



State of Louisiana
Louisiana Department of Health
Office of the Secretary

February 7, 2020

Via Statutorily Prescribed Email

To: The Honorable Chairman, Senate Health & Welfare Committee
The Honorable Chairman, House Health & Welfare Committee

From: Stephen R. Russo, JD
Interim Secretary

By Cindy Russo for

Re: Second Report on Proposed Amendments to LAC 50: XV.7103-7105 and 9531-9535– Early and Periodic Screening, Diagnosis and Treatment Psychological Services Staffing Requirements.

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed amendments to the rules concerning Early and Periodic Screening, Diagnosis and Treatment Psychological Services Staffing Requirements.

A Notice of Intent on the proposed amendments was published in the December 20, 2019 issue of the *Louisiana Register* (LR 45:1872). No written comments or requests for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the December 20, 2019, Notice of Intent when it is published as a final rule in the March 20, 2020, issue of the *Louisiana Register*.

Should you have any questions or need additional information, please contact Jen Katzman, Medicaid Deputy Director, at Jennifer.Katzman@la.gov.

Cc: Jen Katzman, Deputy Medicaid Director, Department of Health
Veronica Dent, Medicaid Program Manager, Department of Health
Anita Dupuy, Legislative Liaison, Department of Health
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment Psychological Services Staffing Requirements (LAC 50:XV.7103-7105 and 9531-9535)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.7103-7105 and 9531-9535 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 582 of the 2018 Regular Session of the Louisiana Legislature enacted provisions governing licensure and certification requirements for behavioral health providers of psychosocial rehabilitation (PSR) services and community psychiatric support and treatment (CPST) services. In compliance with Act 582, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing psychological services rendered to children in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program to allow unlicensed school psychologists and master social workers certified by the Department of Education to provide services under the supervision of a licensed professional in order to align the administrative Rule with the requirements of Act 582.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE Part XV. Services for Special Populations Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 71. Health Services

§7103. Covered Services

A. - C.4. ...

D. Physical therapy services are designed to improve the child's movement dysfunction. Physical therapy treatment requires a written referral or prescription on at least an annual basis by a ~~physician~~person licensed in Louisiana ~~on-at least an annual basis~~to practice medicine, surgery, dentistry, podiatry, or chiropractic. An exception to this requirement is that physical therapy services may be performed without a prescription to a child with a diagnosed developmental disability pursuant to the child's plan of care. An initial evaluation does not require such referral or prescription.

Physical therapy services include:

1. - 3. ...

E. Psychological services are designed to obtain, integrate, and interpret information about child behavior, and child and family conditions related to learning, mental health, and development. Psychological services include:

1. ...

2. interpreting assessment results; and
3. planning and managing a program of ~~psychological counseling for children and parents, family counseling, consultation on child development, parent training,~~ mental health and behavioral interventions and education programs.

F. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 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 30:1034 (May 2004), amended LR 31:664 (March 2005), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

§7105. Professional Staffing Requirements

A. - D. ...

E. Psychological services must be provided by either a:

1. - 3. ...

4. certified school psychologist, under the supervision of a licensed psychologist.

F. Counseling services must be provided by a:

1. - 2. ...

3. ~~graduate~~ licensed master social worker ~~with~~ under the supervision in accordance with the state licensing standards

~~of the State Board of Social Work Examiners~~ of a licensed clinical social worker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 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 31:665 (March 2005), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

Subchapter D. School-Based Therapy Services

§9531. General Provisions

A. EPSDT school-based therapy services are provided pursuant to an individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan, ~~an individualized family service plan,~~ or are otherwise medically necessary within a local education agency (LEA). School-based ~~therapy~~ services include physical therapy, occupational therapy and other services, including services provided by audiologists and services for individuals with speech, hearing and language disorders, performed by, or under the direction of, providers who meet the qualifications set forth in the therapist licensing requirement.

B. ~~Therapists~~ Professionals providing school-based therapy services are required to ~~maintain an active therapist license~~

~~with~~ meet the requirements of licensure for their discipline according to the state of Louisiana.

C. School-based ~~therapy~~ services shall be covered for all recipients ~~in the school system~~ who are eligible for ~~the service~~ EPSDT in accordance with Subsection A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:566 (April 2019), amended LR 46:

§9533. Covered Services

A. The following school-based ~~therapy~~ services shall be covered.

1. ...

2. Speech/Language Pathology Services. The identification and treatment of children with communicative or oropharyngeal disorders and delays in development of communication skills including diagnosis. Therapists and/or audiologists must meet qualifications established in 42 CFR 440.110(c).

3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:566 (April 2019), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

§9535. Reimbursement Methodology

A. - A.5. ...

B. Services provided by local education agencies to recipients ages 3 to 21 that are medically necessary and included on the recipient's individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan, ~~an individualized family service plan,~~ or are otherwise medically necessary are reimbursed according to the following methodology.

1. - F.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:567 (April 2019), 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 effect 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 a no impact on child, individual, or family poverty in 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, 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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on January 29, 2020.

