

NOTICE OF INTENT

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

**Medication Attendant Certified
Licensing Standards
(LAC 48:I.Chapter 100)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 100 as authorized by R.S. 36:254 and R.S. 37:1026.1 et seq. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of individuals certified by the department to administer medications to nursing facility residents, hereafter referred to as "medication attendants certified" (MACs). The department now proposes to amend the MAC licensing standards to revise and update the training and certification requirements.

Title 48

**PUBLIC HEALTH - GENERAL
PART I. General Administration
Subpart 3. Licensing**

**Chapter 100. Nurse Aide Training and Competency Evaluation
Program**

Subchapter G. Medication Attendant Certified

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

Licensed Nurse—a licensed registered nurse or a licensed practical nurse or a RN or LPN practicing in the state under a multistate license from a compact state with a privilege to practice (PTP) in Louisiana in accordance with applicable state statutes and regulations.

Licensed Practical Nurse—a person licensed by the LSBPNE to practice practical nursing in Louisiana or a RN or LPN practicing in the state under a multistate license from a compact state with a PTP in Louisiana.

Medication Attendant Certified (MAC)—a person certified by ~~DHH~~LDH to administer medications to nursing facility residents, hereafter referred to as a ~~medication attendant certified~~ MAC.

Nursing ~~Home~~Facility—an institution licensed pursuant to R.S. 40:2009.1-2009.10.

~~Pilot~~—~~a program administered by the Department of Health and Hospitals to authorize the certification of medication attendants on a trial basis to perform certain functions in nursing homes licensed and in good standing with DHH and who~~

~~agree to comply with established criteria to measure the outcome of the program.~~ Repealed.

Registered Nurse (RN)—a person licensed by the LSBN to practice professional nursing in Louisiana or practicing in Louisiana under a PTP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1413 (July 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

§10081. General Provisions

A. The Department of Health ~~and Hospitals—(DHHLDH)~~ establishes provisions for the use of medication attendants certified (MACs) in licensed nursing facilities. The department shall maintain a registry of individuals who have, at a minimum, successfully ~~completed a state-approved medication attendant certified training course and competency evaluation, and criminal background check.:~~

1. completed a state-approved MAC training course;

2. passed a competency evaluation administered by a state-approved testing source; and

3. passed drug screening/testing and a statewide criminal background/security check conducted by the Louisiana State Police, or its designee.

B. The ~~medication attendant certified~~ MAC registry shall contain the following items:

1. a list of individuals who have successfully completed ~~a medication attendant certified~~ an approved MAC training curriculum and competency evaluation. Each individual listed shall have the following information maintained on the registry:

a. - c. ...

d. ~~phone~~ telephone number;

e. - g. ...

h. state-issued certification number;

i. documentation of any investigation, if applicable, including ~~codes for specific~~ findings of:

i. - v. ...

j. ...

k. a current, monitored e-mail address.

C. Registry. Employers shall use the registry to determine if a prospective hire is a ~~medication attendant~~

~~certified~~ MAC and if there is a finding that he/she has abused or neglected an individual being supported or misappropriated the individual's property or funds.

D. Change of Information. A certificate holder shall notify the department ~~within~~ as soon as possible but no later than 30 days after changing his or her address, telephone number, e-mail address, or name.

E. Arrest. A ~~medication attendant certified~~ MAC, or his or her employer, if aware, shall immediately notify the department of any arrest in any state.

F. Reciprocity. A person who holds a valid license, registration or certificate as a medication attendant issued by another state shall also be certified in Louisiana if the transferring state's training program is at least ~~100~~ 120 hours or more and the applicant passes the ~~State~~ state-approved MAC competency examination.

1. ...

2. The application shall include a ~~current copy of the rules of the other state governing its licensing and regulation of medication aides, a copy of the legal authority (law, act, code, or other) for the state's licensing program, and a~~ certified copy of the license or certificate for which the reciprocal certificate is requested.

3. ...

G. When issued, an initial certificate shall be valid for 12 months from the date of issue. The registry will renew the certificate if:

1. a certificate holder has completed four hours of state-approved continuing education administered by an approved institution focusing on medication administration prior to expiration of the certificate; and

2. a certificate holder has worked at least 400 hours per year in a licensed nursing facility.

H. Denial of Renewal. The department shall deny renewal of the certificate of a ~~medication attendant certified~~ MAC who is in violation of this Chapter at the time of the application renewal.

