

Chapter 68. Adult Residential Care Providers

Subchapter A. General Provisions

3. extortion of funds or other things of value.

Activities of Daily Living—ambulating, transferring, grooming, bathing, dressing, eating, toileting, and for the purposes of this Rule, taking medication.

Adult—a person who has attained 18 years of age.

Adult Residential Care Provider—a facility, agency, institution, society, corporation, partnership, company, entity, residence, person or persons, or any other group which provides adult residential care for compensation to two or more adults who are unrelated to the licensee or operator.

Alterations, Additions, or Substantial Rehabilitation—rehabilitation that involves structural changes in which hard costs are equal to or exceed the per unit cost for substantial rehabilitation as defined by the Louisiana Housing Finance Authority.

Change of Ownership (CHOW)—the sale or transfer of all or a portion of the assets or other equity interest in an ARCP. Examples of actions that constitute a change of ownership include:

1. unincorporated sole proprietorship. Transfer of title and property of another party constitutes change of ownership;
2. corporation. The merger of the provider corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation constitutes change of ownership. Transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute a change of ownership. Admission of a new member to a nonprofit corporation is not a change of ownership;
3. limited liability company. The removal, addition or substitution of a member in a limited liability company does not constitute a change of ownership;
4. partnership. In the case of a partnership, the removal, addition, or substitution of a partner, unless the partners expressly agree otherwise as permitted by applicable state law, constitutes a change of ownership.

Chemical Restraint—a psychopharmacologic drug that is used for discipline or convenience and not required to directly treat medical symptoms or medical diagnoses. The use of chemical restraints is prohibited in ARCPs.

Common Area (Space)—the interior space(s) made available for the free and informal use by all residents or the guests of the ARCP. Common areas may include activity rooms, libraries, and other areas exclusive of resident's rooms and bathrooms. Corridors, passageways, kitchens and laundry areas are not included as common areas.

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

DAL—Division of Administrative Law or its successor.

§6803. Definitions and Abbreviations

Abuse—the infliction of physical or mental injury or the causing of the deterioration of a resident by means including, but not limited to:

1. sexual abuse;
2. exploitation; or

Department—the Louisiana Department of Health and Hospitals (DHH).

Direct Care Staff—any employee of the ARCP that provides personal care services to the residents.

Director—the person who is in charge of the daily operation of the ARCP.

Facility Need Review (FNR)—a review conducted for level 4 ARCPs to determine whether there is a need for additional ARCP residential living units to be licensed.

Health Care Services—any service provided to a resident by an ARCP or third-party provider that is required to be provided or delegated by a licensed, registered or certified health care professional. Any other service, whether or not ordered by a physician, that is not required to be provided by a licensed, registered or certified health care professional shall not be considered a health care service.

HSS—the Department of Health and Hospitals, Office of the Secretary, Office of Management and Finance, Health Standards Section.

Incident—any occurrence, situation or circumstance affecting the health, safety or well-being of a resident or residents.

Intermittent Nursing Services—services that are provided episodically or for a limited period of time by licensed nursing staff. Intermittent nursing services may be provided by level 4 ARCPs only.

Instrumental Activities of Daily Living—the functions or tasks that are not necessary for fundamental functioning but assist an individual to be able to live in a community setting. These include activities such as:

1. light house-keeping;
2. food preparation and storage;
3. grocery shopping;
4. laundry;
5. scheduling medical appointments;
6. financial management;
7. arranging transportation to medical appointments; and
8. accompanying the client to medical appointments.

Level 1 ARCP—an ARCP that provides adult residential care for compensation to two or more residents but no more than eight who are unrelated to the licensee or operator in a setting that is designed similarly to a single-family dwelling.

Level 2 ARCP—an ARCP that provides adult residential care for compensation to nine or more residents but no more than 16 who are unrelated to the licensee or operator in a congregate setting that does not provide independent apartments equipped with kitchenettes, whether functional or rendered nonfunctional for reasons of safety.

Level 3 ARCP—an ARCP that provides adult residential care for compensation to 17 or more residents who are unrelated to the licensee or operator in independent apartments equipped with kitchenettes, whether functional or rendered nonfunctional for reasons of safety.

Level 4 ARCP—an ARCP that provides adult residential care including intermittent nursing services for compensation to 17 or more residents who are unrelated to the licensee or operator in independent apartments equipped with kitchenettes, whether functional or rendered nonfunctional for reasons of safety.

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

May—indicates permissible practices or services.

Neglect—the failure to provide the proper or necessary medical care, nutrition, or other care necessary for a resident's well-being.

