

NOTICE OF INTENT

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

**Psychiatric Residential Treatment Facilities
Licensing Standards
(LAC 48:I.Chapter 90)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 90 as authorized by R.S. 36:254 and R.S. 40:2009. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing standards for psychiatric residential treatment facilities in order to: 1) revise the definition and qualifications for mental health specialists; 2) establish provisions for inactivation of licensure due to non-declared disasters or emergencies; 3) clarify requirements for social media use and reporting; and 4) ensure consistency with other licensing Rules, regulations and processes.

Title 48

**PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing**

**Chapter 90. Psychiatric Residential Treatment Facilities
(under 21)**

Subchapter A. General Provisions

§9001. Purpose

A. The purpose of this Chapter 90 is to provide for the development, establishment and enforcement of statewide standards for the care of residents who are under 21 years of age in psychiatric residential treatment facilities (PRTFs) participating in the Medicaid Program, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensure which shall promote ~~safe and adequate treatment~~ the health, safety and welfare of residents of PRTFs participating in the Medicaid Program.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:54 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:371 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§9003. Definitions

A. The following defines selected terminology used in connection with this Chapter 90.

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

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

Documentation—written evidence or proof, including signatures of appropriate staff and date, ~~must~~ shall be maintained on site and available for review.

~~DSS—the Department of Social Services.~~ Repealed.

~~HSS—the Department of Health and Hospitals~~, Health Standards Section.

Mental Health-Related Field—academic training programs based on the principles, teachings, research and body of scientific knowledge of the *core mental health disciplines*. Programs which qualify include, but are not limited to sociology, criminal justice, nursing, marriage and family counseling, rehabilitation counseling, psychological counseling and other professional counseling. For any other program to qualify as a related field, there ~~must~~ shall be substantial evidence that the academic program has a curriculum content in

which at least 70 percent of the required courses for graduation are based on the knowledge base of the *core mental health disciplines*.

Mental Health Specialist (MHS)—a person who delivers direct care services under the direct supervision of a LMHP or MHP and who meets one ~~or more~~ of the following ~~four~~ criteria, as documented by the provider:

a. ~~is actively pursuing a Bachelor of Arts degree in a mental health-related field~~ has completed at least two years of education from an accredited college or university;

or

b. ~~is actively pursuing a Bachelor of Science degree in a mental health-related field~~ has a high school diploma or equivalent and has completed two years of documented experience providing direct care services in a mental health, physical health, social services, educational or correctional setting. ~~or~~

c. ~~has a Bachelor's degree and is a student pursuing a graduate degree in a mental health-related field and has completed at least two courses in that identified field; or~~

~~d. has a high school degree or a GED and has two years experience providing direct services in a mental~~

~~health, physical health, social services, educational or
correctional setting.~~c. - d. Repealed.

Non-Operational-the HCBS provider location is not open
for business operation on designated days and hours as stated on
the licensing application and business location signage.

OBH-the Department of Health, Office of Behavioral
Health.

~~OCS-the Department of Child and Family Services,
Office of Community Services.~~Repealed.

~~OPH-the Department of Health-and Hospitals, Office of
Public Health.~~

~~OYD-the Department of Public Safety and Corrections,
Office of Youth Development.~~Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health
and Hospitals, Office of the Secretary, Bureau of Health
Services Financing, LR 30:54 (January 2004), amended by the
Department of Health and Hospitals, Bureau of Health Services
Financing, LR 38:371 (February 2012), LR 39:2510 (September

2013), LR 42:277 (February 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

Subchapter B. Licensing

§9007. General Provisions

A. - G. ...

H. Plan Review. Construction documents (plans and specifications) are required to be submitted and approved by both the OSFM and the Department of Health ~~and Hospitals~~ as part of the licensing procedure and prior to obtaining a license.

