

NOTICE OF INTENT

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

**Adult Day Health Care
Licensing Standards
(LAC 48:I Chapter 42)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I Chapter 42 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2120.41-2120.46, and pursuant to Title XIX of the Social Security Act. 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 and Hospitals, Bureau of Health Services Financing amended the provisions governing the licensing standards for adult day health care (ADHC) centers to revise and clarify the staffing and transportation requirements (*Louisiana Register*, Volume 38, Number 9).

The department subsequently promulgated a Rule which repealed the licensing provisions governing ADHC services as these provisions were revised and repromulgated in Part I, Chapter 50 of Title 48 of the *Louisiana Administrative Code* (*Louisiana Register*, Volume 39, Number 10).

The department has now determined that it is necessary to amend the provisions governing ADHC in order to: 1) adopt

provisions which will allow licensed ADHC providers certified as Programs of All-Inclusive Care for the Elderly (PACE) to achieve accreditation status for licensure; 2) allow for the inactivation of the provider's license under certain circumstances and specific provisions for cessation of business; and 3) clarify the requirements for checking the Direct Service Worker Registry and obtaining criminal history checks.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 42. Adult Day Health Care

Subchapter A. General Provisions

§4201. Introduction

A. ...

B. An ADHC center shall have a written statement describing its philosophy as well as long-term and short-term goals. The ~~provider~~ADHC center program statement shall include goals that:

1. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2177 (October 2008), repromulgated LR

34:2622 (December 2008), amended by the Department of Health,
Bureau of Health Services Financing, LR 43:

§4203. Definitions

Accreditation—process by which an ADHC that is owned and operated by a PACE organization with an executed Program Agreement with CMS/LDH is deemed to meet ADHC licensing requirements.

Cessation of Business—center is non-operational and/or has stopped offering or providing services to the community.

Change of Ownership (CHOW)—a change in the legal ~~provider~~center/entity responsible for the operation of the ADHC center.

Complaints—allegations of noncompliance with regulations filed by someone other than the ~~provider~~center.

Department—the Louisiana Department of Health ~~and Hospitals~~ (~~DHHL~~LDH) and its representatives.

Employee—person who performs a job or task for compensation, such as wages or a salary. An employed person may be one who is contracted or one who is hired for a staff position.

Full-Time Equivalent—40 hours of employment per week or the number of hours the center is open per week, whichever is less.

Governing Body—the person or group of persons that assumes full legal responsibility for determining, implementing and monitoring policies governing the ADHC's total operation, and who is responsible for the day-to-day management of the ADHC program, and ~~must~~ shall also insure that all services provided are consistent with accepted standards of practice.

Individualized Service Plan (ISP)—an individualized written program of action for each participant's care and services to be provided by the ADHC center based upon an assessment of the participant.

Line of Credit—a credit arrangement with a federally insured, licensed lending institution which is established to assure that the center has available funds as needed to continue the operations of the agency and the provision of services to participants. The line of credit shall be issued to the licensed entity and shall be specific to the geographic location shown on the license. For purposes of ADHC licensure, the line of credit shall not be a loan, credit card or a bank balance.

Non-operational—the ADHC center is not open for business operations on designated days and hours as stated on the licensing application and business location signage.

Program of All-Inclusive Care for the Elderly (PACE)—an organization that provides prepaid, capitated, comprehensive health care services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2177 (October 2008), repromulgated LR 34:2622 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2373 (September 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§4205. Licensure Requirements

A. All ADHC centers shall be licensed by the Department of Health ~~and Hospitals~~ (~~DHH~~LDH). ~~DHH~~LDH is the only licensing authority for ADHC centers in the State of Louisiana. It shall be unlawful to operate an ADHC center without possessing a current, valid license issued by ~~DHH~~LDH. The license shall:

A.1. - B. ...

1. The center shall always have at least one employee on duty at the business location during ~~daily~~ the days and hours of operation. Once a participant is admitted, all staff that are required to provide services shall be on duty during operational hours to assure adequate coverage and care to participants.

2. There shall be sufficient numbers of trained direct care and professional services staff either employed or contracted and available to be assigned to provide care and services to persons receiving services at all times.

3. The center ~~must~~ shall have admitted or has provided services to at least two participants in the past 12 months prior to their licensure resurvey.

C. The licensed ~~provider~~ center is required to abide by and adhere to any state laws, rules, policy and procedure manuals or memorandums pertaining to ADHC centers issued by ~~DHHL~~ LDH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2178 (October 2008), repromulgated LR 34:2623 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§4207. Initial License Application Process

A. ~~An initial application for licensing as an ADHC center shall be obtained from the department. A completed initial license application packet for an ADHC center shall be submitted to and approved by DHH prior to an applicant providing ADHC services. An applicant shall submit a completed initial licensing packet to DHH, which shall include~~Each ADHC applicant shall obtain facility need review approval (FNR) prior to submission of an initial application for licensing+.

~~1. a completed ADHC licensure application and the non-refundable licensing fee as established by statute;~~

~~2. a copy of the approval letter of the architectural center plans from the Department of Health and Hospitals, Department of Engineering and Architectural Services and the Office of the State Fire Marshal;~~

~~3. a copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal;~~

~~4. a copy of the health inspection report with approval of occupancy report of the center from the Office of Public Health;~~

~~5. a copy of criminal background checks on all owners;~~

~~6. proof of financial viability including;~~

~~a. line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000; and~~

~~b. general and professional liability insurance of at least \$300,000.~~

~~7. if applicable, clinical laboratory improvement amendments (CLIA) certificate or CLIA certificate of waiver;~~

~~8. a completed disclosure of ownership and control information form;~~

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

~~10. the days and hours of operation; and~~

~~11. any other documentation or information required by the department for licensure.~~ 1. - 11. Repealed.

B. ~~If the initial licensing packet is incomplete, the applicant will be notified of the missing information and will have 90 days to submit the additional requested information. If the additional requested is not submitted to the department within 90 days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an ADHC provider shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.~~ After FNR approval is

received, an initial application for licensing as an ADHC center shall be obtained from the department. A completed initial license application packet for an ADHC center shall be submitted to and approved by the department prior to an applicant providing ADHC services. An applicant shall submit a completed initial licensing packet to the department, which shall include:

1. a completed ADHC licensure application and the non-refundable licensing fee as established by statute;
2. a copy of the approval letter of the architectural center plans from the Office of the State Fire Marshal;
3. a copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal;
4. a copy of the health inspection report with approval of occupancy report of the center from the Office of Public Health;
5. a copy of state-wide criminal background checks conducted by the Louisiana State Police, or its authorized agent, on all owners;
6. proof of financial viability including;
 - a. line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000; and

b. general and professional liability insurance of at least \$300,000.