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on January 9, 2020. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on January 29, 2020 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after January 9, 2020. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking

for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH

Secretary



State of Louisiana
Louisiana Department of Health
Office of the Secretary

February 7, 2020

Via Statutorily Prescribed Email

To: The Honorable Chairman, Senate Health & Welfare Committee
The Honorable Chairman, House Health & Welfare Committee

From: Stephen R. Russo, JD
Interim Secretary

By Cindy Russo for

Re: Second Report on Proposed Amendments to LAC 48:I.8201 and 8235 – Hospice Licensing Standards

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Health Standards Section, submits its second report regarding the proposed – Hospice Licensing Standards rule amendment. A Notice of Intent on the proposed amendments was published in the December 20, 2019, issue of the *Louisiana Register* (LR 45:1874). No written comments during the public comment period. A public hearing was held on January 29, 2020, however no members from the public attended the hearing and no oral testimony was given at the hearing. Additionally, no substantive changes were made to the proposed amendments since the report provided for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the December 20, 2019, Notice of Intent as a final rule when it is published in the March 20, 2020, issue of the *Louisiana Register*.

Should you have any questions or need additional information, please contact Brenda Blanchard, BSN, RN, LNCC at (225) 342-2471 or Cecile Castello, BSN, RN, LDH Deputy Assistant Secretary, Health Standards Section, at (225) 342-4997.

Cc: Brenda Blanchard, BSN, RN, LNCC, Health Standards Section
Cecile Castello, BSN, RN, LDH Deputy Assistant Secretary, Health Standards Section
Veronica Dent, Medicaid Program Manager 1B, Policy and Waivers
Anita Dupuy, Legislative Liaison, Louisiana Department of Health
Catherine Brindley, *Louisiana Register* Editor, Office of the State Register

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Hospice Licensing Standards (LAC 48:I.8201 and 8235)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.8201 and §8235 as authorized by R.S. 36:254 and R.S. 2181-2192. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 229 of the 2019 Regular Session of the Louisiana Legislature directed the Department of Health to implement the provisions of R.S. 40:2192 which mandates the establishment of a state certified hospice attendant registry to maintain a roster of individuals eligible for employment as state certified hospice attendants by licensed hospice agencies. In compliance with Act 229, the Department of Health, Bureau of Health Services Financing hereby proposes to amend the provisions governing the licensing of hospice agencies in order to set forth the criteria for employment of state certified hospice attendants and to establish a state certified hospice attendant registry.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 82. Minimum Standards for Licensure of Hospice Agencies

Subchapter A. General Provisions

§8201. Definitions

A. ...

State Certified Hospice Attendant—a former inmate of a Louisiana state prison with a hospice provider license issued by the Department of Health who shall be eligible to be employed as a non-licensed person by a provider licensed to provide hospice services pursuant to the requirements of R.S. 40:2192 if the following provisions are satisfied:

a. the former inmate shall not have been convicted of a sex offense as defined by R.S. 27 15:541;

b. while incarcerated, the former inmate shall have been a caregiver in the licensed hospice program, with documentation of such, and successfully completed the training pursuant to subsection B of R.S.40:2192;

c. the former inmate shall hold a certification issued by the Department of Public Safety and Corrections;

d. the former inmate shall submit notice of his/her certification to the department in a manner prescribed by the Department of Health; and

e. there are no federal restrictions or prohibitions against the former inmate providing hospice services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2181-2192.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2257 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:588 (March 2018), LR 46:

Subchapter D. Administration

§8235. Agency Operations

A. - B. ...

C. Policies and ~~procedures:~~Procedures

1. ...

2. shall contain policies and procedures specific to agency addressing personnel standards and qualifications, agency operations, patient care standards, problem and complaint resolution, purpose and goals of operation, the hospice's defined service area, as well as regulatory and compliance issues, inclusive of but not limited to, a full disclosure policy when employing and assigning to a patient, a state certified hospice attendant;

3. - 5. ...

D. Operational Requirements

1. - 3.i. ...

4. Responsibility of the hospice prior to employment of a state certified hospice attendant includes, but is not limited to, the following:

a. the hospice provider shall notify HSS of the intent to hire a state certified hospice attendant; and

b. the hospice provider shall have documentation of certification of the state certified hospice attendant meeting the requirements of R.S. 40:2192.

5. Responsibility of the hospice subsequent to employment of a state certified hospice attendant includes, but is not limited to, the following:

a. the hospice provider shall disclose to its employees, patients, and patients' immediate family members that the state certified hospice attendant has successfully completed all state certification training and registry requirements for employment, including successful completion and release from a sentence served at a state prison;

b. upon change in status of employment of the state certified hospice attendant, the hospice provider shall notify HSS;

c. the hospice provider shall ensure that the state certified hospice attendant receives required continuing education or training requirements to maintain state certification in good standing continuously during employment by the hospice provider; and

d. the hospice provider shall ensure that the state certified hospice attendant has continuing education equivalent to a hospice aide/CNA, inclusive of the following:

i. a minimum of 12 hours of job-related in-service training annually, specific to their job responsibilities within the previous 12 months;

ii. at least two of the required 12 hours of annual job-related in-service training shall focus on end of life care; and

iii. ensure six of the 12 hours of required annual job-related in-service training shall be provided every six months.

6. Access by the hospice agency to the state certified hospice attendant registry established by the department pursuant to R.S. 40:2192 shall be limited to an inquiry for a specific state certified hospice attendant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2181-2192.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 15:482 (June 1989), amended LR 24:2271 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:600 (March 2018); 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 January 29, 2019.

The department will conduct a public hearing at 9:30 a.m. on January 29, 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



State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
January 29, 2020
9:30 a.m.