1. - 1.a. ...

i. One set of the final construction documents shall be submitted to the ~~OSFM~~ OSFM for approval. The Fire Marshal's approval letter and final inspection shall be sent to the ~~DHH~~ LDH.

ii. One set of the final construction documents shall be submitted to ~~DHH~~ the OSFM for the LDH plan review along with the appropriate review fee and a "plan review application form" for approval.

b. - c.i. ...

ii. the latest LSUCCC adopted edition of the *International Building Code*; and

iii. the current licensing standards for psychiatric residential treatment facilities; ~~.~~ and

iv. ~~the latest OPH adopted edition of the Louisiana State Plumbing Code.~~Repealed.

d. Construction Document Preparation.

Construction documents submitted to ~~DHH~~LDH shall be prepared only by a Louisiana licensed architect or licensed engineer as governed by the licensing laws of the state for the type of work to be performed. These documents shall be of an architectural or engineering nature and thoroughly illustrate the project that is accurately drawn, dimensioned, and contain noted plans, details, schedules and specifications. At a minimum the following shall be submitted:

i. - vi. ...

2. Waivers. The secretary of ~~DHH~~LDH may, within his/her sole discretion, grant waivers to building and construction guidelines which are not part of, or otherwise required under, the provisions of the state Sanitary Code. The facility ~~must~~shall submit a waiver request in writing to HSS. The facility ~~must~~shall demonstrate how patient safety and quality of care offered is not compromised by the waiver, and must demonstrate the undue hardship imposed on the facility if the waiver is not granted. The facility ~~must~~shall demonstrate their ability to completely fulfill all other requirements of service. The department will make a written determination of the requests.

a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:372 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§9009. Initial Licensing Application Process

A. ...

B. ~~Currently licensed~~Licensed DCFS child residential facilities that are converting to PRTFs ~~must~~shall comply with all of the initial licensure requirements, except plan review, and may be eligible for the exception to the bedroom space requirement of this Chapter.

C. An applicant ~~must~~shall submit a completed initial licensing application packet to the department, which shall include:

1. ...

2. a copy of the approval letterss of the architectural and LDH licensing facility plans for the PRTF from ~~the department and from~~ the OSFM, and any other office/entity designated by the department to review and approve the facility's architectural plans, if the facility ~~must~~shall go through plan review;

3. - 9. ...

D. If the initial licensing packet is incomplete when submitted, the applicant will be notified of the missing information and will have 90 days from receipt of the notification 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 a PRTF ~~must~~ shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

E. Once the initial licensing application packet has been approved by the department, notification of the approval shall be forwarded to the applicant. Within 90 days of receipt of the approval notification, the applicant ~~must~~ shall notify the department that the PRTF is ready and is requesting an initial licensing survey. If an applicant fails to notify the department within 90 days, the initial licensing application shall be closed. After an initial licensing application has been closed, an applicant who is still interested in becoming a PRTF ~~must~~ shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

F. Applicants ~~must~~ shall be in compliance with all appropriate federal, state, departmental or local statutes,

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:373 (February 2012), amended LR 39:2510 (September 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§9011. Types of Licenses

A. The department shall have the authority to issue the following types of licenses.

1. - 2.a. ...

b. The facility ~~must~~shall submit a plan of correction to the department for approval and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional initial license.

2.c. - 4.c.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:373 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§9013. Deemed Status

A. A licensed PRTF may request deemed status from the department. The department may accept accreditation in lieu of a routine on-site licensing survey provided that:

1. ...

2. all services provided under the PRTF license ~~must~~ shall be accredited; and

3. - D. ...

1. ~~The secretary of the DHH may, within his/her sole discretion, grant waivers to building and construction guidelines. The facility must submit a waiver request in writing to the Division of Engineering and Architectural Services. The facility must demonstrate how patient safety and quality of care offered is not comprised by the waiver. The facility must demonstrate their ability to completely fulfill all other requirements of service. DHH will make a written determination of the requests. Waivers are not transferable in an ownership change and are subject to review or revocation upon any change in circumstances related to the waiver~~Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:374

(February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§9017. Changes in Licensee Information or Personnel

A. ...

B. Any change regarding the PRTF's name, "doing business as" name, mailing address, phone number, or any combination thereof, shall be reported in writing to the department within five days of the change. Any change regarding the PRTF name or "doing business as" name requires a change to the facility license and ~~shall require a \$25~~ the required fee for the issuance of an amended license.

