

C. Providers of the following services shall be licensed under the HCBS license:

1. adult day care (ADC);
2. family support;
3. personal care attendant (PCA);
4. respite;
5. substitute family care (SFC);
6. supervised independent living (SIL), including the shared living conversion services in a waiver home;
7. supported employment; and
8. monitored in-home caregiving (MIHC).

D. The following entities shall be exempt from the licensure requirements for HCBS providers:

1. any person, agency, institution, society, corporation, or group that solely:
 - a. prepares and delivers meals;
 - b. provides sitter services;
 - c. provides housekeeping services;
 - d. provides home modifications/environmental accessibility adaptations and/or assessments; or
 - e. provides personal emergency response system/assistive technology/devices;
2. any person, agency, institution, society, corporation, or group that provides gratuitous home and community-based services;
3. any individual licensed practical nurse (LPN) or registered nurse (RN) who has a current Louisiana license in good standing;
4. staffing agencies that supply contract workers to a health care provider licensed by the department;
5. any person who is employed as part of a departmentally authorized self-direction program; and
 - a. for purposes of these provisions, a self-direction program shall be defined as a service delivery option based upon the principle of self-determination. The program enables clients and/or their authorized representative(s) to become the employer of the people they choose to hire to provide supports to them;
6. any agency that provides residential orientation and adjustment programs for blind persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

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Chapter 50. Home and Community-Based Services Providers Licensing Standards

Subchapter A. General Provisions

§5001. Introduction

A. Pursuant to R.S. 40:2120.2, the Department of Health (LDH) has established the minimum licensing standards for home and community-based services (HCBS) providers. These licensing provisions contain the core requirements for HCBS providers as well as the module-specific requirements, depending upon the services rendered by the HCBS provider. These regulations are separate and apart from Medicaid standards of participation or any other requirements established by the Medicaid Program for reimbursement purposes.

B. Any person or entity applying for an HCBS provider license or who is operating as a provider of home and community-based services shall meet all of the core licensing requirements contained in this Chapter, as well as the module-specific requirements, unless otherwise specifically noted within these provisions.

§5007. Initial Licensure Application Process

A. An initial application for licensing as an HCBS provider shall be obtained from the department. A completed initial license application packet for an HCBS provider shall be submitted to and approved by the department prior to an applicant providing HCBS services.

B. The initial licensing application packet shall include:

1. a completed HCBS licensure application and the non-refundable licensing fee as established by statute;
2. a copy of the approval letter of the architectural facility plans for the adult day care module and the center-

based respite module from the Office of the State Fire Marshal and any other office/entity designated by the department to review and approve the facility's architectural plans;

3. a copy of the on-site inspection report for the adult day care module and the center-based respite module with approval for occupancy by the Office of the State Fire Marshal;

4. a copy of the health inspection report with approval of occupancy from the Office of Public Health for the adult day care module and the center-based respite module;

5. a copy of a statewide criminal background check, conducted by the Louisiana State Police, or its authorized agent, including sex offender registry status, on all owners and administrators:

a. each owner shall be at least aged 18 years;

6. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000 that is:

i. current at the time of submission of the application for licensure; and

ii. issued to/in the name of the applicant at the geographic location shown on the application for licensure;

b. general and professional liability insurance in the amount of at least \$300,000 that is current and in effect at the time of license application; and

c. worker's compensation insurance that is current and in effect at the time of license application;

NOTE: The LDH Health Standards Section shall specifically be identified as the certificate holder on these policies pursuant to §5007.B.6.a-c and any certificates of insurance issued as proof of insurance by the insurer or producer (agent). The policy shall have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

7. a completed disclosure of ownership form which includes any controlling interest or ownership in any other licensed agencies;

8. the days and hours of operation;

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

10. any other documentation or information required by the department for licensure including, but not limited to, a copy of the facility need review approval letter.

C. A person convicted of one or more of the following felonies is prohibited from being the owner or the administrator of an HCBS provider agency. For purposes of these provisions, the licensing application shall be rejected by the department for any felony conviction relating to:

1. the violence, abuse, or negligence of a person;
2. the misappropriation of property belonging to another person;
3. cruelty, exploitation or the sexual battery of the infirmed;
4. a drug offense;
5. crimes of a sexual nature;
6. a firearm or deadly weapon;
7. Medicare or Medicaid fraud; or
8. fraud or misappropriation of federal or state funds.

D. If the initial licensing packet is incomplete, the applicant shall be notified of the missing information and shall have 90 days from receipt of the notification to submit the additional requested information.

1. If the additional requested information is not submitted to the department within 90 days, the application shall be closed.

2. If an initial licensing application is closed, an applicant who is still interested in becoming an HCBS provider shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process, subject to any facility need review approval.

E. Applicants for HCBS licensure shall be required to either attend a mandatory HCBS provider training class or complete the LDH online provider training when a completed initial licensing application packet has been received by the department.

F. Upon completion of the mandatory HCBS provider training class and written notification of satisfactory class completion from the department or upon submission of attestation of satisfactory completion of the LDH online provider training, an HCBS applicant shall be required to admit one client and contact the HSS field office to schedule an initial licensing survey.

1. Prior to scheduling the initial survey, applicants shall be:

- a. fully operational;
- b. in compliance with all licensing standards; and
- c. providing care to only one client at the time of the initial survey.

2. If the applicant has not admitted one client or contacted the HSS field office to schedule an initial survey within 30 days of receipt of the written notification from the department, the application will be closed. If an applicant is still interested in becoming an HCBS provider, a new initial licensing packet with a new initial licensing fee shall be submitted to the department to start the initial licensing process, subject to any facility need review approval.