RE: Hospice Licensing Standards
Docket # 01292020-01
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on January 29, 2020 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in blue ink, appearing to be "R. Gee", written over a horizontal line.

Medicaid Policy and Compliance
Section

01/29/20
Date

LDH/BHSF PUBLIC HEARING

Topic - Hospice Licensing Standards

Date - January 29, 2020

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. SELENA SIMS	628 N. 4TH ST. BR, LA 70802	225-342-4880	LDH
2. MARIAN TATE	628 N 4TH ST BR LA 70802	225-342-6446	LDH-HSS
3. Allen Enger	628 N. 4th St. BR LA 70802	225-342-9037	LDH
4. Mark Hill	" "	225-342-7138	LDH
5.			
6.			



State of Louisiana
Louisiana Department of Health
Office of the Secretary

February 7, 2020

Via Statutorily Prescribed Email

To: The Honorable Chairman, Senate Health & Welfare Committee
The Honorable Chairman, House Health & Welfare Committee

From: Stephen R. Russo, JD
Interim Secretary

By Cindy Russo for

Re: Second Report on Proposed Amendments to LAC 48:I.9781 – Nursing Facilities—
Licensing Standards Virtual Visitation

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Health Standards Section, submits its second report regarding the proposed – Hospice Licensing Standards rule amendment. A Notice of Intent on the proposed amendments was published in the December 20, 2019, issue of the *Louisiana Register* (LR 45:1876). No written comments during the public comment period. A public hearing was held on January 29, 2020, however no members from the public attended the hearing and no oral testimony was given at the hearing. Additionally, no substantive changes were made to the proposed amendments since the report provided for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the December 20, 2019, Notice of Intent as a final rule when it is published in the March 20, 2020, issue of the *Louisiana Register*.

Should you have any questions or need additional information, please contact Brenda Blanchard, BSN, RN, LNCC at (225) 342-2471 or Cecile Castello, BSN, RN, LDH Deputy Assistant Secretary, Health Standards Section, at (225) 342-4997.

Cc: Brenda Blanchard, BSN, RN, LNCC, Health Standards Section
Cecile Castello, BSN, RN, LDH Deputy Assistant Secretary, Health Standards Section
Veronica Dent, Medicaid Program Manager 1B, Policy and Waivers
Anita Dupuy, Legislative Liaison, Louisiana Department of Health
Catherine Brindley, *Louisiana Register* Editor, Office of the State Register

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Nursing Facilities Licensing Standards Virtual Visitation (LAC 48:I.9781)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 48:I.9781 as authorized by R.S. 36:254 and 40:1193.1-1193.11. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 49:950 et seq.

Act 596 of the 2018 Regular Session of the Louisiana Legislature, hereafter referred to as the Nursing Home Virtual Visitation Act, enacted R.S. 40:1193.1-1193.11 which directed the Department of Health to establish provisions governing nursing facility virtual visitation in order to provide for consent, by a nursing facility resident or a legal representative, relative to the authorization for installation and use of a monitoring device in the room of the resident.

In compliance with the requirements of Act 596, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the licensing of nursing facilities in order to adopt provisions governing virtual visitation and promulgated an accompanying Notice of Intent (*Louisiana Register*, Volume 44,

Number 11). Based on comments received, the department determined that it was necessary abandon the November 20, 2018 Notice of Intent and to amend the November 20, 2018 Emergency Rule in order to further clarify the provisions governing virtual visitation (*Louisiana Register*, Volume 45, Number 12). This proposed Rule is being promulgated in order to continue the provisions of the November 20, 2018 and the December 20, 2019 Emergency Rules.

Title 48

PUBLIC HEALTH-GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 97. Nursing Facilities

Subchapter C. Resident Rights

§9781. Virtual Visitation

A. Each nursing facility licensed by the Department of Health shall comply with the provisions of the Nursing Home Virtual Visitation Act of 2018 enacted by the Louisiana Legislature, and any such amendments enacted thereafter.

B. The term *monitoring device*, as used in this Section, shall have the same meaning as defined in the Nursing Home Virtual Visitation Act of 2018.

C. Capacity to Consent to Virtual Visitation

1. A resident's capacity to consent to the authorization for installation and use of a monitoring device is

presumed if the resident has not been interdicted and has no current documented medical diagnosis affecting capacity.

2. Any question as to capacity of a non-interdicted resident to consent to the authorization for installation and use of a monitoring device shall be determined by any one of the following persons in the following order of priority, if there is no person in a prior class who is reasonably available and willing to make such determination:

- a. the resident's personal physician;
- b. the resident's admitting physician; or
- c. the medical director of the nursing facility.

NOTE: Such determination shall be documented in the resident's medical record.

3. The nursing facility shall have a policy regarding capacity to consent to the authorization for installation and use of a monitoring device in a resident's room; such policy shall include, at a minimum, the provisions of §9781.C.1 and §9781.C.2; further, the policy shall be in compliance with the provisions of the Nursing Home Visitation Act of 2018 enacted by the Louisiana Legislature, and any such amendments enacted thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 40:1193.1-1193.11.

HISTORICAL NOTE: Promulgated 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 may have a negative impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 since nursing facility residents that consent to virtual visitation or their families are responsible for the costs associated with the installation and use of monitoring devices in the residents' rooms.

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 January 29, 2020.