7. if applicable, clinical laboratory improvement amendments (CLIA) certificate or CLIA certificate of waiver;

8. a completed disclosure of ownership and control information form;

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

10. the days and hours of operation; and

11. any other documentation or information required by the department for licensure.

~~C. Once the initial licensing application packet is approved by DHH, the applicant shall attend a mandatory preparatory training class conducted quarterly by the department's Health Standards Section (HSS) before the initial licensure survey will be conducted. Once the provider has successfully completed the class, the provider will be sent written notification with instructions for requesting the announced initial licensing survey.~~If the initial licensing packet is incomplete, the applicant will be notified of the missing information and will have 90 days to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days, the application will be closed. After an initial licensing

application is closed, an applicant who is still interested in becoming an ADHC center shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

D. ~~An applicant who has received the notification with instructions for requesting the announced initial licensing survey shall notify DHH of readiness for an initial licensing survey within 90 days of the date of receipt of that notification. If an applicant fails to notify DHH of readiness for an initial licensing survey within 90 days, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an ADHC provider shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process~~Once the initial licensing application packet is approved by LDH, the applicant will be sent written notification with instructions for requesting the announced initial licensing survey.

E. ~~Applicants must be in compliance with all appropriate federal, state, departmental, or local statutes, laws, ordinances, rules, regulations, and fees before the ADHC center will be issued an initial license to operate by DHH~~An applicant who has received the notification with instructions for requesting the announced initial licensing survey shall notify

the department of readiness for an initial licensing survey within 90 days of the date of receipt of that notification. If an applicant fails to notify the department of readiness for an initial licensing survey within 90 days, the initial licensing application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an ADHC center shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

F. Applicants shall be in compliance with all appropriate federal, state, departmental, or local statutes, laws, ordinances, rules, regulations, and fees before the ADHC center will be issued an initial license to operate by LDH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2178 (October 2008), repromulgated LR 34:2624 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2373 (September 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§4209. Initial Licensing Surveys

A. Prior to the initial license being issued to the ADHC ~~provider~~center, an initial licensing survey shall be conducted on-site at the ADHC center to assure compliance with ADHC licensing standards.

B. In the event that the initial licensing survey finds that the ADHC center is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the ~~provider~~center. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

C. - D. ...

E. In the event that the initial licensing survey finds that the ADHC center is noncompliant with any licensing laws, rules or regulations, but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the department may issue a provisional initial license for a period not to exceed six months. The ~~provider~~center shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. If all such noncompliance or deficiencies are determined by the department to be corrected on a follow-up survey, then a full license will

be issued. If all such noncompliance or deficiencies are not corrected on the follow-up survey, the provisional license will expire and the ~~provider~~center shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

F. ~~In the event that the initial licensing survey finds that the ADHC center is noncompliant with any required statutes, laws, ordinances, rules or regulations, but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the department may issue a provisional initial license for a period not to exceed six months. The provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. If all such noncompliance or deficiencies are not corrected on the follow up survey, the provisional license will expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee~~The initial licensing survey of an ADHC center shall be an announced survey. Follow-up surveys to the initial licensing surveys are not announced surveys.

G. ~~The initial licensing survey of an ADHC provider shall be an announced survey. Follow-up surveys to the initial licensing surveys are not announced surveys~~Once an ADHC center

has been issued an initial license, the department may conduct licensing surveys at intervals deemed necessary by the department to determine compliance with licensing regulations; these licensing surveys shall be unannounced.

1. A follow-up survey shall be conducted for any licensing survey where deficiencies have been cited to ensure correction of the deficient practices.

2. The department may issue appropriate sanctions, including, but not limited to:

- a. civil monetary penalties;
- b. directed plans of correction; and
- c. license revocations for deficiencies and noncompliance with any licensing survey.

~~H. Once an ADHC provider has been issued an initial license, the department shall conduct licensing surveys at intervals deemed necessary by DHH to determine compliance with licensing regulations; these licensing surveys shall be unannounced~~
LDH surveyors and staff shall be given access to all areas of the center and all relevant files during any licensing survey. LDH surveyors and staff shall be allowed to interview any center staff or participant as necessary to conduct the survey.

~~1. A follow up survey shall be conducted for any licensing survey where deficiencies have been cited to ensure correction of the deficient practices.~~

~~2. The department may issue appropriate sanctions, including, but not limited to:~~

~~a. civil monetary penalties;~~

~~b. directed plans of correction; and~~

~~c. license revocations for deficiencies and noncompliance with any licensing survey.~~ 1. - 2.c. Repealed.

I. ~~DHH surveyors and staff shall be given access to all areas of the center and all relevant files during any licensing survey. DHH surveyors and staff shall be allowed to interview any provider staff or participant as necessary to conduct the survey.~~ When issued, the initial ADHC license shall specify the maximum number of participants which may be served by the ADHC center.

J. ~~When issued, the initial ADHC license shall specify the maximum number of participants which may be served by the ADHC center.~~ Plan of Correction. A plan of correction shall be required from an ADHC center for any survey where deficiencies have been cited. The plan of correction shall be filed with HSS within 10 calendar days after the center's receipt of notification and statement of deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health
and Hospitals, Office of the Secretary, Bureau of Health
Services Financing, LR 34:2179 (October 2008), repromulgated LR
34:2624 (December 2008), amended by the Department of Health,
Bureau of Health Services Financing, LR 43:

§4211. Types of Licenses

A. ...

1. In the event that the initial licensing survey
finds that the ADHC center is compliant with all licensing laws
and regulations, and is compliant with all other required
statutes, laws, ordinances, rules, regulations, and fees, the
department shall issue a full license to the ~~provider~~center. The
license shall be valid until the expiration date shown on the
license unless the license is modified, revoked, suspended, or
terminated.

2. ...

3. The department may issue a full renewal license
to an existing licensed ADHC ~~provider~~center who is in
substantial compliance with all applicable federal, state,
departmental, and local statutes, laws, ordinances, rules,
regulations and fees. The license shall be valid until the

expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

4. The department, in its sole discretion, may issue a provisional license to an existing licensed ADHC ~~provider~~ center for a period not to exceed six months, for the following reasons:

a. the existing ADHC ~~provider~~ center has more than five deficient practices or deficiencies cited during any one survey;

b. the existing ADHC ~~provider~~ center has more than three validated complaints in one licensed year period;

c. the existing ADHC ~~provider~~ center has been issued a deficiency that involved placing a participant at risk for serious harm or death;

d. the exiting ADHC ~~provider~~ center has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey;

e. the existing ADHC ~~provider~~ center is not in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules, regulations, and fees at the time of renewal of the license.