NFPA—National Fire Protection Association.

Nursing Director—a registered nurse licensed by the state of Louisiana who directs or coordinates nursing services in the ARCP.

OPH—Office of Public Health.

OSFM—Office of the State Fire Marshal.

Person-Centered Service Plan (PCSP)—a written description of the functional capabilities of a resident, the resident's need for personal assistance and the services to be provided to meet the resident's needs.

Personal Assistance—services that directly assist a resident with certain activities of daily living and instrumental activities of daily living.

Physical Restraint—any manual method, physical or mechanical device, material, or equipment attached to or adjacent to a resident's body that the individual cannot easily remove which restricts freedom of movement or normal access to the body and is not used as an assistive device. The use of physical restraints is prohibited in ARCPs.

PRN—commonly used in medicine to mean as needed or as the situation arises.

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

Resident Apartment—a separate unit configured to permit residents to carry out, with or without assistance, all the functions necessary for independent living, including:

1. sleeping;
2. sitting;
3. dressing;
4. personal hygiene;
5. storing, preparing, serving and eating food;

- 6. storing clothing and other personal possessions;
 - 7. handling personal correspondence and paperwork;
- and
- 8. entertaining visitors.

Resident's Representative—a person who has been authorized by the resident in writing to act upon the resident's direction regarding matters concerning the resident's health or welfare, including having access to personal records contained in the resident's file and receiving information and notices about the overall care, condition and services for the resident. No member of the governing body, administration or staff or an ARCP or any member of their family shall serve as the resident's representative unless they are related to the resident by blood or marriage.

Shall—indicates mandatory requirements.

Specialized Dementia Care Program—as defined in R.S. 40:1300.123, a special program or unit for residents with a diagnosis of probable Alzheimer's disease or a related disorder so as to address the safety needs of such residents, and that advertises, markets, or otherwise promotes the ARCP as providing specialized Alzheimer's/dementia care services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1086 (June 2015).

11. medication management;
12. nursing services;
13. smoking;
14. pet policy;
15. resident responsibilities;
16. record-keeping;
17. infection control; and

18. any other area required in accordance with memorandums issued by the department's Health Standards Section.

B. Personnel Policies. An ARCP shall have written personnel policies that include:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision, and performance evaluation of staff members;
2. written job descriptions for each staff position;
3. policies which provide for staff, upon offer of employment, to have a health assessment as defined by the provider and in accordance with state *Sanitary Code*;
4. an employee grievance procedure;
5. abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment whether that abuse or mistreatment is done by another staff member, a family member, a resident or any other person; and
6. a policy to prevent discrimination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1095 (June 2015).

§6829. Policy and Procedures

A. The ARCP shall have written policies and procedures approved by the governing body that, at a minimum, address the following:

1. confidentiality and security of files;
2. publicity and marketing;
3. personnel;
4. resident's rights;
5. grievance procedures;
6. resident's funds;
7. emergency preparedness planning procedures to include plans for evacuation and sheltering in place;
8. abuse and neglect;
9. incidents and accidents;
10. pre-residency screening and residency criteria and limitations;

Subchapter F. Requirements Related to Staff, Record-Keeping and Incident Reports

§6863. General Provisions

A. The ARCP shall have qualified staff sufficient in number to meet the scheduled and unscheduled needs of residents and to respond in emergency situations.

B. Sufficient direct care staff shall be employed or contracted to ensure provision of personal assistance as required by the resident's PCSP.

C. Additional staff shall be employed as necessary to perform office work, cooking, house cleaning, laundering, and maintenance of buildings, equipment and grounds.

D. A staff member trained in the use of cardio pulmonary resuscitation (CPR) and first aid shall be on duty at all times.

E. Staff shall have sufficient communication and language skills to enable them to perform their duties and interact effectively with residents and staff.

F. The ARCP shall maintain a current work schedule for all employees showing actual coverage for each 24-hour day.

G. Criminal history checks and offers of employment shall be completed in accordance with R.S. 40:1300.52.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1105 (June 2015).

§6865. Staffing Requirements

A. At a minimum the following staff positions are required. For ARCPs level 2 through 4, one person may occupy more than one position in the ARCP but shall not be in this position on the same shift. In a level 1 ARCP, one person may occupy more than one staff position on the same shift.