I. ...

J. A ~~medication attendant certified~~ MAC shall function under the direct supervision of a licensed registered or practical nurse on duty at the nursing facility. ~~A certificate holder must:~~ Although the performance of selected medication administration tasks are delegated to the MAC by the registered nurse, the registered nurse retains the accountability for the total nursing care of the resident, regardless of whether the care is provided solely by the registered nurse or by the

registered nurse in conjunction with other licensed or unlicensed assistive personnel. The MAC shall:

1. ...

2. comply with the department's rules applicable to such personnel used in a nursing facility.

K. Persons employed as ~~medication attendants certified MACs~~ in a nursing facility shall comply with the requirements relating to nurse aides as set forth in the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, ~~the department's rule governing the Standards for Payment for Nursing Homes and Minimum Licensure Standards for Nursing Homes~~ minimum licensure standards for nursing facilities or subsequent amendments.

Requirements are met if the individual is:

1. - 2. ...

L. Restriction. While on duty, a MAC's sole function shall be to administer medications to residents. Persons employed as medication attendants in a nursing facility may not be assigned additional responsibilities. If medication administration has been completed, they may assist in other areas.

M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1413 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1248 (May 2012), repromulgated LR 38:1412 (June 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

§10082. General Requirements

A. Prior to application for a certificate under this Chapter, all persons shall:

1. be proficient in reading, writing, speaking, and understanding the English language at a minimum eighth grade level as evidenced by the ~~following COMPASS~~ MAC training program's required entry placement test scores~~+~~.

~~a. reading, 64;~~

~~b. writing, 25; and~~

~~c. pre-algebra, 31;~~ a. - c. Repealed.

2. be a citizen of the United States or a legal alien with appropriate documentation from the U.S. Department of Homeland Security;

3. - 5. ...

6. be currently employed in a facility as a certified nurse aide (CNA) on the first official day of an

applicant's medication attendant training program or be a graduate of a nursing program;~~and~~

7. ~~successfully pass a statewide criminal history background check and verification of the results sent to the training entity.~~have a minimum of one year experience in a nursing home as a CNA or be a graduate of a nursing program; and

8. successfully pass a statewide criminal background/security check conducted by the State Police, or its designee, within 90 days of an applicant starting the MAC program and be free of abused substances as evidenced by periodic drug testing in accordance with the NF's policies and procedures. Verification of these results must be received by the training entity, documented, and maintained in the personnel file.

B. A ~~medication attendant certified~~MAC may not administer medication to a resident in a nursing facility unless he/she:

B.1. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1414 (July 2008), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1249 (May 2012) , amended by the Department of Health, Bureau of Health Services Financing, LR 46:

§10083. ~~Trainee Responsibilities~~Coordinators, Instructors, and Trainers

A. ~~Each medication attendant trainee shall be clearly identified as a trainee during all clinical portions of the training. Identification should be recognizable to residents, family members, visitors and staff~~Program Coordinator. Every MAC training program shall have a program coordinator who provides general supervision of the training received by the MAC trainees.

1. The program coordinator shall be a registered nurse (RN) and shall have the following experience and qualifications:

a. a minimum of two years of nursing experience, of which at least one year must be in caring for the elderly or chronically ill, obtained through employment in any of the following:

i. a nursing facility/unit;

ii. a geriatrics department;

iii. a chronic care hospital;

iv. other long-term care setting; or

v. experience in varied responsibilities including, but not limited to, direct resident care or supervision and staff education; and

b. completion of Vocational Trade and Industrial Education (VTIE) or Career and Technical Trade and Industrial Education (CTTIE) licensure, "train the trainer" type program, or a master's degree or higher.

2. The program coordinator shall supervise no more than two MAC training programs simultaneously and shall be on the premises where the program is being conducted for at least 50 percent of the duration of the program.

~~B. Trainees shall take the competency evaluation (through skills demonstration and written examination) within 30 days after completion of the training program. Trainees will be given a maximum of two opportunities within 90 days following completion of the training program to successfully complete the competency evaluation program.~~
Instructors. Instructors shall be RNs or LPNs in a ratio such that not less than 50 percent of the instructors are RNs and shall hold a current, unencumbered Louisiana nursing license or PTP. Licensed practical (vocational) nurses, under the direct supervision of the coordinator, may provide classroom and clinical skills instruction and supervision of trainees if they have two years

of experience in caring for the elderly and/or chronically ill of any age or have equivalent experience.