C. - D.3. ...

E. Any request for a duplicate license ~~must~~ shall be accompanied by ~~a \$25~~ the required fee.

F. ...

1. Written notice of intent to relocate ~~must~~ shall be submitted to HSS when the plan review request is submitted to the department for approval.

2. Relocation of the facility's physical address results in a new anniversary date and the full licensing fee ~~must~~ shall be paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375 (February 2012), amended LR 42:278 (February 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§9019. Cessation of Business

A. Except as provided in §9089 of these licensing regulations, a license shall be immediately null and void if a PRTF ~~ceases to operate~~becomes non-operational.

B. - D. ...

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

1. - 1.b. ...

c. the parent(s) or legal guardian or legal representative of each ~~client~~resident; and

2. provide for an orderly discharge and transition of all of the ~~clients~~residents in the facility.

F. In addition to the advance notice of voluntary closure, the PRTF shall submit a written plan for the disposition of ~~clients'~~residents' medical records for approval by the department. The plan shall include the following:

1. ...

2. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed provider's ~~clients~~residents medical records;

3. an appointed custodian(s) who shall provide the following:

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

b. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:375 (February 2012), amended LR 42:278 (February 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§9021. Renewal of License

A. To renew a license, a PRTF ~~must~~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. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:376 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§9025. Notice and Appeal of License Denial, License

Revocation, and Denial of License ~~Non-Renewal, and Appeal of Provisional License~~

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

B. The PRTF has a right to an informal reconsideration of the license denial, license revocation, or denial of license ~~non~~-renewal. There is no right to an informal reconsideration of a voluntary non-renewal or surrender of a license by the provider.

1. The PRTF shall request the informal reconsideration within 15 calendar days of the receipt of the notice of the license denial, license revocation, or denial of license ~~non~~-renewal. The request for informal reconsideration ~~must~~ shall be in writing and shall be forwarded to the Health Standards Section.

2. The request for informal reconsideration ~~must~~ shall include any documentation that demonstrates that the determination was made in error.

3. - 7. ...

C. The PRTF has a right to an administrative appeal of the license denial, license revocation, or denial of license ~~non~~-renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the provider.

1. The PRTF shall request the administrative appeal within 30 calendar days of the receipt of the notice of the results of the informal reconsideration of the license denial, license revocation, or denial of license ~~non~~-renewal.

a. The facility may forego its rights to an informal reconsideration, and if so, the facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the license denial, license revocation, or denial of license ~~non~~-renewal.

2. The request for administrative appeal ~~must~~-shall be in writing and shall be submitted to the DAL or its successor. The request shall include any documentation that demonstrates that the determination was made in error and ~~must~~ shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the DAL or its successor, the administrative appeal of the license revocation or denial of license ~~non~~-renewal shall be suspensive, and the facility shall be allowed

to continue to operate and provide services until such time as the DAL issues a final administrative decision.

a. ...

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

D. ...

E. If a timely administrative appeal has been filed by the facility on a license denial, denial of license ~~non-renewal~~, or license revocation, the Division of Administrative Law shall conduct the hearing pursuant to the Louisiana Administrative Procedure Act.

1. If the final DAL decision is to reverse the license denial, the denial of license ~~non-renewal~~, or the license revocation, the facility's license will be re-instated or granted upon the payment of any licensing fees or other fees due to the department and the payment of any outstanding sanctions due to the department.

2. If the final DAL decision is to affirm the denial of license ~~non-renewal~~ or the license revocation, the facility shall discharge any and all residents receiving services according to the provisions of this Chapter. Within 10 days of the final agency decision, the facility shall notify the department's licensing section in writing of the secure and

confidential location of where the residents' records will be stored.

F. - G.2. ...

3. The provider shall request the informal reconsideration in writing, which shall be received by the Health Standards Section within five [calendar](#) days of receipt of the notice of the results of the follow-up survey from the department.

4. The provider shall request the administrative appeal within 15 [calendar](#) days of receipt of the notice of the results of the follow-up survey from the department. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law, or its successor.