5. When the department issues a provisional license to an existing licensed ADHC ~~provider~~ center, the department shall conduct an on-site follow-up survey at the ADHC center

prior to the expiration of the provisional license. If that on-site follow-up survey determines that the ADHC ~~provider~~center has corrected the deficient practices and has maintained compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the ADHC license.

6. If an existing licensed ADHC ~~provider~~center has been issued a notice of license revocation, suspension, modification, or termination, and the ~~provider~~center's license is due for annual renewal, the department shall ~~issue~~deny a license renewal ~~license~~ subject to the pending license revocation, suspension, modification, or termination, ~~if a timely administrative appeal has been filed~~. The denial of renewal of such a license does not affect in any manner the license revocation, suspension, modification or termination. ~~The renewal of such a license does not render any such license revocation, suspension, modification, or termination moot. This type of license is valid for the pendency of the administrative appeal, provided that the renewal fees are timely paid.~~

B. The denial of renewal of a license does not in any manner affect any sanction, civil monetary penalty, or other action imposed by the department against the ~~provider~~center.

C. The license for an ADHC ~~provider~~center shall be valid for one year from the date of issuance unless revoked, suspended, modified, or terminated prior to that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2179 (October 2008), repromulgated LR 34:2625 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR:43

§4212. Accredited Status

A. After initial licensure, an ADHC center may request accreditation. To achieve accredited status, the ADHC shall be required to submit a copy of its current Program of All-Inclusive Care for the Elderly (PACE) Program agreement to show documented proof of meeting initial and continual compliance with PACE requirements and for each annual renewal of licensure.

B. The department may accept accreditation in lieu of periodic on-site licensing surveys when the center provides documentation to the department that shows:

1. the PACE Program agreement is current; and
2. the center remains in substantial compliance with all PACE Program agreement requirements.

C. The department may conduct unannounced complaint investigations on all ADHCs, including those with accredited status.

D. There is no waiver of licensure fees for a center that is granted accredited status by the department. An ADHC that is granted accredited status shall pay all initial licensing fees, renewal of licensure fees pursuant to §4213, and any other required fees, to achieve or maintain accredited status. The center shall pay any civil monetary penalties imposed by LDH or may forfeit accredited status.

E. The department may rescind accredited status and may conduct a licensing survey for the following:

1. any substantiated complaint within the preceding 12 months;

2. a change of ownership;

3. issuance of a provisional license in the preceding 12-month period;

4. deficiencies identified in the preceding 12-month period that placed participants at risk for harm;

5. treatment or service resulting in death or serious injury; or

6. a change in geographic location.

F. The ADHC center shall notify HSS upon change in accredited status within two business days.

G. The department will rescind accredited status if the center's PACE Program agreement is terminated.

H. An ADHC center which receives approval for accredited status is subject to, and shall comply with, all provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§4213. Renewal of License

A. License Renewal Application. The ADHC ~~provider~~center shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license. The license renewal application packet shall include:

1. - 4. ...

5. the required license renewal fee; ~~and~~

6. ~~any other documentation required by the department~~proof of continuous financial viability without interruption including maintenance of a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000-;

7. proof of PACE Program agreement, if accredited;
and

8. any other documentation required by the department.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2180 (October 2008), repromulgated LR 34:2626 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§4215. Reporting Requirements

A. The following changes, or any combination thereof, shall be reported in writing to the department within five working days of the occurrence of the change. A change in:

1. ...
2. the geographic~~al~~ or mailing address;
3. - 4. ...

B. Change of Ownership (CHOW). The license of an ADHC center is not transferable to any other ADHC or individual. A license cannot be sold. When a change of ownership occurs, the ADHC ~~provider-center~~ shall notify the Health Standards Section in writing within 15 days prior to the effective date of the CHOW.

1. - 2. ...

3. The new owner ~~must~~shall submit a license application ~~indentifying~~identifying all new information and, for the application to be complete, it ~~must~~shall be submitted with the appropriate CHOW licensing fee.

4. An ADHC center that is under license revocation, renewal of licensure or provisional licensure, may not undergo a CHOW.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2180 (October 2008), repromulgated LR 34:2626 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§4217. Denial of License, Revocation of License, Denial of License Renewal

A. - B. ...

1. The department shall deny an initial license in the event that the initial licensing survey finds that the ADHC center is noncompliant with any licensing laws, rules, ordinances or regulations or with any other required statutes that are a threat to the health, safety, or welfare of the participants.

2. The department shall deny ~~an~~ any initial license ~~in the event that the initial licensing survey finds that the ADHC center is noncompliant with any other required statutes, laws, ordinances, rules, or regulations that are a threat to the health, safety, or welfare of the participants~~ for any of the reasons designated in §4217.D that a license may be revoked or denied renewal.

3. ~~The department shall deny any initial license for any of the reasons designated in this §4217.D. that a license may be revoked or non-renewed.~~ Repealed.

C. Voluntary Non-Renewal of License. If a ~~provider~~ center fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the ~~provider~~ center.

D. - D.6.e. ...

7. knowingly making a false statement or providing false, forged, or altered information or documentation to ~~DHH~~ LDH employees or to law enforcement agencies;

8. - 10. ...

11. failure to allow or refusal to allow the department to conduct an investigation or survey or to interview ~~provider~~ center staff or participants;

12. failure to allow, or refusal to allow, access to authorized departmental personnel to records; or

13. bribery, harassment, or intimidation of any participant designed to cause that participant to use the services of any particular ADHC ~~provider~~center~~;~~or.

14. ~~cessation of business or non-operational status~~
Repealed.

E. In the event an ADHC license is revoked or renewal is denied, ~~(other than for cessation of business or non-operational status)~~ any owner, officer, member, manager, or director of such ADHC center is prohibited from owning, managing, directing, or operating another ADHC center for a period of two years from the date of the final disposition of the revocation or denial action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2180 (October 2008), repromulgated LR 34:2626 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§4219. Notice and Appeal of Initial License Denial, Revocation, and ~~Non~~-Denial of License Renewal

A. Notice of a license denial, license revocation, or denial of license ~~non~~-renewal shall be given to the ~~provider~~ center in writing.

B. The ADHC ~~provider~~-center has a right to an informal reconsideration of the license denial, license revocation, or denial of license ~~non~~-renewal.