G. Applicants shall be in compliance with all appropriate federal, state, departmental or local statutes, laws,

ordinances, rules, regulations and fees before the HCBS provider will be issued an initial license to operate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:66 (January 2012), amended LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2500 (December 2017).

b. general and professional liability insurance of at least \$300,000 that is current and in effect at the time of application for licensure; and

c. worker's compensation insurance that is current and in effect at the time of application for licensure.

NOTE: The LDH Health Standards Section shall specifically be identified as the certificate holder on these policies pursuant to §5014.D.3.a-c and any certificates of insurance issued as proof of insurance by the insurer or producer (agent). The policy shall have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

4. If center-based services such as adult day care or center-based respite are also being acquired in the change of ownership, the prospective new owner shall be required to submit approvals for occupancy from OPH and the State Fire Marshal. Such approvals shall be issued under the name of the center as given by the new owner.

E. An HCBS provider may not undergo a CHOW if any of the following conditions exist:

1. licensure is provisional, under revocation or denial of renewal;
2. is in a settlement agreement with the department;
3. has been excluded from participation from the Medicaid program;
4. has ceased to operate and does not meet operational requirements to hold a license as defined by §5031, Business Location, and in accordance with §5026, Cessation of Business.

F. The department may deny approval of the CHOW for any of the reasons a license may be revoked or denied renewal pursuant to these licensing provisions.

G. If the CHOW results in a change of geographic address, an on-site survey may be required prior to issuance of the new license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2502 (December 2017).

§5015. Renewal of License

A. The HCBS 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. the days and hours of operation;
3. a current State Fire Marshal report for the adult day care module and the center-based respite module;
4. a current Office of Public Health inspection report for the adult day care module and the center-based respite module;
5. the non-refundable license renewal fee;

§5014. Change of Ownership of an HCBS Provider

A. The license of an HCBS provider is not transferable or assignable and cannot be sold.

B. A change of ownership (CHOW) of the HCBS provider shall not be submitted at time of the annual renewal of the provider's license.

C. Before an initial license can be issued to the new owner, all licensing application requirements shall be:

1. completed by the applicant in accordance with the provisions of §5007; and
2. submitted to the department for approval.

D. The applicant shall submit the following licensing requirements to the department:

1. the completed HCBS license application and non-refundable fee;
2. disclosure of ownership documentation;
3. proof of financial viability to include:
 - a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000 that is current at the time of the application for licensure and is issued to/in the name of the applicant at the geographic location shown on the application for licensure;

6. any other documentation required by the department; and

7. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000 that is current at the time of the application for license renewal and is issued to/in the name of the applicant at the geographic location shown on the application for license renewal;

b. general and professional liability insurance of at least \$300,000 that is current and in effect at the time of application for license renewal and has been maintained and in effect throughout the term of the license; and

c. worker's compensation insurance that is current and in effect at the time of application for license renewal and has been maintained and in effect throughout the term of the license.

NOTE: The LDH Health Standards Section shall specifically be identified as the certificate holder on these policies pursuant to §5015.A.7.a-c and any certificates of insurance issued as proof of insurance by the insurer or producer (agent). The policy shall have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

B. The department may perform an on-site survey and inspection upon annual renewal of a license.

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license shall result in the voluntary non-renewal of the HCBS license.

NOTE: Upon expiration of the current license, the HCBS provider shall cease providing services in accordance with R.S. 40:2120.6 and shall meet the requirements of §5026 Cessation of Business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:68 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2502 (December 2017).

§5031. Business Location

A. All HCBS providers shall have a business location in the LDH region for which the license is issued. The business location shall be a part of the physical geographic licensed location and shall be where the provider:

1. maintains staff to perform administrative functions;
2. maintains and stores the provider's personnel records;
3. maintains and stores the provider's client service records;
4. holds itself out to the public as being a location for receipt of client referrals; and
5. after initial licensure, consistently provides services to at least two clients.

EXCEPTION: Adult Day Care shall have 10 or more clients pursuant to R.S. 40:2120.2(4)(e).

B. The business location shall have:

1. a separate entrance and exit from any other entity, business or trade;
2. signage that is easily viewable indicating the provider's legal or trade name, address and days and hours of business operation as stated in the provider's license application.
 - a. Any planned deviation of the provider's days and hours of operation shall be reported to the Health Standards Section within five business days.
 - b. Any unplanned deviation of provider's days and hours of operation shall be reported to the Health Standards Section within two business days.

C. The HCBS provider shall operate independently from any other business or entity, and shall not operate office space with any other business or entity.

1. The HCBS provider may share common areas with another business or entity. Common areas include foyers, kitchens, conference rooms, hallways, stairs, elevators or escalators when used to provide access to the provider's separate entrance.

2. Records or other confidential information shall not be stored in areas deemed to be common areas.

D. The business location shall:

1. be commercial office space or, if located in a residential area, be zoned for appropriate commercial use and shall be used solely for the operation of the business;

a. the business location shall not be located in an occupied personal residence;

2. have approval for occupancy from the Office of the State Fire Marshal and the Office of Public Health if located at the same address as an adult day care center or center-based respite;

3. have a published telephone number which is available and accessible 24 hours a day, 7 days a week, including holidays;

4. have a business fax number that is operational 24 hours a day, 7 days a week;

5. have internet access and a working e-mail address;

a. the e-mail address shall be provided to the department as well as any changes to the e-mail address within five working days to assure that the department has current contact information;

b. the e-mail address shall be monitored by the provider on an ongoing basis to receive communication from the department;

6. have space for storage of client records either electronically or in paper form or both in an area that is secure, safe from hazards and does not breach confidentiality of protected health information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:74 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2508 (December 2017).