H. - I.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:377 (February 2012), amended LR 42:278 (February 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§9027. Complaint Surveys

A. - E. ...

F. ~~DHH~~-LDH surveyors and staff shall be given access to all areas of the facility and all relevant files during any complaint survey. ~~DHH~~-LDH surveyors and staff shall be allowed to interview any provider staff, resident, or participant, as necessary or required to conduct the survey.

G. A PRTF which has been cited with violations or deficiencies on a complaint survey has the right to request an informal reconsideration of the validity of the violations or deficiencies. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department ~~must~~-shall receive the written request within 10 calendar days of the facility's receipt of the notice of the violations or deficiencies.

H. A complainant shall have the right to request an informal reconsideration of the findings of the complaint survey or investigation that resulted from his/her complaint. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department ~~must~~-shall receive the written request within 30 calendar days of the complainant's receipt of the results of the complaint survey or investigation.

I. - J. ...

~~1. To request an administrative appeal pursuant to R.S. 40:2009.16, the written request for the appeal shall be~~

~~submitted to the Division of Administrative Law (DAL) and must be received within 30 calendar days of the receipt of the results of the informal reconsideration.~~

~~a. The offer of the administrative appeal, if appropriate, as determined by the Health Standards Section, shall be included in the notification letter of the results of the informal reconsideration. The right to administrative appeal shall only be deemed appropriate and thereby afforded upon completion of the informal reconsideration.~~

~~2. The administrative law judge shall not have the authority to overturn or delete deficiencies or violations and shall not have the authority to add deficiencies or violations.~~
1. - 2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:378 (February 2012), amended LR 42:279 (February 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§9029. Statement of Deficiencies

A. - C.3. ...

4. Except as provided for complaint surveys pursuant to R.S. 40:2009.11 et seq., and as provided in this Chapter for

license denials, license revocations, and denial of license ~~non-~~ renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:379 (February 2012), amended LR 42:279 (February 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

Subchapter C. Organization and Administration

§9033. Governing Body [Formerly §9029]

A. The PRTF ~~must~~shall have either an effective governing body or individual(s) legally responsible for the conduct of the PRTF operations. No contracts/arrangements or other agreements may limit or diminish the responsibility of the governing body.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

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

Services Financing, LR 30:59 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:380 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§9035. Administrative Policies and Records

[Formerly §9031]

A. Every PRTF shall have policies that are clearly written and current. All policies shall be available for review by all staff and ~~DHH~~-LDH personnel. All policies shall be available for review upon request by a resident or a resident's parent or legal guardian.

B. ...

C. The PRTF shall have policies governing:

1. - 6. ...

7. mandatory reporting of abuse or neglect;

8. - 11. ...

12. the photographing and audio or audio-visual recording of residents and clarification of the agency's prohibited use of social media to ensure that all staff, either contracted or directly employed, receive training relative to the restrictive use of social media; ~~and~~

13. all hazards risk assessment and emergency/disaster procedures, including the provision that when the PRTF has an interruption in services or a change in the

licensed location due to an emergency situation, the PRTF shall notify the HSS no later than the next stated business day;

14. - D.1.i. ...

2. Notification of Facility Policy Regarding the Use of Restraint and Seclusion. At admission, the facility

~~must~~shall:

a. ...

b. communicate its restraint and seclusion policy in a language that the resident, or his or her parent(s) or legal guardian(s) understands (including American Sign Language, if appropriate) and when necessary, the facility ~~must~~shall provide interpreters or translators;

c. obtain an acknowledgment, in writing, from the resident, or in the case of a minor, from the parent(s) or legal guardian(s) that he or she has been informed of the facility's policy on the use of restraint or seclusion during an emergency safety situation. Staff ~~must~~shall file this acknowledgment in the resident's record; and

d. ...

i. The facility's policy ~~must~~shall provide contact information, including the phone number and mailing address, for the appropriate state protection and advocacy organization.

E. - E.1.e. ...

2. The facility policy shall prohibit:

a. shaking, striking, spanking or ~~other~~any cruel treatment;

b. - k. ...

3. The PRTF ~~must~~shall satisfy all of the requirements contained in federal and state laws and regulations regarding the use of restraint or seclusion, including application of time out.

