does not provide services for other levels of care at the same time;
6. each LMHP/UP caseload shall not exceed 1:10;
7. there is at least one direct care aide on duty on all shifts with additional as needed;
8. there is an activity or recreational therapist on duty at least 15 hours per week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1718 (September 2015).

**§5711. Medically Managed Residential Detoxification  
(Medical Detoxification) (ASAM Level III.7D)  
(Adults Only)**

A. The provider shall:

1. admit only clients clinically appropriate for ASAM level III.7D into its Medically Managed Residential Detoxification Program;
2. ensure that:
  - a. a physical examination is conducted by a physician, PA or APRN within 24 hours of admission; or

b. the provider's admitting physician reviews and approves a physical examination conducted by a physician, PA or APRN within 24 hours prior to admission;

3. ensure that each client's progress is assessed at least daily;

4. ensure that each client's physical condition, including vital signs, is assessed at least daily, or more frequently as indicated by physician's order or change in the client's status;

5. have a reliable, adequately sized emergency power system to provide power during an interruption of normal electrical service;

6. provide case management that is conducted:

- a. by a care coordinator who is on duty as needed; or
- b. by the clinical staff.

B. Emergency Admissions

1. If a client is admitted under emergency circumstances, the admission process may be delayed until the client can be interviewed, but no longer than 24 hours unless seen by a physician.

2. The provider shall orient the direct care staff to monitor, observe and recognize early symptoms of serious illness and to access emergency services promptly.

C. Staffing

1. The provider shall have a physician on call 24 hours per day, seven days per week, and on duty as needed for management of psychiatric and medical needs of the clients.

2. Nursing

a. The provider shall have at least one RN on call 24 hours per day, seven days per week to perform nursing duties.

b. There shall be at least one licensed nurse on duty during all shifts with additional as needed based upon the provider's census and the clients' acuity levels.

c. There shall be a RN on-site no less than 40 hours per week who is responsible for conducting nursing assessments upon admission and delegating staffing assignments to the nursing staff based on the assessments and the acuity levels of the clients.

d. The provider shall ensure that its on-site nursing staff is solely responsible for III.7D program and does not provide services for other levels of care at the same time.

e. The nursing staff is responsible for:

- i. monitoring client's progress; and
- ii. administering medications in accordance with physician orders.

3. Clinical Supervisor and Unlicensed Professionals

a. The provider shall have a clinical supervisor available for clinical supervision when needed and by telephone for consultation.

b. The LMHP/UP caseload shall not exceed 1:10.

4. There shall be at least one direct care aide on all shifts with additional as needed based upon the provider's census and the clients' acuity levels.

5. The provider shall have at least one employee on duty certified in CPR.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1718 (September 2015).

- a. report the death of a client enrolled in their clinic to the SOA within 24 hours of the discovery of the client's death;
  - b. report the death of a client to HSS within 24 hours of discovery if the death is related to program activity;
  - c. submit documentation on the cause and/or circumstances to SOA and to HSS, if applicable, within 24 hours of the provider's receipt of the documentation; and
  - d. adhere to all protocols established by LDH on the death of a client; and
4. conduct at least eight random monthly drug screen tests on each client per year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1720 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1388 (July 2017).

### **§5725. Treatment**

A. Client Admission Criteria. The program shall only admit clients that:

- 1. are at least 18 years old, unless the client has consent from a parent, or legal guardian, if applicable;
- 2. meet the federal requirements regarding the determination that the client is currently addicted to opiates and has been addicted to opiates for at least one year prior to admission or the exceptions;
- 3. are verified by a physician that treatment is medically necessary;
- 4. have had a complete physical evaluation by the client's or program's physician before admission to the opioid treatment program;
- 5. have had a full medical exam, including results of serology and other tests, completed within 14 days of admission; and
- 6. have a documented history of opiate addiction.

#### **B. Treatment Phases**

1. Initial Treatment. During the initial treatment phase that lasts from three to seven days in duration, the provider shall:

- a. conduct client orientation;
- b. provide individual counseling; and
- c. develop the initial treatment plan including initial dose of medication and plan for treatment of critical health or social issues.

