

**NOTICE OF INTENT**

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

**Home and Community-Based Services Providers  
Licensing Standards  
(LAC 48:I.Chapter 50)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 50 as authorized by R.S. 36:254 and R.S. 40:2120.1 et seq. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of home and community-based services providers in order to clarify the requirements regarding worker's compensation, general and professional liability insurance, hours of operation, and business location closure.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part I. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 50. Home and Community-Based Services Provider  
Licensing Standards**

**Subchapter A. General Provisions**

**§5001. Introduction**

A. - C. ...

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

1. - 1.e. ...

2. any person, agency, institution, society, corporation, or group that provides gratuitous ~~home and community-based services~~HCBS;

3. - 5. ...

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authorized representative(s) to become the employer of the people they choose to hire to provide supports to them;~~Repealed.

6. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:63 (January 2012), amended LR 38:1410 (June 2012), LR 40:1007 (May 2014), LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:2498 (December 2017), LR 48:

**§5007. Initial Licensure Application Process**

A. ...

B. The initial licensing application packet shall include:

1. ...

2. a copy of the approval letter of the architectural facility plans for the adult day care (ADC) module and the center-based respite (CBR) module from the Office of the State Fire Marshal (OSFM), 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~~ADC module and the ~~center based respite~~CBR module with approval for occupancy by the ~~Office of the State Fire Marshal~~OSFM;

4. a copy of the health inspection report with approval of occupancy from the Office of Public Health (OPH) for the ~~adult day care~~ADC module and the ~~center based respite~~CBR module;

5. - 5.a. ...

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

a. - a. ii. ...

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 ongoing through the term of licensure; and

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

NOTE: The LDH ~~Health Standards Section~~HSS 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. ...

8. the ~~days-usual~~ and customary business hours ~~of operation~~, which shall be no less than eight hours per business day or unless otherwise approved;

B.9. - G. ...

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

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), LR 48:

**§5014. Change of Ownership of an HCBS Provider**

A. - C.2. ...

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

1. - 2. ...

3. proof of financial viability to include:

a. ...

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 ongoing through the term of licensure; and

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

NOTE: The LDH ~~Health Standards Section~~HSS 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~~ ADC or ~~center-based respite~~ CBR 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~~OSFM. Such approvals shall be issued under the name of the center as given by the new owner.

E. - G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:2502 (December 2017), amended LR 48:

#### **§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. ...

2. the ~~days~~usual and customary business hours, which shall be no less than eight hours per business day or unless otherwise approved; and

3. a current ~~State Fire Marshal~~OSFM report for the ~~adult day care~~ADC module and the ~~center-based respite~~CBR module;

4. a current Office of Public Health inspection report for the ~~adult day care~~ADC module and the ~~center-based respite~~CBR module;

5. - 6. ...

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

a. ...

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~~ ongoing throughout the term of the ~~license~~ renewed licensure period; 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~~ ongoing throughout the term of the renewed licensure period.

NOTE: The LDH ~~Health Standards Section~~ HSS 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. - C. ...

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

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), LR 48:

## **Subchapter B. Administration and Organization**

### **§5031. Business Location**

A. ...

B. The business location shall have:

1. a separate entrance and exit from any other entity, business or trade; and

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~~any planned deviation of the provider's days and hours of operation shall be reported to the ~~Health Standards Section~~HSS within five business days-~~;~~;

i. for closures of the business location for short term periods, such as holidays, the provider shall:

(a). notify the clients and responsible parties whenever necessary; and

(b). have a communication plan in place for emergencies; and

b. ~~Any~~any unplanned deviation of provider's days and hours of operation shall be reported to the ~~Health Standards Section~~HSS within two business days-~~;~~;

C. - D.6. ...

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

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), LR 48:

#### **Family Impact Statement**

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

#### **Poverty Impact Statement**

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

#### **Small Business Analysis**

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated

that this proposed Rule will have no impact on small businesses, as described in R.S. 49:978.1 et seq.

#### **Provider Impact Statement**

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

#### **Public Comments**

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on March 2, 2022.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on February 9, 2022. If the criteria set

forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on, February 24, 2022 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after February 9, 2022. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips

Secretary