F. Resident Abuse or Neglect

1. The provider shall have comprehensive written procedures concerning resident abuse or neglect including:

a. - 2. ...

3. Staff ~~must~~shall report any case of suspected resident abuse or neglect to both HSS and the DCFS, Child Welfare Division by no later than close of business the next business day after a case of suspected resident abuse or neglect. The report ~~must~~shall include:

a. - e. ...

4. In the case of a minor, the facility ~~must~~shall notify the resident's parent(s) or legal guardian(s) as soon as possible, and in no case later than 24 hours after the suspected resident abuse or neglect.

5. Staff ~~must~~shall document in the resident's record that the suspected resident abuse or neglect was reported

to both HSS and the DCFS, Child Welfare Division, including the name of the person to whom the incident was reported. A copy of the report ~~must~~ shall be maintained in the resident's record.

G. The facility ~~must~~ shall report each serious occurrence to both HSS and, unless prohibited by state law, the DCFS, Child Welfare Division. Serious occurrences that ~~must~~ shall be reported include a resident's death, or a serious injury to a resident or a suicide attempt by a resident.

1. Staff ~~must~~ shall report any serious occurrence involving a resident to both HSS and the DCFS, Child Welfare Division by no later than close of business the next business day after a serious occurrence. The report ~~must~~ shall include the name of the resident involved in the serious occurrence, a description of the occurrence, and the name, street address, and telephone number of the facility. The facility ~~must~~ shall conduct an investigation of the serious occurrence to include interviews of all staff involved, findings of the investigation, and actions taken as a result of the investigation.

2. In the case of a minor, the facility ~~must~~ shall notify the resident's parent(s) or legal guardian(s) as soon as possible, and in no case later than 24 hours after the serious occurrence.

3. Staff ~~must~~ shall document in the resident's record that the serious occurrence was reported to both HSS and

the DCFS, Child Welfare Division, including the name of the person to whom the incident was reported. A copy of the report ~~must~~ shall be maintained in the resident's record, as well as in the incident and accident report logs kept by the facility.

H. - L. ...

1. The PRTF shall ensure the confidentiality and security of resident records, including information in a computerized medical record system, in accordance with the HIPAA Privacy Regulations and any Louisiana state laws and regulations which provide a more stringent standard of confidentiality than the HIPAA Privacy Regulations. Information from, or copies of records may be released only to authorized individuals, and the PRTF ~~must~~ shall ensure that unauthorized individuals cannot gain access to or alter resident records. Original medical records shall not be released outside the PRTF unless under court order or subpoena or in order to safeguard the record in the event of a physical plant emergency or natural disaster.

a. - M.3.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:60 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services

Financing, LR 38:380 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

Subchapter D. Human Resources

§9041. Personnel [Formerly §9043]

A. - A.3.b. ...

B. There shall be a single organized professional staff that has the overall responsibility for the quality of all clinical care provided to ~~patients~~residents, and for the ethical conduct and professional practices of its members, as well as for accounting to the governing body. The manner in which the professional staff is organized shall be consistent with the facility's documented staff organization and policies and shall pertain to the setting where the facility is located. The organization of the professional staff and its policies shall be approved by the facility's governing body.

C. The staff of a PRTF ~~must~~shall have the appropriate qualifications to provide the services required by its residents' comprehensive plans of care. Each member of the direct care staff may not practice beyond the scope of his/her license, certification or training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

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

Services Financing, LR 30:63 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:383 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§9043. Personnel Qualifications and Responsibilities

A. Staffing Definitions. All experience requirements are related to paid experience. Volunteer work, college work/study or internship related to completion of a degree cannot be counted as work experience. If experience is in a part-time position, the staff person ~~must~~shall be able to verify the amount of time worked each week. Experience obtained while working in a position for which the individual is not qualified may not be counted as experience.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:384 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§9045. Personnel Orientation and Training

A. - A.1. ...

2. Orientation includes, but is not limited to:

a. - b. ...

- c. fire and disaster plans including evacuations;
- d. - f. ...
- g. personnel policy and procedure, including the prohibited use of social media. Such training shall, at a minimum, include confidentiality of resident information, preservation of resident dignity and respect, protection of resident privacy and personal and property rights;
- h. detecting and mandatory reporting of resident abuse, neglect or misappropriation of resident's funds;
- i. - B.3. ...