1. The ADHC ~~provider~~-center shall request the informal reconsideration within 15 days of the receipt of the notice of the license denial, license revocation, or denial of license ~~non~~-renewal. The request for informal reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section.

2. ...

3. If a timely request is received by HSS, an informal reconsideration shall be scheduled and the ~~provider~~ center will receive written notification.

4. The ~~provider~~-center shall have the right to appear in person at the informal reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the denial, revocation or denial of license ~~non~~-renewal, shall not be a basis for reconsideration.

6. The informal reconsideration process is not in lieu of the administrative appeals process and does not extend

the time limits for filing an administrative appeal of the license denial, revocation, or denial of license ~~non~~-renewal.

C. The ADHC ~~provider~~-center has a right to an administrative appeal of the license denial, license revocation, or denial of license ~~non~~-renewal.

1. The ADHC ~~provider~~-center shall request the administrative appeal within 30 days of the receipt of the notice of the license denial, license revocation, or denial of license ~~non~~-renewal or within 30 days of the receipt of the results of the informal reconsideration, if conducted. The request for administrative appeal shall be in writing and shall be submitted to the ~~DHH Bureau of Appeals~~Division of Administrative Law (DAL).

2.

3. If a timely request for an administrative appeal is received by the ~~Bureau of Appeals~~DAL, the license revocation or denial of license ~~non~~-renewal will be suspended during the pendency of the appeal. However, if the ~~S~~secretary of the department determines that the violations of the center pose an imminent or immediate threat to the health, safety, or welfare of a participant, the imposition of the license revocation or denial of license ~~non~~-renewal may be immediate and may be enforced during the pendency of the administrative appeal. If

the ~~S~~secretary of the department makes such a determination, the center will receive written notification.

4. Correction of a violation or a deficiency which is the basis for the denial, revocation, or denial of license ~~non~~-renewal, shall not be a basis for the administrative appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2181 (October 2008), repromulgated LR 34:2627 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

~~§4221~~4220. Complaint Surveys

A. - B. ...

C. A follow-up survey ~~will~~may be conducted for any complaint survey where deficiencies have been cited to ensure correction of the deficient practices.

D. ...

E. ~~DHH~~LDH surveyors and staff shall be given access to all areas of the ~~facility~~center and all relevant files during any complaint survey. ~~DHH~~LDH surveyors and staff shall be allowed to interview any ADHC ~~provider~~center staff and participant as required to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health
and Hospitals, Office of the Secretary, Bureau of Health
Services Financing, LR 34:2182 (October 2008), repromulgated LR
34:2627 (December 2008), amended by the Department of Health,
Bureau of Health Services Financing, LR 43:

~~§4223~~§4221. Statement of Deficiencies

A. ~~Any~~ The following statements of deficiencies issued by
the department to the ADHC ~~provider~~ center shall be posted in a
conspicuous place on the licensed premises:

1. the most recent annual survey statement of
deficiencies; and

2. any subsequent complaint survey statement of
deficiencies.

B. Any statement of deficiencies issued by the department
to ~~the~~ an ADHC ~~provider~~ center shall be available for disclosure
to the public 30 days after the ~~provider~~ center submits an
acceptable plan of correction to the deficiencies or 90 days
after the statement of deficiencies is issued to the
~~provider~~ center, whichever occurs first.

C. Unless otherwise provided in statute or in these
licensing provisions, a center shall have the right to an

informal reconsideration of any deficiencies cited as a result of a survey or investigation.

1. Correction of the violation, noncompliance or deficiency shall not be the basis for the reconsideration.

2. The informal reconsideration of the deficiencies shall be requested in writing within 10 calendar days of the ADHC center's receipt of the statement of deficiencies, unless otherwise provided in these standards.

3. The request for informal reconsideration of the deficiencies shall be made to HSS and will be considered timely if received by HSS within 10 calendar days of the center's receipt of the statement deficiencies.

4. If a timely request for an informal reconsideration is received, the department will schedule and conduct the informal reconsideration.

NOTE: Informal reconsiderations of the results of a complaint investigation are conducted as desk reviews.

5. The center shall be notified in writing of the results of the informal reconsideration.

6. Except as provided for complaint surveys pursuant to R.S. 40:2009.13 et seq., and as provided in these licensing provisions for initial license denials, revocations and denial of license renewals, the decision of the informal

reconsideration team shall be the final administrative decision regarding the deficiencies.

7. The request for an informal reconsideration of any deficiencies cited as a result of a survey or investigation does not delay submission of the required plan of correction within the prescribed timeframe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:21482 (October 2008), repromulgated LR 34:2627 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§4222. Cessation of Business

A. Except as provided in §4223 and §4224 of these licensing regulations, a license shall be immediately null and void if an ADHC center becomes non-operational.

B. A cessation of business is deemed to be effective the date on which the ADHC center ceased offering or providing services to the community and/or is considered non-operational in accordance with the requirements of §4205.

C. Upon the cessation of business, the ADHC center shall immediately return the original license to the department.

D. Cessation of business is deemed to be a voluntary action on the part of the center. The ADHC center does not have a right to appeal a cessation of business.

E. Prior to the effective date of the closure or cessation of business, the ADHC center shall:

1. give 30 days' advance written notice to:
 - a. each participant or participant's legal representative, if applicable;
 - b. each participant's physician;
 - c. Health Standards Section (HSS);
 - d. Office for Aging and Adult Services (OAAS);
- and
- e. support coordination agency for waiver participants;
2. provide for a safe and orderly discharge and transition of all of the center's participants.

F. In addition to the advance notice, the ADHC center shall submit a written plan for the disposition of participant(s) medical records for approval by the department. The plan shall include the following:

1. the effective date of the closure;
2. provisions that comply with federal and state laws on storage, maintenance, access and confidentiality of the closed center's patients medical records;

3. the name and contact information for the appointed custodian(s) who shall provide the following:

a. access to records and copies of records to the patient or authorized representative, upon presentation of proper authorization(s); and

b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction.

4. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the closing center, at least 15 days prior to the effective date of closure.

G. If an ADHC center fails to follow these procedures, the owners, managers, officers, directors and administrators may be prohibited from opening, managing, directing, operating or owning an ADHC center for a period of two years.

H. Once any ADHC center has ceased doing business, the center shall not provide services until the ADHC center has obtained a new initial ADHC license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health Bureau of Health Services Financing, LR 43:

§4223. Inactivation of License due to a Declared Disaster or Emergency

A. An ADHC center licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

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

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

b. the licensed ADHC center intends to resume operation as an ADHC center in the same service area;

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

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

e. provides a list of each participant and where that participant is discharged or transferred to;

2. the licensed ADHC center resumes operating as a ADHC center in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

3. the licensed ADHC center continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and

4. the licensed ADHC center continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate an ADHC center license, the department shall issue a notice of inactivation of license to the ADHC center.