1. Such experience may be obtained through employment in:

- a. a nursing facility;
- b. a geriatrics department;
- c. a chronic care hospital; or
- d. another long-term care setting.

2. Experience in resident care, supervision and staff education is preferred.

3. The ratio of instructors to trainees in clinical training shall not exceed 1:5 and the ratio of instructors to trainees in the classroom shall not exceed 1:15.

~~C. If a trainee fails to successfully complete the competency evaluation program, he or she shall re-enroll in a training program~~Program Trainers. Qualified resource personnel from the health field may participate as program trainers as needed for discussion or demonstration of specialized medication procedures.

1. Qualified resource personnel shall have a minimum of one year of experience in their health care field and shall be licensed, registered and/or certified, if applicable, and may include:

- a. registered nurses;
- b. licensed practical/vocational nurses;
- c. pharmacists;
- d. dietitians;
- e. nursing home administrators;
- f. gerontologists;
- g. physical therapists and occupational therapists;
- h. activities specialists; and
- i. speech/language/hearing therapists.

2. All program trainers shall have a minimum of one year of current experience in caring for the elderly and/or chronically ill of any age or have equivalent experience.

3. The training program may utilize other persons such as residents, experienced aides, and ombudsmen as resource personnel if these persons are needed to meet the planned program objectives or a specific unit of training.

D. Trainees

1. Each medication attendant trainee shall be clearly identified as a trainee during all clinical portions of the training. Identification should be recognizable to residents, family members, visitors and staff.

2. Trainees shall take the competency evaluation (through skills demonstration and written examination) within 30 days after completion of the training program. Trainees will be given a maximum of two opportunities within 90 days following completion of the training program to successfully complete the competency evaluation program.

3. If a trainee fails to successfully complete the competency evaluation program, he or she shall re-enroll in a training program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1415 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1249 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:.

§10084. Training Curriculum

A. - A.4. ...

B. Each medication attendant training program shall provide all trainees with a nursing facility orientation that is not included in the required minimum ~~100~~120 hours of core

curriculum. The orientation program shall include, but is not limited to:

1. 4. ...
5. employee ~~rules~~ policies and procedures.

C. ...

1. The core curriculum shall be a minimum of ~~100~~120 hours in length with a minimum of ~~40~~45 clinical hours.

C.2. - D.12.b. ...

13. appropriate procedures to follow when the resident is NPO "nothing by mouth", dysphagic, refuses the medication, vomits the medication, or has allergies;

14. - 30. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1415 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

§10085. Competency Evaluation

- A. A competency evaluation shall be developed by the training entity and conducted to ensure that each trainee, at a

minimum, is able to demonstrate competencies taught in each part of the training curriculum.

B. ...

C. The entity responsible for the training and competency evaluation shall report to the registry the names of all individuals who have satisfactorily completed the curriculum after the training is completed. Within 15 days after a ~~medication attendant certified~~ MAC has successfully completed the training and competency evaluation, the training entity shall notify the registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1416 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

§10086. Authorized Duties

A. The ~~medication attendant certified~~ MAC may perform certain duties and functions under the direct supervision of a licensed nurse. These authorized duties shall apply to medication attendant trainees under the supervision of the

clinical instructor. The ratio of ~~medication attendants~~
~~certified~~ MACs to licensed nurses shall not exceed two
medication attendants to one licensed nurse at any given time.

B. ~~Medication attendants certified~~ MACs may:

1. observe and report to the licensed nurse a
resident's adverse reaction to a medication;

2. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health
and Hospitals, Office of the Secretary, Bureau of Health
Services Financing, LR 34:1416 (July 2008), amended by the
Department of Health and Hospitals, Bureau of Health Services
Financing, LR 38:1250 (May 2012), amended by the Department of
Health, Bureau of Health Services Financing, LR 46:

§10087. Prohibited Duties

A. Medication attendants certified shall not:

1. ...

2. administer any medications by the following
parenteral routes:

a. intramuscular;

b. intravenous;

c. subcutaneous; ~~or~~

d. intradermal; or

e. other routes restricted in department rules;

3. administer any medication used for intermittent positive pressure breathing (IPPB) treatments;

4. - 16. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1416 (July 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

§10088. Provider Participation and Responsibilities

A. A nursing facility ~~shall~~ with a license that is in good standing with the department may apply to the department to utilize ~~medication attendants certified~~ MACs. Upon receipt of a facility's application, the department shall review the facility's compliance history.

B. If a facility is non-compliant with program regulations, the department shall take into consideration the findings that resulted in the facility's noncompliance before making a determination whether or not to allow the facility to utilize ~~medication attendants certified~~ MACs. Emphasis shall be

placed on deficiencies cited in the area of medication administration such as significant medication errors, medication error rates and repeat deficiencies of such.

C. The department may deny a facility's request to use ~~medication attendants~~ MACs if it is determined that, based upon the compliance history, the safety and well-being of residents would be jeopardized. If the facility is denied participation, the facility may ask for a reconsideration and review of the circumstances which contributed to the denial of the application.

D. The following information shall be provided prior to acceptance in the program:

1. - 2. ...

3. the ~~staffing levels per shift~~ plan for orientation and utilization of MACs, including orientation of all staff to the role of MACs;

4. the ~~turnover rate~~ number and type of ~~staff~~ medication errors in the year prior to the utilization of MACs; and

5. a ~~plan for orientation and utilization of medication attendants certified, including orientation of all staff to the role of medication attendants;~~ statement that the nursing facility will utilize the MACs in accordance with the

department's rules and regulation and will provide evaluation information as indicated.

~~6. the number and type of medication errors in the year prior to the utilization of medication attendants certified;~~

~~7. a survey of patient satisfaction, including the patient's perception of receiving medications, prior to the utilization of medication attendants certified; and~~

~~8. a statement that the nursing home will utilize the medication attendants certified in accordance with the accepted rules and regulations and will provide evaluation information as indicated.~~ 6. - 8. Repealed

E. A facility's application that is not complete within 90 days of receipt by the department shall be ~~closed~~ considered null and void.

F. The department may sanction a facility and/or revoke a facility's participation in the MAC program if it is determined by the department that, based upon the facility's compliance history, the safety and well-being of residents is jeopardized by the facility's non-compliance with licensing standards. If the facility's participation is revoked, the facility may ask for a reconsideration and review of the circumstances which

contributed to the revocation of participation in the MAC program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1417 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

§10089. Allegations of Medication Attendant Certified Wrong-Doing

A. The department, through its Division of Administrative Law or successor entity, has provided for a process of the review and investigation of all allegations of resident abuse, neglect or misappropriation of residents' property or funds by ~~medication attendants certified~~ MACs.

B. In the event of an allegation of wrong-doing, ~~medication attendants certified~~ MACs shall be bound by the department's established:

1. ...
2. informal dispute resolution policies; and

3. ~~preliminary conference requirements; and~~ appeal and administrative hearing provisions:

a. the formal hearing shall be conducted according to formal hearing procedures set forth in the Administrative Procedure Act.

~~4. appeal and administrative hearing provisions:
a. the formal hearing shall be conducted according to formal hearing procedures set forth in the Administrative Procedure Act.~~ 4.- 4.a. Repealed.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1417 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

§10090. Suspension, Revocation or ~~Non-Renewal~~ Denial of Renewal

A. The department may revoke, suspend or ~~refuse to renew~~ deny renewal of a certificate or reprimand a certificate holder for a violation of this Chapter.

B. - B.3. ...

C. Prior to institution of formal proceedings to revoke or suspend a ~~permit~~certificate, the department shall give written notice to the certificate holder of the facts or conduct alleged to warrant revocation, suspension or rescission. The certificate holder shall be given an opportunity to ~~show compliance with all requirements of this Chapter~~participate in an informal dispute resolution process.

D. - F. ...

1. If a suspension overlaps a certificate renewal date, the suspended certificate holder shall be subject to the renewal procedures~~stated in §8603.G~~pursuant to the provisions of this Subchapter. However, the department shall not renew the certificate until it determines that the reason for suspension no longer exists.

G. If the department revokes or ~~does not renew~~denies renewal of a certificate, a person may reapply for a certificate by complying with the provisions of this Chapter at the time of reapplication. The department may refuse to issue a certificate if the reason for revocation or ~~non-renewal~~denial of renewal continues to exist.

1. If a certificate is revoked or ~~not renewed~~denied renewal, the certificate holder shall immediately return the certificate to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1417 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

Family Impact Statement

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

Poverty Impact Statement

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

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

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

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2019.

The department will conduct a public hearing at 9:30 a.m. on November 27, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. Parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH

Secretary