4. Staff training ~~must~~ shall include training exercises in which staff members successfully demonstrate in practice the techniques they have learned for managing emergency safety situations.

5. Staff ~~must~~ shall be trained and demonstrate competency before participating in an emergency safety intervention.

6. All training programs and materials used by the facility ~~must~~ shall be available for review by HSS.

7. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:384 (February 2012) , amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§9047. Personnel Requirements

A. - C. ...

D. Staffing ratios listed above are a minimum standard.

The PRTF ~~must~~ shall have written policies and procedures that:

1. - 3.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:385 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:329 (February 2017) , LR 44:

Subchapter E. Facility Operations

§9063. Admission, Transfer and Discharge Requirements

A. The written description of admissions policies and criteria shall be provided to the department upon request, and made available to the ~~client~~ resident and his/her legal representative.

B. - D. ...

E. To be admitted into a PRTF, the individual ~~must~~ shall have received Certification of Need from the department or the

department's designee that recommends admission into the PRTF.

The PRTF ~~must~~ shall ensure that requirements for certification are met prior to treatment commencing. The certification ~~must~~ shall specify that:

1. - G. ...

H. Voluntary Transfer or Discharge. Upon notice by the resident or authorized representative that the resident has selected another provider or has decided to discontinue services, the PRTF shall have the responsibility of planning for the resident's voluntary transfer or discharge. The transfer or discharge responsibilities of the PRTF shall include:

1. holding a transfer or discharge planning conference with the resident, family, support coordinator, legal representative and advocate, if such are known, in order to facilitate a smooth transfer or discharge, unless the ~~client~~ resident declines such a meeting;

2. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:386 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§9065. Health Care and Nursing Services

[Formerly §9081]

A. - C.16. ...

17. Abuses and losses of controlled substances shall be reported to the individual responsible for pharmaceutical services, the administrator, the Louisiana Board of Pharmacy, ~~DHH~~-LDH Controlled Dangerous Substances Program and to the Regional Drug Enforcement Administration (DEA) office, as appropriate.

18. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:69 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:386 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§9067. Delivery of Services

[Formerly §9083]

A. - B.6. ...

C. The services provided by the PRTF ~~must~~-shall involve active treatment.

1. The team of professionals who shall develop the comprehensive plan of care shall be composed of physician(s) and

other personnel who are employed by, or who provide services to the recipient in the facility. The team ~~must~~ shall be capable of assessing the ~~recipient's~~ resident's immediate and long-range therapeutic needs, personal strengths and liabilities, potential resources of the ~~recipient's~~ resident's family, capable of setting treatment objectives, and prescribing therapeutic modalities to achieve the plan's objectives. The team ~~must~~ shall include, at a minimum, either:

a. - c. ...

2. The team ~~must~~ shall also include one of the following:

a. - d. ...

4. The comprehensive plan of care is a written plan developed for each recipient to improve the recipient's condition to the extent that inpatient care is no longer necessary. The plan ~~must~~ shall:

a. - c. ...

5. The plan ~~must~~ shall be reviewed as needed, but at a minimum of every 30 days by the facility treatment team to determine that services being provided are, or were, required on an inpatient basis and recommend changes in the plan as indicated by the recipient's overall adjustment as an inpatient.

D. - F. ...

1. The program ~~must~~shall be appropriate to the needs and interests of ~~residents~~patients and be directed toward restoring and maintaining optimal levels of physical and psychosocial functioning.

2. - H.7. ...

I. Each resident ~~must~~shall have a minimum of one face-to-face contact with a psychiatrist each month and additional contacts for individuals from special risk populations, and as clinical needs of the resident dictate.

J. - J.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:70 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:388 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

Subchapter F. Physical Environment

§9077. Interior Space

[Formerly §9063]

A. - E. ...

1. Single rooms ~~must~~shall contain at least 80 square feet and multi-bed rooms shall contain at least 60 square

feet per bed, exclusive of fixed cabinets, fixtures, and equipment.

2. - 12. ...

13. Each ~~client~~resident shall have his/her own bed. A ~~client's~~resident's bed shall be longer than the ~~client~~resident is tall, no less than 30 inches wide, of solid construction and shall have a clean, comfortable, nontoxic fire retardant mattress.

14. - N. ...

1. The provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of all ~~clients~~residents.

2. ...

3. All gas heating units and water heaters ~~must~~shall be vented adequately to carry the products of combustion to the outside atmosphere. Vents ~~must~~shall be constructed and maintained to provide a continuous draft to the outside atmosphere in accordance with the recommended procedures of the American Gas Association Testing Laboratories, Inc.

4. All heating units ~~must~~shall be provided with a sufficient supply of outside air so as to support combustion without depletion of the air in the occupied room.

O. - Q.2. ...

3. Each room shall be for single occupancy and contain at least 60 square feet. It shall be constructed to prevent ~~patient~~resident hiding, escape, injury or suicide.

R. - U. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:66 (January 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:391 (February 2012), LR 39:2510 (September 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

Subchapter G. Emergency Preparedness

§9083. Safety and Emergency Preparedness

A. The PRTF shall ~~have an~~incorporate an all hazards risk assessment into the facility's emergency preparedness plan designed to manage the consequences of medical emergencies, power failures, fire, natural disasters, declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its emergency preparedness plan in the event or occurrence of a disaster or emergency.

B. - B.1. ...

2. The facility's plan shall be submitted to the parish or local Office of Homeland Security and Emergency Preparedness (OHSEP) yearly and upon request of either of these offices and verification of this submittal maintained in the plan. Any recommendations by the parish or local OHSEP regarding the facility's plan shall be documented and addressed by the PRTF.

3. - N. ...

O. The facility's plan shall include how the PRTF will notify OHSEP and ~~DHH~~LDH when the decision is made to shelter in place and whose responsibility it is to provide this notification.

P. - P.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:394 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§9085. Emergency Plan Activation, Review, and Summary

A. ...

B. PRTFs ~~must~~shall conduct a minimum of 12 fire drills annually with at least one every three months on each shift. In

addition to drills for emergencies due to fire, the facility shall conduct at least one drill per year for emergencies due to a disaster other than fire, such as storm, flood, and other natural disasters.

1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:395 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§9087. Notification of Evacuation, Relocation, or Temporary Cessation of Operations

A. - B. ...

C. In the event that a PRTF evacuates, temporarily relocates or temporarily ceases operations at its licensed location as a result of an evacuation order issued by the state, local or parish OHSEP, the PRTF ~~must~~ shall immediately give notice to the Health Standards Section, the Office of Behavioral Health (OBH), and OHSEP by facsimile or email of the following:

1. - 2. ...

D. In the event that a PRTF evacuates, temporarily relocates or temporarily ceases operations at its licensed location for any reason other than an evacuation order, the PRTF

~~must~~ shall immediately give notice to the Health Standards Section by facsimile or email of the following:

1. - 2. ...

E. If there are any deviations or changes made to the locations of the residents that ~~was~~ were given to the Health Standards Section, OBH and OHSEP, then ~~both~~ Health Standards, OBH, and OHSEP shall be notified of the changes within 48 hours of their occurrence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:396 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

§9089. Authority to Re-Open After an Evacuation, Temporary Relocation or Temporary Cessation of Operation

A. - F.7. ...

G. Inactivation of Licensure due to a Non-declared Disaster or Emergency

1. A PRTF 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:

a. the PRTF shall submit written notification to the Health Standards Section within 30 days of the date of the non-declared emergency or disaster stating that:

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

ii. the PRTF intends to resume operation as a PRTF agency in the same service area;

iii. the PRTF attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

iv. the PRTF's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility.

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.

b. the PRTF 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

c. the PRTF continues to submit required documentation and information to the department, including but not limited to cost reports.

2. Upon receiving a completed written request to temporarily inactivate a PRTF license, the department shall issue a notice of inactivation of license to the PRTF.

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

4. The PRTF shall resume operating as a PRTF in the same service area within one year of the approval of renovation/construction plans by the OSFM and the OPH as required.

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

5. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a PRTF 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:

a. the PRTF shall submit a written license reinstatement request to the licensing agency of the department;

b. 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

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

6. Upon receiving a completed written request to reinstate a PRTF license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the agency has met the requirements for licensure including the requirements of this Subsection.

7. No change of ownership of the PRTF shall occur until such PRTF has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a PRTF facility.

8. The provisions of this Subsection shall not apply to a PRTF which has voluntarily surrendered its license and ceased operation.

9. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the PRTF license for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:396 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

Subchapter H. Additional Requirements for Mental Health PRTFs

§9093. Personnel Qualifications, Responsibilities, and Requirements

A. A mental health PRTF shall have the following minimum personnel:

1. Administrator. The administrator ~~must~~shall have a Bachelor's degree from an accredited college or university in a mental health-related field, plus at least five years of related experience. The administrator is responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

1.a. - 2. ...

a. The clinical director shall be a physician holding an unrestricted license to practice medicine in Louisiana and who has the following:

i. ...

ii. if the license(s) is from another jurisdiction, the license(s) ~~must~~ shall be documented in the employment record and ~~must~~ shall also be unrestricted;

iii. ...

iv. satisfactory completion of a specialized psychiatric residency training program accredited by the Accreditation Council for Graduate Medical Education (ACGME), as evidenced by a copy of the certificate of training or a letter of verification of training from the training director, which includes the exact dates of training and verification that all ACGME requirements have been satisfactorily met. If the training was completed in a psychiatric residency program not accredited by the ACGME, the physician ~~must~~ shall demonstrate that he/she meets the most current requirements as set forth in the American Board of Psychiatry and Neurology's board policies, rules and regulations regarding information for applicants for initial certification in psychiatry.

b. - 7. ...

B. If the PRTF is providing both mental health and substance abuse treatment, the PRTF ~~must~~shall also meet the staffing requirements for the resident's ASAM level required by the department, or the department's designee, in addition to the mental health PRTF requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:397 (February 2012), amended LR 39:2511 (September 2013), LR 42:279 (February 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

Subchapter I. Additional Requirements for Addictive Disorder PRTFs

§9097. Personnel Qualifications, Responsibilities, and Requirements for Addictive Disorder PRTFs

A. An addictive disorder PRTF shall have the following minimum personnel~~:-~~:

1. Administrator. The administrator ~~must~~shall have a bachelor's degree from an accredited college or university in a mental health-related field, plus at least five years of related experience. The administrator is responsible for the on-site, daily implementation and supervision of the overall

facility's operation commensurate with the authority conferred by the governing body.

a. Grandfathering Provision. For a facility with a current substance abuse license from ~~DHH~~ LDH at the time of the promulgation of this final Rule, the current administrator may remain the administrator of the facility provided the following conditions are met.

i. - 2. ...

a. The clinical director shall be a physician holding an unrestricted license to practice medicine in Louisiana and who has the following:

i. ...

ii. if the license(s) is from another jurisdiction, the license(s) ~~must~~ shall be documented in the employment record and ~~must~~ shall also be unrestricted; and

iii. - 1.a.iii.(b). ...

(c). an ABMS board-certified physician (non-psychiatrist) with ASAM certification and consultation with an ABPN board-certified psychiatrist. Proof of consultation shall be a current contract with a board-certified psychiatrist and written documentation of consults in the ~~client's~~ resident's medical record.

b. - 5.b. ...

6. Physician. The PRTF, except one that provides a social detoxification program only, shall have available a physician licensed in the state of Louisiana who shall assume 24-hour on-call medical responsibility for non-emergent physical needs of the facility's residents; the PRTF may have available, in place of the physician, a licensed advanced nurse practitioner who has a collaborative agreement with a physician or a physician's assistant ~~in place of the physician provided~~ ~~he/she~~ who has a supervising physician and works under ~~a~~ the licensed physician.

7. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:399 (February 2012), amended LR 39:2511 (September 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 44:

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 a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by providing

information and clarity of regulations for psychiatric residential treatment facilities.

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, and 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, December 28, 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