C. Upon completion of repairs, renovations, rebuilding or replacement, an ADHC center which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met.

1. The ADHC center shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening.

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

b. The license reinstatement request shall include a completed licensing application with appropriate licensing fees.

2. The center resumes operating as an ADHC center in the same service area within one year.

D. Upon receiving a completed written request to reinstate an ADHC center license, the department shall conduct a licensing survey. If the ADHC center meets the requirements for licensure and the requirements under this section, the department shall issue a notice of reinstatement of the ADHC center license.

1. The licensed capacity of the reinstated license shall not exceed the licensed capacity of the ADHC center at the time of the request to inactivate the license.

E. No change of ownership in the ADHC center shall occur until such ADHC center has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as an ADHC center.

F. The provisions of this section shall not apply to an ADHC center which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this section shall be deemed a voluntary surrender of the ADHC center license and any applicable facility need review approval for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health Bureau of Health Services Financing, LR 43:

§4224. Inactivation of License due to a Non-declared Disaster or Emergency

A. A licensed ADHC center in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

1. the licensed ADHC center shall submit written notification to the HSS within 30 days of the date of the non-declared emergency or disaster stating that:

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

b. the licensed ADHC center intends to resume operation as a ADHC center in the same service area;

c. the licensed ADHC center attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. the licensed ADHC center's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the center.

NOTE: Pursuant to these provisions, an extension of the 30 day deadline for initiation of request may be granted at the discretion of the department.

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

3. the licensed ADHC center continues to submit required documentation and information to the department, including, but not limited to cost reports.

B. Upon receiving a completed written request to temporarily inactivate an ADHC license, the department shall issue a notice of inactivation of license to the ADHC center.

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

D. The licensed ADHC center shall resume operating as an ADHC center in the same service area within one year of the approval of renovation/construction plans by OSFM and OPH as required.

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

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

1. the ADHC center shall submit a written license reinstatement request to the licensing agency of the department;

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

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

F. Upon receiving a completed written request to reinstate an ADHC license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the center has met the requirements for licensure including the requirements of this subsection.

G. No change of ownership in the ADHC center shall occur until such ADHC center has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as an ADHC center.

H. The provisions of this subsection shall not apply to an ADHC center which has voluntarily surrendered its license and ceased operation.

I. Failure to comply with any of the provisions of this subsection shall be deemed a voluntary surrender of the ADHC license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health Bureau of Health Services Financing, LR 43:

Subchapter B. Administration and Organization

§4225. Governing Body

A. - A.4. ...

5. ~~A- The governing body may be composed of a~~ single person or owner ~~may govern a privately owned and operated center. This person would~~who shall assume all responsibilities of the governing body. At least twice a year, such single person or owner shall have documentation of reviewing and meeting the requirements pursuant to §4225.B.

B. Governing Body Responsibilities. The governing body of an ADHC center shall:

1. ensure the center's continual compliance and conformity with ~~the center's charter~~all relevant federal, state, parish and municipal laws and regulations;

2. ~~ensure the center's continual compliance and conformity with all relevant federal, state, parish and municipal laws and regulations~~ensure that the center is adequately funded and fiscally sound;

3. ~~ensure that the center is adequately funded and fiscally sound~~review and approve the center's annual budget;

4. ~~review and approve the center's annual budget~~ensure that the center is housed, maintained, staffed and equipped appropriately considering the nature of the program;

5. ~~ensure that the center is housed, maintained, staffed and equipped appropriately considering the nature of the program~~designate a person to act as the director and delegate sufficient authority to this person to manage the center and to

insure that all services provided are consistent with accepted standards of practice;

6. ~~designate a person to act as the director and delegate sufficient authority to this person to manage the center and to insure that all services provided are consistent with accepted standards of practice~~formulate and annually review, in consultation with the director, written policies concerning the center's philosophy, goals, current services, personnel practices and fiscal management;

7. ~~formulate and annually review, in consultation with the director, written policies concerning the center's philosophy, goals, current services, personnel practices and fiscal management~~annually evaluate the director's performance;

8. ~~annually evaluate the director's performance~~have the authority to dismiss the director;

9. ~~have the authority to dismiss the director~~meet with designated representatives of the department whenever required to do so; and;

10. ~~meet with designated representatives of DHH whenever required to do so; and~~inform designated representatives of the department prior to initiating any substantial changes in the program, services or physical plant of the center.

11. ~~inform designated representatives of DHH prior to initiating any substantial changes in the program, services or physical plant of the center.~~ Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2182 (October 2008), repromulgated LR 34:2628 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§4227. Policy and Procedures

A. - B.6. ...

a. the ~~DHH~~ LDH toll-free telephone number for registering complaints shall be posted conspicuously in public areas of the ADHC center;

B.7. - C.1. ...

2. shall be accessible to center staff or to any representative of the Department of Health ~~and Hospitals~~ conducting an audit, survey, monitoring activity, or research and quality assurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 34:2182 (October 2008), repromulgated LR 34:2628 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2373 (September 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§4233. Participant Case Records

A. ...

B. The participant's case record shall include:

1. - 6.b. ...

7. ~~a signed physician's order, issued prior to use, when restraints in any form are being used~~any grievances or complaints filed by the participant and the resolution or disposition of these grievances or complaints;

8. ~~any grievances or complaints filed by the participant and the resolution or disposition of these grievances or complaints~~a log of the participant's attendance and absence;

9. ~~a log of the participant's attendance and absences~~a physician's signed and dated orders for medication, treatment, diet, and/or restorative and special medical procedures required for the safety and well-being of the participant;

10. ~~a physician's signed and dated orders for medication, treatment, diet, and/or restorative and special~~

~~medical procedures required for the safety and well being of the participant~~progress notes that:

a. document the delivery of all services identified in the individualized service plan;

b. document that each staff member is carrying out the approaches identified in the individualized service plan that he/she is responsible for;

c. record the progress being made and discuss whether or not the approaches in the individualized service plan are working;

d. record any changes in the participant's medical condition, behavior or home situation which may indicate a need for a change in the individualized service plan; and

e. document the completion of incident reports, when appropriate; and

NOTE: Each individual responsible for providing direct services shall record progress notes at least weekly, but any changes to the participant's condition or normal routine should be documented on the day of the occurrence.