1. Director. Each ARCP shall have a qualified director who is responsible for the day-to-day management, supervision, and operation of the ARCP and who shall be on-site no less than 20 hours per week.

a. During periods of temporary absence of the director, there shall be a responsible staff person designated to be in charge 24 hours per day, seven days per week that has the knowledge and responsibility to handle any situation that may occur.

b. The director shall be at least 21 years of age and have the responsibility and authority to carry out the policies of the provider.

c. Director Qualifications

i. For levels 1 and 2, the director shall meet one of the following criteria upon date of hire:

(a). have at least an associate's degree from an accredited college plus one year of experience in the fields of health, social services, geriatrics, management or administration; or

(b). in lieu of an associate's degree from an accredited college three years of experience in health, social services, geriatrics, management, administration; or

(c). a bachelor's degree in geriatrics, social services, nursing, health care administration or related field.

ii. For levels 3 and 4, the director shall meet one of the following criteria upon date of hire:

(a). a bachelor's degree plus two years of administrative experience in the fields of health, social services, or geriatrics;

(b). in lieu of a bachelor's degree, six years of administrative experience in health, social services, or geriatrics;

(c). a master's degree in geriatrics, health care administration, or in a human service related field; or

(d). be a licensed nursing facility administrator.

iii. Additionally, for level 4 ARCPs the director shall have successfully completed an adult residential care/assisted living director certification/training program consisting of, at a minimum, 12 hours of training that has been approved by any one of the following organizations:

(a). Louisiana Board of Examiners of Nursing Facility Administrators;

(b). Louisiana Assisted Living Association (LALA);

(c). LeadingAge Gulf States;

(d). Louisiana Nursing Home Association (LNHA); or

(e). any of the national assisted living associations, including the:

(i). National Center for Assisted Living (NCAL);

(ii). Assisted Living Federation of America (ALFA); or

(iii). LeadingAge.

iv. Training shall begin within six months and completed within 12 months of being appointed director.

v. Two years of experience as an assisted living director may be substituted in lieu of the certification requirements.

vi. Documentation of the director's qualifications shall be maintained on file at the ARCP.

2. Designated Recreational/Activity Staff. There shall be an individual designated to organize and oversee the recreational and social programs of the ARCP.

3. Direct Care Staff

a. The ARCP shall demonstrate that sufficient and trained direct care staff is scheduled and on-site to meet the 24-hour scheduled and unscheduled needs of the residents.

b. The ARCP shall be staffed with direct care staff to properly safeguard the health, safety and welfare of clients.

c. The ARCP shall employ direct care staff to ensure the provision of ARCP services as required by the PCSP.

d. Staff shall not work simultaneously at more than one ARCP on the same shift.

e. A direct care staff person who is not in the ARCP, but who is scheduled on the shift as on call shall not be included as direct care staff on any shift.

f. The ARCP shall maintain a current work schedule for all employees indicating adequate coverage for each 24-hour day.

B. Nursing Staff

1. In ARCPs that offer staff medication administration and level 4 ARCPs, the ARCP shall provide a sufficient number of RNs and LPNs to provide services to all residents in accordance with each resident's PCSP 24 hours per day.

2. Nursing Director

a. Level 4 ARCPs shall employ or contract with at least one RN who shall serve as the nursing director and who shall manage the nursing services. The nursing director need not be physically present at all times at the ARCP; however, the nursing director or his or her designee shall be on call and readily accessible to the ARCP 24 hours a day.

b. The nursing director, in conjunction with the resident's physician, shall be responsible for the preparation, coordination and implementation of the health care services section of the resident's PCSP.

c. The nursing director shall review and oversee all LPNs and direct care personnel with respect to the performance of health related services.

d. The nursing director shall be licensed by, and in good standing with, the Louisiana State Board of Nursing, and shall comply with all applicable licensing requirements.

3. Licensed Practical Nurses (LPNs). LPNs employed by or contracted with shall be licensed by, and in good standing with, the Louisiana State Board of Practical Nursing, and shall comply with all applicable nursing requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1105 (June 2015).

§6867. Staff Training

A. All staff shall receive the necessary and appropriate training to assure competence to perform the duties that are assigned to them.

1. All staff shall receive any specialized training required by law or regulation to meet resident's needs.

2. The ARCP shall maintain documentation that orientation and annual training has been provided for all current employees.

3. Orientation shall be completed within seven days of hire and shall include, in addition to the topics listed in §6867.B, the following topics:

- a. the ARCP's policies and procedures; and
- b. general overview of the job specific requirements.

B. The following training topics shall be covered in orientation and annually thereafter for all staff and ARCP contracted providers having direct contact with residents:

- 1. residents' rights;
- 2. procedures and requirements concerning the reporting of abuse, neglect, exploitation, misappropriation and critical incidents;
- 3. building safety and procedures to be followed in the event of any emergency situation including instructions in the use of fire-fighting equipment and resident evacuation procedures including safe operation of fire extinguishers and evacuation of residents from the building;
- 4. basic sanitation and food safety practices;
- 5. requirements for reporting changes in resident's health conditions; and
- 6. infection control.