The department will conduct a public hearing at 9:30 a.m. on January 29, 2020 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



State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
January 29, 2020
9:30 a.m.

RE: Nursing Facilities
Licensing Standards
Virtual Visitation
Docket # 01292020-02
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on January 29, 2020 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in blue ink, appearing to be "R. H.", written over a horizontal line.

Medicaid Policy and Compliance
Section

01/29/20

Date

LDH/BHSF PUBLIC HEARING

Topic – Nursing Facilities - Licensing Standards
Virtual Visitation

Date – January 29, 2020

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Carol Jenkins	628 N 4th St BR LA 70802	225-342-6943	LDH
2. Brenda Blanchard	Bienville	(225) 936-2360	LDH - NSS
3. Mish Hill	" "	225-342-7138	LDH
4.			
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6.			



State of Louisiana
Louisiana Department of Health
Office of the Secretary

February 7, 2020

Via Statutorily Prescribed Email

To: The Honorable Chairman, Senate Health & Welfare Committee
The Honorable Chairman, House Health & Welfare Committee
From: Stephen R. Russo, JD *By Candy Rice for*
Interim Secretary

Re: Second Report on Proposed Amendments to LAC 50:XXIX.123, 991 and 993) –
Pharmacy Benefit Management Program—Vaccine Administration and Reimbursement

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Hospital Licensing Standards rule amendment.

A Notice of Intent on the proposed amendments was published in the December 20, 2019 issue of the *Louisiana Register* (LR 45: 1877). Written comments were received during the public comment period. However, no requests for a public hearing were received during the notice period. Because there were no requests for a public hearing, one was not held for these proposed amendments. Additionally, no substantive changes were made to the proposed amendments since the report provide for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the December 20, 2019, Notice of Intent when it is published as a final rule in the March 20, 2020, issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent~
2. summary of the written comments~
3. copy of the response email from the agency to submitted comments.

Should you have any questions or need additional information, please contact Sue Fontenot, at (225) 342-2768 or Sue.Fontenot@la.gov.

Cc: Sue Fontenot, B Pharm, Pharmacist 4, Louisiana Department of Health
Jen Katzman, Deputy Medicaid Director, Louisiana Department of Health
Veronica Dent, Medicaid Program Manager 1B, Policy and Waivers
Anita Dupuy, Legislative Liaison, Louisiana Department of Health
Catherine Brindley, *Louisiana Register* Editor, Office of the State Register

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Pharmacy Benefit Management Program Vaccine Administration and Reimbursement (LAC 50:XXIX.123,991 and 993)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XI.123, 991, and 993 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Service Financing proposes to amend the provisions governing reimbursement in the Pharmacy Benefit Management Program in order to add vaccines for adult recipients as a pharmacy benefit to provide an alternative location for these recipients to receive necessary vaccinations and immunizations.

Title 50

PUBLIC HEALTH MEDICAL ASSISTANCE Part XXIX. Pharmacy

§123. Medication Administration

A. ~~Influenza~~-Vaccine Administration. The department shall provide coverage for administration of ~~the influenza vaccine~~vaccines by a qualified pharmacist when:

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1783 (August 2010), amended LR 40:82 (January 2014), amended LR 46:

Subchapter H. Vaccines

§991. Vaccine Administration Fees

A. ~~Effective for dates of service on and after October 10, 2009, the reimbursement~~ Reimbursement to pharmacies for immunization administration (intramuscular, subcutaneous or intranasal) performed by qualified pharmacists, is a maximum of \$15.22. This fee includes counseling, when performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1783 (August 2010), amended LR 40:82 (January 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1555 (August 2017), amended LR 46:

§993. Vaccine Reimbursement

A. ~~Effective for dates of service on or after January 1, 2011, the influenza vaccine~~ Vaccines for recipients aged 19 and over shall be reimbursed at ~~90 percent of the 2009 Louisiana Medicare average sales price (ASP) allowable~~ wholesale

acquisition cost (WAC) or billed charges, whichever is the lesser amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:82 (January 2014), amended 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 a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it provides adult recipients greater access to necessary immunizations at alternative locations.

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 a 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 may have a positive impact on small businesses, as described in R.S. 49:965.2 et seq. as it permits Medicaid reimbursement for adult vaccinations by pharmacy providers.

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, but may reduce the total direct and indirect cost to the provider to provide the same level of service. This Rule may enhance the provider's ability to provide the same level of service as described in HCR 170 since it permits Medicaid reimbursement for adult vaccinations by pharmacy providers.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The

deadline for submitting written comments is at 4:30 p.m. on January 29, 2020.

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on January 9, 2020. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on January 29, 2020 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after January 9, 2020. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH

Secretary

SUMMARY OF WRITTEN COMMENTS

Proposed Rule:	Pharmacy Benefit Management Program - Vaccine Administration and Reimbursement
Public Hearing Date:	N/A
Docket No. :	N/A
Conducted By:	N/A

[illegible]

From: Michael Boutte

Sent: Wednesday, February 5, 2020 4:30 PM

To: 'Mary Staples' <mstaples@NACDS.org>; Erin Campbell <Erin.Campbell@la.gov>

Cc: Sue Fontenot <Sue.Fontenot@LA.GOV>; Shelly Dupre <shelly@impactmanagement.com>; Jessica Elliott <jessica@laretail.org>; Jennifer Katzman <Jennifer.Katzman@LA.GOV>

Subject: RE: LA Proposed Rule Changes to LAC 50:XXIX.123, 919 and 993 - Adult Vaccines

Ms. Staples,

On behalf of Interim Director Campbell, thank you for your comments on this proposed rule.