11. ~~progress notes that~~discharge planning and referral.

~~a. document the delivery of all services identified in the individualized service plan;~~

~~_____ b. document that each staff member is carrying out the approaches identified in the individualized service plan that he/she is responsible for;~~

~~_____ c. record the progress being made and discuss whether or not the approaches in the individualized service plan are working;~~

~~_____ d. record any changes in the participant's medical condition, behavior or home situation which may indicate a need for a change in the individualized service plan; and~~

~~_____ e. document the completion of incident reports, when appropriate; and~~

~~NOTE: Each individual responsible for providing direct services shall record progress notes at least weekly, but any changes to the participant's condition or normal routine should be documented on the day of the occurrence.~~

~~_____ 12. discharge planning and referral. 11.a. - 12.~~

~~Repealed.~~

C. ...

D. The medications and treatments administered to participants at the center ~~must~~ shall be charted by the appropriate staff.

E. The center ~~shall ensure that participant~~ may produce, maintain and/or store participant case records ~~are available to~~

~~staff who are directly involved with participant care~~ either electronically or in paper form.

F. The center shall ensure that participant case records are available to staff who are directly involved with participant care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2183 (October 2008), repromulgated LR 34:2629 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§4235. Retention of Records

A. ...

B. All records concerning past or present medical conditions of participants are confidential and ~~must~~shall be maintained in compliance with the provisions of the Health Insurance Portability and Accountability Act (HIPAA) of 1996. The expressed written consent of the participant ~~must~~shall be obtained prior to the disclosure of medical information regarding the participant.

C. - D. ...

E. An ADHC center's records may be produced, maintained and/or stored in either an electronic or paper form and shall be producible upon request by the department or its employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2184 (October 2008), repromulgated LR 34:2629 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter C. Participant Rights

§4239. Statement of Rights

A. Each participant shall be informed of his/her rights and responsibilities regarding the ADHC center. The regulations of the ADHC center and all rules governing participant conduct and behavior shall be fully explained to the participant. Before or upon admission, the ADHC center shall provide a copy of the participant rights document to each participant. ~~Each participant must acknowledge receipt of this document in writing and the~~A signed and dated acknowledgment form shall be filed in ~~the~~each participant's record.

B. If the ADHC center changes its participant rights policies, ~~each participant must acknowledge receipt of the~~

~~change(s) in writing and the~~ a signed and dated acknowledgment form shall be filed in ~~the~~ each participant's records.

C. - C.2. ...

D. The participant rights document shall include at least the following items:

1. - 1.b. ...

c. the center's days and hours of operation;

2. - 4. ...

5. the right to be free from mental, ~~or~~ physical or verbal abuse;

6. the right to be free from ~~active or mechanical physical restraints, except when there is imminent risk of harm to the participant or others, and only after the least restrictive methods have been attempted~~ coercion; and

~~a. physical restraint shall be used only when ordered by the primary care physician;~~

~~i. the physician's order for restraint must specify the reason for using restraint and include a specific time frame for using restraint;~~

~~ii. the physician order shall be filed in the participant's record;~~

~~b. physical restraint may be used without a physician's order in an emergency only under the following conditions;~~

~~i. use of restraint is necessary to protect the participant from injuring himself/herself or others; and~~

~~ii. use of restraint is reported at once to the primary care physician;~~

~~c. participants who are mechanically restrained shall be monitored at least every 30 minutes to insure that circulation is not impaired and that positioning is comfortable;~~

~~d. participants being mechanically restrained shall be released and be provided the opportunity for exercise at least every two hours. The ADHC center staff shall document this activity each time the participant is released;~~6.a. - 6.d.

Repealed.

7. the right to be ~~treated with consideration, respect and full recognition of his or her dignity and individuality~~free from restraints. ADHC centers are prohibited from the use of any restraints.

D.8. - G. ...

1. The participant has been interdicted in a court of law. In such cases, the ADHC center shall ensure that the participant's rights devolve to the curator/curatrix of record. The ADHC center shall obtain an official document verifying that the participant has indeed been interdicted and the interdiction

~~must~~ shall be documented on the inside front cover of the participant's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2184 (October 2008), repromulgated LR 34:2630 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§4243. Core Services

A. At a minimum, each center shall provide the following services:

1. - 7.b. ...

c. initiating and developing a self-administration of medication plan for the ADHC center which is individualized for each participant for whom it is indicated; and

8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2185 (October 2008), repromulgated LR

34:2631 (December 2008), amended by the Department of Health,
Bureau of Health Services Financing, LR 43:

§4245. Transportation Requirements

A. The center ~~will~~shall provide transportation to and from the ADHC center at the beginning and end of the program day. The center ~~must~~shall comply with the following requirements governing transportation.

1. ...

2. The center ~~must~~shall conform to all state laws and regulations pertaining to drivers, vehicles and insurance.

B. The driver, whether directly employed or provided by third party contract, shall hold a valid chauffeur's license or commercial driver license (CDL), if applicable with passenger endorsement.

1. The driver shall meet personal and health qualifications of other staff and receive necessary and appropriate training to ensure competence to perform duties assigned.

C. - D. ...

E. The vehicle shall be maintained in ~~good~~operating condition.

F. ~~In a center-owned transportation vehicle, t~~There shall be at least one staff member in the vehicle who is trained in first-aid and cardio pulmonary resuscitation (CPR) whether

transportation is provided by center-owned transportation or by a third-party commercial proprietor.

~~G. If the center contracts with a commercial proprietor for transportation, it shall select one with a good reputation and reliable drivers. All rules established for transportation furnished by the center shall be observed~~Centers shall provide transportation to any participant within their licensed region, but no participant, regardless of their region of origin, may be in transport for more than one hour on any single trip.

1. If the center develops a policy that establishes a limited mileage radius for transporting participants, that policy shall be submitted to LDH for review and approval prior to the center being allowed to limit transportation for participants.

~~H. Centers are expected to provide transportation to any client within their licensed region, but no client, regardless of their region of origin, may be in transport for more than one hour on any single trip.~~

~~1. If the center develops a policy that establishes a limited mileage radius for transporting participants, that policy must be submitted to DHH for review and approval prior to the center being allowed to limit transportation for participants.~~H. - H.1. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health
and Hospitals, Office of the Secretary, Bureau of Health
Services Financing, LR 34:2186 (October 2008), repromulgated LR
34:2631 (December 2008), amended by the Department of Health and
Hospitals, Bureau of Health Services Financing, LR 38:2373
(September 2012), amended by the Department of Health, Bureau of
Health Services Financing, LR 43:

§4251. Nursing Services

A. ...

B. A licensed registered nurse (RN) shall serve on the
Interdisciplinary (ID) team and shall monitor the overall health
needs of the participants. The RN serves as a liaison between
the participant and medical resources, including the treating
physician.