2. Early Stabilization. In the early stabilization period that begins on the third to seventh day following initial treatment through 90 days duration, the provider shall:

- a. conduct weekly monitoring by a nurse of the client's response to medication;

## **Subchapter O. Additional Requirements for Opioid Treatment Programs**

NOTE: In addition to the requirements applicable to all BHS providers, opioid treatment programs shall also meet the requirements of Subchapter O.

### **§5723. General Provisions**

A. A provider with an opioid treatment program shall:

- 1. meet the requirements of the protocols established by OBH/state opioid authority;
- 2. update the Louisiana methadone central registry daily and as needed;
- 3. upon the death of a client:

- b. provide at least four individual counseling sessions;
- c. revise the treatment plan within 30 days to include input by all disciplines, the client and significant others; and
- d. conduct random monthly drug screen tests.

3. Maintenance Treatment. In the maintenance treatment phase that follows the end of early stabilization and lasts for an indefinite period of time, the provider shall provide:

- a. random monthly drug screen tests until the client has negative drug screen tests for 90 consecutive days as well as random testing for alcohol when indicated;
- b. thereafter, monthly testing to clients who are allowed six days of take-home doses, as well as random testing for alcohol when indicated;
- c. continuous evaluation by the nurse of the client's use of medication and treatment from the program and from other sources;
- d. documented reviews of the treatment plan every 90 days in the first 2 years of treatment by the treatment team; and
- e. documentation of response to treatment in a progress note at least every 30 days.

4. Medically Supervised Withdrawal from Synthetic Narcotic with Continuing Care. Medically supervised withdrawal is provided if and when appropriate. If provided, the provider shall:

- a. decrease the dose of the synthetic narcotic to accomplish gradual, but complete withdrawal, as medically tolerated by the client;
- b. provide counseling of the type and quantity determined by the indicators and the reason for the medically supervised withdrawal from the synthetic narcotic; and
- c. conduct discharge planning with continuity of care to assist client to function without support of the medication and treatment activities.

5. Required Withdrawal. The provider shall provide medically-approved and medically-supervised assistance to withdrawal from the synthetic narcotic when:

- a. the client requests withdrawal;
  - b. quality indicators predict successful withdrawal;
- or
- c. client or payer source suspends payment of fees.

C. Counseling. The provider shall ensure that:

- 1. counseling is provided when requested by the client or client's family;
- 2. written criteria are used to determine when a client will receive additional counseling;

3. the type and quantity of counseling is based on the assessment and recommendations of the treatment team;

4. written documentation supports the decisions of the treatment team, including indicators such as positive drug screens, maladjustment to new situations, inappropriate behavior, criminal activity, and detoxification procedure; and

5. all counseling is provided individually or in homogenous groups, not to exceed 12 clients.

D. Physical Evaluations/Examinations. The provider shall ensure that each client has a documented physical evaluation and examination by a physician or advanced practice registered nurse as follows:

- 1. upon admission;
- 2. every other week until the client becomes physically stable;
- 3. as warranted by client's response to medication during the initial stabilization period or any other subsequent stabilization period;
- 4. after the first year and annually thereafter; and
- 5. any time that the client is medically unstable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1721 (September 2015).

#### **§5727. Additional Staffing Requirements**

A. The provider's opioid treatment program shall have the following staff in addition to the general staffing requirements.

1. Pharmacist or Dispensing Physician

a. An opioid treatment program that dispenses prescription medication on-site shall employ or contract with a pharmacist or dispensing physician to assure that any prescription medication dispensed on-site meets the requirements of applicable state statutes and regulations.

b. The pharmacist or dispensing physician shall have a current, valid unrestricted license to practice in the state of Louisiana.

c. The provider's pharmacist or dispensing physician shall:

- i. provide on-site services;
- ii. dispense all medications;
- iii. consult with the provider as needed;
- iv. evaluate medication policy and procedure of provider to dispense medications;
- v. reconcile inventories of medications that were dispensed and/or administered at least every 30 days;
- vi. maintain medication records for at least three years in accordance with state laws, rules and regulations; and



vii. approve all transport devices for take-home medications in accordance with the program's diversion control policy.

2. Nursing

a. The provider shall maintain a nursing staff sufficient to meet the needs of the clients.

b. Each nurse shall have a current unrestricted license to practice nursing in the state of Louisiana.

c. The responsibilities of the nurse(s) include but are not limited to:

- i. administering medications; and
- ii. monitoring the client's response to medications.

3. Licensed Mental Health Professionals

a. The provider shall maintain a sufficient number of LMHPs to meet the needs of its clients and there is at least one LMHP or UP on site when clinical services are being provided.

b. The provider shall ensure that:

- i. the caseload of the LMHP shall not exceed 75 active clients; and
- ii. there is an LMHP on site at least five hours/week.

4. Unlicensed Professionals

a. The provider shall have UPs sufficient to meet the needs of the clients.

b. The caseload of the UP shall not exceed 75 active clients.

5. Physician or APRN. There shall be a physician or APRN who is on-site as needed or on-call as needed during hours of operation.

B. Training. All direct care employees shall receive orientation and training for and demonstrate knowledge of the following, including, but not limited to:

- 1. symptoms of opiate withdrawal;
- 2. drug screen testing and collections;
- 3. current standards of practice regarding opiate addiction treatment;
- 4. poly-drug addiction; and
- 5. information necessary to ensure care is provided within accepted standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1721 (September 2015).

## §5729. Medications

A. The provider shall ensure that all medications are administered by a nurse, pharmacist or other practitioner licensed under state law and authorized by federal and state law to administer or dispense opioid drugs.

B. Take-Home Dose(s)

1. The provider shall ensure that:

a. determinations for take-home dose(s) and the factors considered are made by the client's treatment team and are documented in the client's record when each take-home dose is authorized;

b. date and recommended dosage are documented in the client's record; and

c. take-home dose(s) are ordered by the medical director.

2. The provider shall ensure that the following factors are considered by the medical director and treatment team before a take-home dose is authorized by the treatment team:

a. a negative drug/alcohol screen for at least 30 days;

b. documented regularity of clinic attendance relative to treatment plan;

c. absence of serious behavioral problems;

d. absence of known criminal activity;

e. absence of known drug related criminal activity during treatment;

f. stability of home environment and social relationships;

g. assurance that take-home medication can be safely stored; and

h. whether the benefit to the client outweighs the risk of diversion.

3. Standard Schedule. The provider shall abide by the following schedule of take-home, therapeutic doses when a take-home dose is authorized:

a. after the first 30 days of treatment, and during the remainder of the first 90 days of treatment, one take-home, therapeutic dose per week;

b. in the second 90 days of treatment, two doses, consisting of take-home, therapeutic doses, may be allowed per week;

c. in the third 90 days of treatment, three doses consisting of take-home, therapeutic doses may be allowed per week;

d. in the final 90 days of treatment during the first year, four doses consisting of take-home, therapeutic doses may be allowed per week;

e. after one year in treatment, a six-day dose supply consisting of take-home, therapeutic doses may be allowed once a week;

f. after two years in treatment, a 13-day dose supply consisting of take-home, therapeutic doses may be allowed once every two weeks.

4. Loss of Privilege. Positive drug screens at any time for any drug other than those prescribed shall require a new determination to be made by the treatment team regarding take-home doses.

5. Exceptions to the Standard Schedule. The provider shall request and obtain approval for an exception to the standard schedule from the state opioid authority. Any exception shall be for an emergency or severe travel hardship.

C. Temporary Transfers or Guest Dosing. The providers involved in a temporary transfer or guest dosing shall ensure the following:

1. the receiving provider shall verify dosage prior to dispensing and administering medication;

2. the sending provider shall verify dosage and obtain approval and acceptance from receiving provider prior to client's transfer; and

3. that documentation to support all temporary transfers and guest dosing is maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1722 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1388 (July 2017).