C. Training for Direct Care Staff

1. In addition to the topics listed in §6867.A.3 and §6867.B, orientation for direct care staff shall include five days of direct observation of the performance of ADL and IADL assistance. A new employee shall not be assigned to carry out a resident's PCSP until competency has been demonstrated and documented.

2. In addition to the required dementia training in §6867.F, direct care staff shall receive 12 hours of annual training which shall be recorded and maintained in the employee personnel file.

3. Annual training shall address the special needs of individual residents and address areas of weakness as determined by the direct care staff performance reviews.

4. All direct care staff shall receive certification in cardiac pulmonary resuscitation and adult first aid within the first 90 days of employment. The ARCP shall maintain the

documentation of current certification in the staff's personnel file.

5. Orientation and five days of supervised training may qualify as the first year's annual training requirements. However, normal supervision shall not be considered to meet this requirement on an annual basis.

D. Continuing Education for Directors. All directors shall obtain 12 continuing education units per year. Topics shall include, but shall not be limited to:

- 1. person-centered care;
- 2. specialty training in the population served;
- 3. supervisory/ management techniques; and/or
- 4. geriatrics.

E. Third-Party Providers. A general orientation and review of ARCP policies and procedures is required to be provided to third-party providers entering the building to serve residents.

F. Dementia Training

1. All employees shall be trained in the care of persons diagnosed with dementia and dementia-related practices that include or that are informed by evidence-based care practices. New employees must receive such training within 90 days from the date of hire.

2. All employees who provide care to residents in a specialized dementia care Program shall meet the following training requirements.

a. Employees who provide direct face-to-face care to residents shall be required to obtain at least eight hours of dementia-specific training within 90 days of employment and eight hours of dementia-specific training annually. The training shall include the following topics:

- i. an overview of Alzheimer's disease and other forms of dementia;
- ii. communicating with persons with dementia;
- iii. behavior management;
- iv. promoting independence in activities of daily living; and
- v. understanding and dealing with family issues.

b. Employees who have regular contact with residents, but who do not provide direct face-to-face care, shall be required to obtain at least four hours of dementia-specific training within 90 days of employment and two hours of dementia training annually. This training shall include the following topics:

- i. an overview of dementias; and
- ii. communicating with persons with dementia.

c. Employees who have only incidental contact with residents shall receive general written information provided by the ARCP on interacting with residents with dementia.

3. Employees who do not provide care to residents in a special dementia care program shall meet the following training requirements.

a. Employees who provide direct face-to-face care to residents shall be required to obtain at least two hours of dementia-specific training annually. This training shall include the following topics:

- i. an overview of Alzheimer's disease and related dementias; and
- ii. communicating with persons with dementia.

b. All other employees shall receive general written information provided by the ARCP on interacting with residents with dementia.

4. Any dementia-specific training received in a nursing or nursing assistant program approved by the department or its designee may be used to fulfill the training hours required pursuant to this Section.

5. ARCPs may offer a complete training curriculum themselves, or they may contract with another organization, entity, or individual to provide the training.

6. The dementia-specific training curriculum shall be approved by the department or its designee. To obtain training curriculum approval, the organization, entity, or individual shall submit the following information to the department or its designee:

- a. a copy of the curriculum;
- b. the name of the training coordinator and his/her qualifications;
- c. a list of all instructors;
- d. the location of the training; and
- e. whether or not the training will be web-based.

7. A provider, organization, entity, or individual shall submit any content changes to an approved training curriculum to the department, or its designee, for review and approval.

a. Continuing education undertaken by the ARCP does not require the department's approval.

8. If a provider, organization, entity, or individual, with an approved curriculum, ceases to provide training, the department shall be notified in writing within 30 days of cessation of training. Prior to resuming the training program, the provider, organization, entity, or individual shall reapply to the department for approval to resume the program.

9. Disqualification of Training Programs and Sanctions. The department may disqualify a training curriculum offered by a provider, organization, entity, or individual that has demonstrated substantial noncompliance with training requirements including, but not limited to:

- a. the qualifications of training coordinators; or
- b. training curriculum requirements.

10. Compliance with Training Requirements

a. The review of compliance with training requirements will include, at a minimum, a review of:

- i. the documented use of an approved training curriculum; and
- ii. the provider's adherence to established training requirements.

b. The department may impose applicable sanctions for failure to adhere to the training requirements outlined in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1106 (June 2015).