1. The RN's responsibilities include medication
review for each participant at least monthly and when there is a
change in the medication ~~regime~~regimen to:

B.1.a. - E. ...

F. The RN shall give in-service training to both staff
and participants on health related matters at least quarterly.

G. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health
and Hospitals, Office of the Secretary, Bureau of Health
Services Financing, LR 34:2186 (October 2008), repromulgated LR
34:2632 (December 2008), amended by the Department of Health,
Bureau of Health Services Financing, LR 43:

§4253. Nutrition Services

A. There shall be a hot, ~~well-balanced~~ nutritious and palatable noon meal served daily which provides one-third of the recommended dietary allowances (RDA) as established by the National Research Council and American Dietetic Association. Accommodations shall be made for participants with special diets.

1. - 2. ...

B. Menus shall be varied and planned and approved well in advance by a licensed registered dietitian. Any substitutions shall be of comparable nutritional value and documented.

C. - E. ...

F. A licensed registered dietitian shall:

F.1. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2187 (October 2008), repromulgated LR 34:2632 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter F. Human Resources

§4259. Personnel Policies

A. An ADHC center shall have personnel policies that include:

1. - 3. ...

a. Policies shall be in accordance with state rules, laws and regulations for employees, either contracted or directly employed, and volunteers.

4. ...

5. abuse reporting procedures that require all employees to report any incidents of abuse or ~~mistreatment~~ neglect in accordance with state law, whether the abuse or mistreatment is committed by another staff member, a family member or any other person; ~~and~~

6. ~~prevention of discrimination~~ clarification of the center's prohibited use of social media. The policy shall ensure that all staff, either contracted or directly employed, receive training relative to the restrictive use of social media and include, at a minimum, ensuring confidentiality of participant

information and preservation of participant dignity and respect, including protection of participant privacy and personal and property rights; and

7. prevention of discrimination.

B. - C. ...

1. A center shall obtain written references from three persons (or prepare documentation based on telephone contacts with three persons) prior to making an offer of employment. The names of the references and a signed release ~~must~~ shall be obtained from the potential employee.

2. A center shall comply with the provisions of R.S. 40:2120.41-2120.47 and the rules regarding the Direct Service Worker (DSW) Registry prior to making an offer of employment to a direct care staff applicant.

3. A center shall obtain a state-wide criminal background check conducted by the Louisiana State Police, or its designee, prior to making an offer of employment to a direct care staff applicant in accordance with applicable state laws.

a. The center shall have documentation on the final disposition of all charges that bar employment pursuant to applicable state law.

D. ...

1. For any person who interacts with participants, the performance evaluation procedures shall address the quality

and nature of a staff member's ~~relationships~~ interactions with participants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2187 (October 2008), repromulgated LR 34:2633 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§4261. Orientation and Training

A. A center's orientation program shall provide training for any new ~~employees~~ direct care staff, either contracted or employed, to acquaint them with the philosophy, organization, program, practices and goals of the center. The orientation shall also include instruction in safety and emergency procedures as well as the specific responsibilities of the employee's job.

B. A center shall document that all employees, either contracted or staff, receive training on an annual basis in:

1. - 7. ...

8. ~~use of restraints (manual method, mechanical or physical devices)~~ the center's policy on the prohibited use of social media.

C. ...

D. A new direct care staff employee shall not be assigned to carry out a participant's care until competency has been demonstrated and documented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2187 (October 2008), repromulgated LR 34:2633 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§4263. Personnel Files

A. In accordance with §4259, Aan ADHC center shall have a personnel file for each employee, either contracted or staff that ~~shall~~ contains:

1. ...
2. ~~reference letters from former employer(s) and personal references or written documentation based on telephone contact with such references~~the statewide criminal background history checks;
3. ~~any required medical examinations~~documentation of proof of DSW registry checks;
4. ~~evidence of applicable professional credentials/certifications according to state law~~reference letters from former employer(s) and personal references or

written documentation based on telephone contact with such references;

5. ~~annual performance evaluations~~ any required medical examinations;

6. ~~personnel actions, other appropriate materials, reports and notes relating to the individual's employment with the center~~ evidence of applicable professional credentials/certifications according to state law; and

7. ~~the employee's starting and termination dates~~ annual performance evaluations-;

8. personnel actions, other appropriate materials, reports and notes relating to the individual's employment with the center; and

9. the employee's starting and termination dates.

B. ~~The staff member shall have reasonable access to his/her file and shall be allowed to add any written statement that he/she wishes to make to the file at any time~~ An ADHC center shall retain an employee's personnel file for at least three years after the employee's termination of employment.

C. ~~An ADHC center shall retain an employee's personnel file for at least three years after the employee's termination of employment.~~ Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.

36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2188 (October 2008), repromulgated LR 34:2633 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter G. Center Responsibilities

§4265. General Provisions

A. - K. ...

L. The center shall make available to ~~DHH~~the department any information, which the center is required to have under these standards and is reasonably related to the assessment of compliance with these standards. The participant's rights shall not be considered abridged by this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2188 (October 2008), repromulgated LR 34:2633 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§4267. Staffing Requirements

A. Staff at ADHC centers shall meet the following education and experience requirements. All college degrees ~~must~~shall be from a nationally accredited institution of higher

education as defined in §102(b) of the Higher Education Act of 1965 as amended. The following "key" staff positions are required and subject to the provisions listed below.

1. ~~Social Service Designee/Social Worker.~~ The center shall designate at least one staff person who shall be employed at least 10 hours a week to serve as the social services designee or social worker Director. The director shall have a bachelor's degree in a human services-related field, such as social work, nursing, education or psychology. Eight years of supervisory experience working in a human services-related field may be substituted for the bachelor's degree.

~~a. The social services designee shall have, at a minimum, a bachelor's degree in a human service related field such as psychology, sociology, education, or counseling. Two years of experience in a human service related field may be substituted for each year of college.~~

~~b. The social worker shall have a bachelor's or master's degree in social work.~~ a. - b. Repealed.

2. Nurse. The center shall employ one or more ~~LPNs~~ RN or ~~RNs~~ LPN who shall be available to provide medical care and supervision services as required by all participants. The RN or LPN shall be on the premises daily for at least ~~eight~~ 8 hours, ~~or~~ the number of hours the center is open, or during the time

participants are present at the center, whichever is ~~least~~less.