Thanks again,
Michael

Michael Boutte, MSPA, CIA, CRMA, CGAP

Medicaid Deputy Director - Program Operations, Compliance, Quality and Innovations
Louisiana Department of Health

Michael.Boutte@la.gov | (225) 342.0327 desk | (225) 772.5316 cell

<https://qualitydashboard.ldh.la.gov/>



From: Mary Staples <mstaples@NACDS.org>

Sent: Friday, January 24, 2020 5:02 PM

To: Erin Campbell <Erin.Campbell@la.gov>

Cc: Sue Fontenot <Sue.Fontenot@LA.GOV>; Michael Boutte <Michael.Boutte@la.gov>; Shelly Dupre <shelly@impactmanagement.com>; Jessica Elliott <jessica@laretail.org>; Jennifer Katzman <Jennifer.Katzman@LA.GOV>

Subject: LA Proposed Rule Changes to LAC 50:XXIX.123, 919 and 993 - Adult Vaccines

EXTERNAL EMAIL: Please do not click on links or attachments unless you know the content is safe.

Please accept our comment letter for the record in support of the proposed rule changes.

MARY STAPLES

Director, State Government Affairs

mstaples@nacds.org

P: (817) 442.1155

F: (817) 442.1140

C: (817) 308.2103

National Association of Chain Drug Stores (NACDS)

211 East Southlake Boulevard, Suite 108 Southlake, Texas 76092 – **NEW ADDRESS**

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State of Louisiana
Louisiana Department of Health
Office of the Secretary

February 7, 2020

Via Statutorily Prescribed Email

To: The Honorable Chairman, Senate Health & Welfare Committee
The Honorable Chairman, House Health & Welfare Committee

From: Stephen R. Russo, JD
Interim Secretary

By Cindy Russo for

Re: Second Report on Proposed Amendments to LAC 48:I.6210 – Therapeutic Group
Homes—Licensing Standards—Criminal Background Checks

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Health Standards Section, submits its second report regarding the proposed – Hospice Licensing Standards rule amendment. A Notice of Intent on the proposed amendments was published in the December 20, 2019, issue of the *Louisiana Register* (LR 45:1879). No written comments during the public comment period. A public hearing was held on January 29, 2020, however no members from the public attended the hearing and no oral testimony was given at the hearing. Additionally, no substantive changes were made to the proposed amendments since the report provided for in R.S. 49:968B-C was submitted.

Unless otherwise directed, the Department anticipates adopting the December 20, 2019, Notice of Intent as a final rule when it is published in the March 20, 2020, issue of the *Louisiana Register*.

Should you have any questions or need additional information, please contact Brenda Blanchard, BSN, RN, LNCC at (225) 342-2471 or Cecile Castello, BSN, RN, LDH Deputy Assistant Secretary, Health Standards Section, at (225) 342-4997.

Cc: Brenda Blanchard, BSN, RN, LNCC, Health Standards Section
Cecile Castello, BSN, RN, LDH Deputy Assistant Secretary, Health Standards Section
Veronica Dent, Medicaid Program Manager 1B, Policy and Waivers
Anita Dupuy, Legislative Liaison, Louisiana Department of Health
Catherine Brindley, *Louisiana Register* Editor, Office of the State Register

NOTICE OF INTENT

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

**Therapeutic Group Homes
Licensing Standards
Criminal Background Checks
(LAC 48:I.6210)**

The Department of Health, Bureau of Health Services Financing adopts LAC 48:I.6210 as authorized by R.S. 36:254 and Act 243 of the 2019 Regular Session of the Louisiana Legislature. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq.

Act 243 of the 2019 Regular Session of the Louisiana Legislature requires that licensing standards for therapeutic group homes (TGH) comply with federal guidelines for Bureau of Criminal Identification and Information criminal background checks and Department of Children and Family Services (DCFS) abuse/neglect registry checks to provide criminal history record information for owners, operators, managers or administrators, employees, contractors, or paid or unpaid volunteers or interns of a TGH that have the potential of providing daily care or supervision to children or youth in the custody, or under the supervision, of any Louisiana state government agency.

In compliance with Act 243, the Department of Health, Bureau of Health Services Financing promulgated an Emergency

Rule which adopted provisions governing the licensing of TGHs in order to comply with federal criminal background check and DCFS abuse/neglect registry check requirements (*Louisiana Register*, Volume 45, Number 10). The department subsequently promulgated an Emergency Rule which amended the September 20, 2019 Emergency Rule in order to further clarify the licensing provisions governing TGH background checks (*Louisiana Register*, Volume 45, Number 12). This proposed Rule is being promulgated in order to continue the provisions of the September 20, 2019 and the December 20, 2019 Emergency Rules.

Title 48
PUBLIC HEALTH-GENERAL
Part I. General Administration
Subpart 3. Licensing

Chapter 62. Therapeutic Group Homes

Subchapter B. Licensing

§6210. Criminal Background Checks; Prohibitions to Ownership of and Employment at a Therapeutic Group Home; Process; Fees

A. The provisions of this Section shall apply to the following persons:

1. any person who owns, operates, or manages a licensed therapeutic group home (TGH);

2. any person who has applied for a license to operate a therapeutic group home;

3. any person who is employed by, is contracted by, volunteers at, or interns with a therapeutic group home;

4. any person who has applied to be employed or contracted by a therapeutic group home; and

5. any person who has applied to volunteer or intern with a therapeutic group home.

B. The provisions of this Section shall not apply to contractors or other individuals providing a service at the therapeutic group home who are not employees, volunteers, interns, or contracted members of the staff of the therapeutic group home, including but not limited to plumbers, landscapers, or visiting resources.

1. For purposes of this Section only, a volunteer is defined as an individual who offers direct care services to clients at the TGH on behalf of the provider for the benefit of the provider willingly and without pay.

2. For purposes of this Section only, an intern is defined as a student or trainee, either paid or unpaid, who offers direct care services to clients of the TGH on behalf of the provider in order to gain work or clinical experience.

C. No person who has been convicted of, or pled guilty to, or pled nolo contendere to a crime listed in §6210.C.1-5, or whose name is recorded on the State Central Registry within the Department of Children and Family Services (DCFS) as a

perpetrator for a justified finding of abuse or neglect of a child, or whose name is on any other state's child abuse and neglect registry or repository, may be the owner, operator, manager or administrator of a TGH, be employed by or contracted with a TGH, or be a volunteer or intern, paid or unpaid, at a TGH:

1. R.S. 14:28.1, 14:30, 14:30.1, 14:31, 14:32.6, 14:32.7, 14:32.8, 14:32.12, 14:35.2, 14:38.1; 14:40.1, 14:40.3, 14:40.7, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.1.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:44.2, 14:45, 14:46.4, 14:66, 14:74, 14:79.1, 14:80, 14:80.1, 14:81, 14:81.1., 14:81.2, 14:81.3, 14:81.4, 14:81.5, 14:82, 14:82.1, 14:82.2, 14:83, 14:83.1, 14:83.2, 14:83.3, 14:83.4, 14:85, 14:86, 14:89, 14:89.1, 14:89.2, 14:92, 14:93, 14:93.2.1, 14:93.2.1, 14:93.3, 14:93.4, 14:93.5, 14:106, 14:282, 14:283, 14:283.1, 14:284, 14:286, crimes of violence as defined in R.S. 14:2(B), sex offenses as defined in R.S. 15:541, or the attempt or conspiracy to commit any of these offenses;

2. R.S. 40:966(A), 40:967(A), 40:968(A), 40:969(A), and 40:970(A), or the attempt or conspiracy to commit any of these offenses;

3. a felony offense involving theft, pursuant to R.S. 14:67, or theft of assets of an aged person or person with a disability, pursuant to R.S. 14:67.1, in excess of \$500; or, a

felony offense involving theft in any case in which the offender has been previously convicted of theft, pursuant to either R.S. 14:67 or R.S. 14:67.1, regardless of the value of the instant theft; or the attempt or conspiracy to commit any of these offenses;

4. those of a jurisdiction other than Louisiana which, in the judgment of the department, would constitute a crime under the provisions cited in this Section; and

5. those under the Federal Criminal Code having analogous elements of criminal and moral turpitude.

D. Notwithstanding the provisions of §6210.C, LDH may, at its discretion, approve a waiver for a person who has a felony conviction for physical assault or battery as provided for in R.S. 14:34 and 14:37, or for a drug-related offense provided for in R.S. 40:966(A), 967(A), 968(A), 969(A), or 970(A), provided that the conviction was at least five years from the date of the request for waiver.

E. Criminal Background Checks, Process and Fees

1. The enhanced criminal background check described in §6210 is now required for each TGH, pursuant to the federal Family First Prevention Services Act (Public Law 115-123 enacted February 9, 2018) on child care institutions and Act 243 of the 2019 Regular Session of the Louisiana Legislature. This new enhanced criminal background check process encompasses the state

requirements in R.S. 40:1203.1 et seq. A TGH's compliance with this new enhanced criminal background check process will be deemed in compliance with the requirements in R.S. 40:1203.1.

2. The Department of Health shall request, consistent with the provisions of R.S. 15:587.1.2, from the Bureau of Criminal Identification and Information (the bureau), information concerning whether or not any of the persons listed in §6210.A has been arrested for, convicted of, or pled nolo contendere to any criminal offense.

a. The request shall be on a form prepared by the bureau and signed by a responsible official of LDH making the request;

b. The request shall include a statement signed by the person about whom the request is made which gives his/her permission for such information to be released; and

c. The person about whom the request is made shall submit his/her fingerprints in a form acceptable to the bureau.

F. In responding to a request for information regarding criminal history, the bureau shall make available a record of all criminal arrests and convictions prior to the date of request.

G. Upon receiving a request for information regarding criminal history, pursuant to R.S. 15:587.1.2 and R.S.

40:2008.10 (or their successor statutes) and this licensing rule, the bureau shall survey its criminal history records and identification files and make a simultaneous request of the Federal Bureau of Investigation for like information from other jurisdictions. The bureau shall provide a report to HSS promptly and in writing, but provide only such information as is necessary to specify whether or not that person has been arrested for, or convicted of, or pled guilty to, or pled nolo contendere to any crime or crimes, the crimes for which he has been arrested, or convicted, or to which he has pled nolo contendere, and the date or dates on which they occurred.

1. The report provided by the bureau to HSS shall include arrests, convictions, or other dispositions, including convictions dismissed pursuant to Code of Criminal Procedure Articles 893 or 894.

2. When an individual's record contains information which has been expunged, the bureau shall include in its report to HSS the date of the arrest and a notation that the individual's record contains information which has been expunged and that HSS may contact the bureau in order to obtain further information regarding the expunged information.

H. The LDH, as recipient of the criminal background report and information from the bureau, shall maintain the

confidentiality of such criminal history information in accordance with applicable federal and/or state law.

1. The bureau's criminal background report, and any information contained therein, including expunged information, shall not be deemed a public record.

2. The information may be used or admitted as evidence in any court proceeding, or employment or disciplinary hearing, in which LDH is an authorized participant.

I. State Central Registry

1. In addition to the criminal background checks, HSS requires that the TGH request information from the DCFS concerning whether or not any of the persons listed in §6210.A is recorded on the State Central Registry as a perpetrator for a justified finding of abuse or neglect of a child.

a. Upon request by HSS, such information shall be submitted to HSS for its review in §6210.K.

b. If the TGH fails to timely submit this information to HSS for its review, HSS may seek the information directly from DCFS and may sanction the TGH for failing to submit such information to LDH.

J. Other State Registries of Abuse/Neglect

1. For any persons listed in §6210.A who has lived in any other state within the last five years, HSS shall request information from the child abuse and neglect registry or

repository of each of those states as to whether the individual's name is recorded on that state's registry or repository.

2. If such information is not readily available or sent to HSS within 15 days of the request, HSS shall complete its review under §6210.K; however, if HSS subsequently receives information from other states' registries or repositories, HSS reserves the right to re-open its review and send a supplemental determination on the individual.

K. For the persons listed in §6210.A, HSS shall review the criminal background check, the State Central Registry (for abuse/neglect of a child), and any other applicable states' child abuse and neglect registry or repository, to determine if the person is eligible to be an owner, operator, manager, or administrator of a TGH, is eligible to be employed by or contracted with a TGH, or is eligible to be a volunteer or intern, paid or unpaid, at a TGH.

1. Notification shall be sent to the TGH.

2. The HSS shall retain such records and determination within a section of the TGH's licensing file for a period of five years, and may be shared with state or federal agencies with authority to access such information; however, such records and determinations are not public records.

L. The costs of any criminal background checks and reviews/checks of abuse/neglect registries or repositories required under statute or this licensing rule shall be the responsibility of the TGH.

1. The HSS may charge a processing fee not to exceed \$15 for the processing of the criminal background check and the review of abuse/neglect registries or repositories.

2. Additionally, HSS hereby requires that the TGH pay the charges and fees of the bureau for a state criminal history report, of the Federal Bureau of Investigation for a federal criminal history report, of the DCFS State Central Registry, and of any other state's registry or repository of abuse/neglect; such payments shall be made directly to those bureaus and agencies.

M. The HSS may request any information necessary from the TGH, from any person subject to the provisions of this Section, or from any other appropriate agency to ensure compliance with the requirements of criminal background checks and abuse/neglect registries or repositories.

N. Existing, Active TGH Licensed Before October 1, 2019

1. For any existing, operating TGH licensed as of October 1, 2019, the licensee shall submit to HSS on or before October 15, 2019, the following:

a. A list of all owners, operators, managers, administrators, employees, contractors, volunteers, and interns of the TGH as of October 15, 2019; such list shall indicate whether any such person has worked in another state within the last five years, including the states where worked, if applicable; and

b. Evidence to HSS that none of these individuals are recorded on the State Central Registry (for abuse/neglect of a child) via DCFS.

2. Each such person listed shall:

a. Submit a signed form or statement by October 15, 2019, giving permission for a criminal background check to be conducted by the bureau, and for the results/report to be submitted to HSS, pursuant to statute and this licensing rule; and

b. Submit his/her fingerprints to the bureau by October 15, 2019;

c. Submit an attestation to HSS on a form provided by HSS wherein the person attests that his/her signed form/statement and his/her fingerprints have been so submitted; this attestation must be received by HSS by October 18, 2019.

3. A person who has timely submitted his/her signed form/statement and his/her fingerprints to the bureau, who has timely submitted the attestation in §6210.N.2, and who is not

recorded on the State Central Registry for abuse/neglect of a child or any other states' abuse/neglect registry or repository, may continue to own, operate, manager, administer, be employed, be contracted, volunteer, and/or intern with the TGH until HSS receives and reviews the information or report from the bureau and receives and reviews any information or report from the State Central Registry for abuse/neglect of a child or any other states' abuse/neglect registry or repository.

4. If such information reveals that the person cannot be an owner pursuant to this Section, the department shall notify the licensed TGH, and the TGH shall immediately remove the person from ownership or shall immediately surrender its license.

5. If such information reveals that the person cannot be an operator, manager, administrator, employee, contractor, volunteer, or intern with the TGH pursuant to this Section, HSS shall notify the licensed TGH and the TGH shall immediately terminate the person.

6. No new owner may be obtained and no new operator, administrator, manager, employee, contractor, volunteer, or intern may be hired after October 15, 2019, until that person has submitted his/her signed form/statement and his/her fingerprints to the bureau and HSS has:

a. received and reviewed the information or report from the bureau;

b. received and reviewed the information or report regarding the State Central Registry for abuse/neglect of a child or any other states' abuse/neglect registry or repository; and

c. confirmed that the person can be an owner, operator, administrator, manager, employee, contractor, volunteer, or intern pursuant to the provisions of this Section or of the applicable statutes.

0. A TGH licensed after October 1, 2019, or that has an inactivated license re-activated after October 1, 2019

1. Any TGH licensed after October 1, 2019, or any inactive TGH that has its license re-activated after October 1, 2019, shall submit with its licensing application to HSS, a list of all proposed owners, operators, administrators, managers, employees, contractors, volunteers, and interns.

2. For the initial licensing application process of any TGH licensed after October 1, 2019, or for the reactivation licensing application process of any inactive TGH that has its license re-activated after October 1, 2019, the HSS processing of the application shall not begin until such time that all owners have submitted signed forms/statements and fingerprints to the bureau, and HSS has:

a. received and reviewed the information or report from the bureau;

b. received and reviewed the information or report regarding the State Central Registry for abuse/neglect of a child or any other states' abuse/neglect registry or repository; and

c. confirmed that the person can be an owner pursuant to the provisions of this Section or of the applicable statute.

3. Once HSS has confirmed that each owner is compliant with the provisions of this Section and is eligible to be an owner of the TGH, then HSS will proceed with processing the licensing application; however, the on-site licensing survey or the on-site reactivation survey at the TGH will not be scheduled by HSS, until such time that all operators, administrators, managers, employees, contractors, volunteers, and interns listed per Section 6210.0.1 have submitted signed forms/statements and fingerprints to the bureau, and HSS has:

a. received and reviewed the information or report from the bureau;

b. received and reviewed the information or report regarding the State Central Registry for abuse/neglect of a child or any other states' abuse/neglect registry or repository; and

c. confirmed that the person can be an operator, administrator, manager, employee, contractor, volunteer, or intern pursuant to the provisions of this Section or of the applicable statute.

4. No new TGH may be licensed after October 1, 2019, and no inactive TGH may have its license re-activated after October 1, 2019 until all persons listed in Section 6210.0.1 have been determined in compliance with this Section or have been removed from ownership or employ of the TGH.

5. At the on-site licensing survey or the on-site re-activation survey, the TGH shall have sufficient approved staff to admit and treat at least one client continuously for 24 hours.

a. The TGH shall have sufficient approved staff to meet the needs of any client admitted to the TGH.

6. No new owner or operator may be obtained and no new administrator, manager, employee, contractor, volunteer, or intern may be hired by the TGH after submitting the initial license application or reactivation license application, until the TGH has submitted notice of the new person to HSS, and that person has submitted his/her signed form/statement and his/her fingerprints to the bureau, and HSS has:

a. received and reviewed the information or report from the bureau;

b. received and reviewed the information or report regarding the State Central Registry for abuse/neglect of a child or any other states' abuse/neglect registry or repository; and

c. confirmed that the person can be an owner, operator, administrator, manager, employee, contractor, volunteer, or intern pursuant to the provisions of this Section or of the applicable statutes.

P. Subject to §6210.P.1, LDH's review and determination regarding criminal background check and abuse/neglect registry verification(s) for any person subject to the provisions of this Section, is specific to that licensed TGH only. A separate review and determination, along with new criminal background check and abuse/neglect registry verifications, shall be necessary for any person (who is subject to the provisions of this Section) who is an owner, operator, manager, administrator, employee, contractor, volunteer, or intern at a separately licensed TGH.

1. If two or more licensed TGHs are owned by the same corporate entity and such is noted on the license application and license, then LDH, in its discretion, may allow its review and determination regarding criminal background check and abuse/neglect registry verification for a particular owner, operator, manager, administrator, employee, contractor,

volunteer, or intern who will be at both (or multiple) of the owned TGHs, to be based on the same criminal background check and abuse/neglect registry verifications, provided that the background check and verifications were conducted within the last 90 days.

Q. In addition to other sanctions that may be imposed on a TGH, LDH may also deny initial licensure, revoke an existing license, or deny renewal or reactivation of a license of a TGH that violates the provisions of this Section or of the applicable statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Act 243 the 2019 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated 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 January 29, 2020.

The department will conduct a public hearing at 9:30 a.m. on January 29, 2020 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



State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

PUBLIC HEARING CERTIFICATION
January 29, 2020
9:30 a.m.

RE: Therapeutic Group Homes
Licensing Standards
Criminal Background Checks
Docket # 01292020-03
Department of Health
State of Louisiana

CERTIFICATION

In accordance with LA R.S. 49:950 et seq., the attached public hearing agenda, together with one digital recording of the public hearing conducted on January 29, 2020 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in blue ink, likely belonging to a representative of the Medicaid Policy and Compliance Section.

Medicaid Policy and Compliance
Section

01/29/20

Date

LDH/BHSF PUBLIC HEARING

Topic – Therapeutic Group Homes - Licensing Standards
Criminal Background Checks

Date – January 29, 2020

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Theresa Bryan	628 N. 4 th St BR, LA 70802	342-2227	LDH
2. JANEICE VAUGHN	628 N. 4 th St BR, LA 70802	342-2207	LDH
3. Miah Hill	" "	342-7138	LDH
4. Kam L Barnes	" "	342-1325	LDH
5.			
6.			