Nurses shall have a current Louisiana state nursing license.

3. ~~Program Manager~~Social Service Designee/Social Worker. The center shall designate at least one staff ~~member~~person who shall be employed at least 10 hours a week to ~~be responsible for carrying out the center's individualized program for each participant. The program manager should have program planning skills, good organization abilities, counseling and activity programming experience~~ serve as the social services designee or social worker.

a. The social services designee shall have, at a minimum, a bachelor's degree in a human service-related field such as psychology, sociology, education, or counseling. Two years of experience in a human service-related field may be substituted for each year of college.

b. The social worker shall have a bachelor's or master's degree in social work.

4. Program Manager. The center shall designate at least one staff member who shall be employed at least 10 hours a week to be responsible for carrying out the center's individualized program for each participant.

B. ...

1. Food Service Supervisor. The center shall designate one staff member who shall be employed at least 10

hours a week who shall be responsible for meal preparation and/or serving. The food service supervisor ~~must~~ shall have ServSafe® certification.

2. Direct Service Worker. An unlicensed person who provides personal care or other services and support to persons with disabilities or to the elderly to enhance their well-being, and who is involved in face-to-face direct contact with the participant.

3. Volunteers. Volunteers and student interns are considered a supplement to the required staffing component. A center which uses volunteers or student interns on a regular basis shall have a written plan for using these resources. This plan ~~must~~ shall be given to all volunteers and interns and it shall indicate that all volunteers and interns shall be:

B.3.a. - D.2. ...

3. A staff member who is certified in CPR ~~must~~ shall be on the premises at all times while ~~clients~~ participants are present.

E. Centers with a licensed capacity of 15 or fewer ~~clients~~ participants may designate one full-time staff person or full-time equivalent person to fill up to three "key staff" positions, and ~~must~~ shall employ at least one full-time person or full-time equivalent to fulfill key staff requirements.

F. Centers with a licensed capacity to serve 16-30 ~~clients~~ participants ~~must~~ shall employ at least two full-time persons or full-time equivalents to fulfill key staff requirements, and may designate one full-time staff person or full-time equivalent person to fill up to, but no more than, two "key staff" positions.

G. Centers with a licensed capacity to serve more than 30 ~~clients~~ participants ~~must~~ shall employ at least three full-time persons or full-time equivalents to fill key staff positions. Each key staff position ~~must~~ shall be filled with a full-time person or full-time equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2188 (October 2008), repromulgated LR 34:2634 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2373 (September 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§4269. Incident Reports

A. - D.5. ...

E. Incident reports ~~must~~ shall be reviewed by the director, his designee or a medical professional within 24 hours

of the occurrence. A qualified professional shall recommend action, in a timely manner, as indicated by the consequences of the incident.

F. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2189 (October 2008), repromulgated LR 34:2635 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§4277. Interdisciplinary Team Responsibilities

A. ...

B. Prior to the individual staffing of a participant by the ID team, each team member shall complete an assessment to be used at the team meeting. This assessment shall, at a minimum, include a ~~medical evaluation~~ physical assessment and a social evaluation.

C. The ID team shall meet, reassess, and reevaluate each participant at least ~~annually~~ quarterly, ~~but will meet at the end of each quarter~~ to review the ~~current~~ individualized service plan ~~and to~~ ensure that it is ~~adequate~~ sufficient for each participant.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health
and Hospitals, Office of the Secretary, Bureau of Health
Services Financing, LR 34:2190 (October 2008), repromulgated LR
34:2636 (December 2008), amended by the Department of Health,
Bureau of Health Services Financing, LR 43:

Subchapter I. Emergency and Safety

§4285. Emergency and Safety Procedures

A. - C.1. ...

D. A center shall immediately notify ~~DHH~~ the department
and other appropriate agencies of any fire, disaster or other
emergency which may present a danger to participants or require
their evacuation from the center.

E. ~~There shall be a policy and procedure that insures the
notification of family members or responsible parties whenever
an emergency occurs for an individual participant~~ At any time
that the ADHC has an interruption in services or a change in the
licensed location due to an emergency situation, the center
shall notify HSS no later than the next stated business day.

F. ~~Upon the identification of the non-responsiveness of a
participant at the center, the center's staff shall implement
the emergency medical procedures and notify the participant's
family members and other medical personnel~~ There shall be a

policy and procedure that insures the notification of family members or responsible parties whenever an emergency occurs for an individual participant.

G. ~~A center shall conduct emergency drills at least once every three months~~Upon the identification of the non-responsiveness of a participant at the center, the center's staff shall implement the emergency medical procedures and notify the participant's family members and other medical personnel.

H. ~~A center shall make every effort to ensure that staff and participants recognize the nature and importance of such drills~~A center shall conduct emergency drills at least once every three months.

I. A center shall make every effort to ensure that staff and participants recognize the nature and importance of such drills.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2191 (October 2008), repromulgated LR 34:2637 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§4287. General Safety Practices

A. - F. ...

G. All exterior and interior doors used by participants ~~must~~ shall be at least 32 inches wide.

H. All hallways/corridors ~~must~~ shall be at least 36 inches wide.

I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2191 (October 2008), repromulgated LR 34:2637 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§4293. ADHC Furnishings

A. The center ~~must~~ shall be furnished so as to meet the needs of the participants. All furnishings and equipment shall be kept clean and in good repair.

B. ...

C. Dining Area. Furnishings ~~must~~ shall include tables and comfortable chairs sufficient in number to serve all participants. Meals may be served either cafeteria style or directly at the table depending upon the method of food preparation or physical condition of the participants.

D. Kitchen. If the center has a kitchen area, it ~~must~~ shall meet all health and sanitation requirements and ~~must~~ shall be of sufficient size to accommodate meal preparation for the proposed number of participants.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2192 (October 2008), repromulgated LR 34:2638 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§4295. Location of Center

A. An adult day health care center that is located within any center or program that is also licensed by the department ~~must~~ shall have its own identifiable staff, space, and storage. These centers ~~must~~ shall meet specific requirements if they are located within the same physical location as another program that is also licensed by the department.

1. The program or center within which the ADHC center is located ~~must~~ shall meet the requirements of its own license.

B. - D.1. ...

2. If space to be used for the ADHC center is nursing center bedroom space, the number of beds associated with the space occupied by the ADHC program ~~must~~shall be reduced from the licensed capacity of the nursing center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.41-46.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:2192 (October 2008), repromulgated LR 34:2638 (December 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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

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

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the

provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and no direct or indirect cost to the provider to provide the same level of service. These provisions will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, August 24, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary