



State of Louisiana
Louisiana Department of Health
Office of the Secretary

April 8, 2022

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

From: Dr. Courtney N. Phillips
Secretary

Re: Second Report LAC 48:I.Chapters 56 and 57 – Behavioral Health Service Providers
– Licensing Standards

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Behavioral Health Service Providers – Licensing Standards, LAC 48:I. Chapters 56 and 57.

A Notice of Intent on the proposed amendments was published in the February 20, 2022 issue of the *Louisiana Register* (LR 48:348). No written comments were received and there was no request 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 February 20, 2022, Notice of Intent when it is published as a final rule in the May 20, 2022, issue of the *Louisiana Register*.

Please contact Cynthia York, at cynthia.york@la.gov, if you have any questions or require additional information about this matter.

Cc: Tasheka Dukes, RN, Assistant Secretary HSS, LDH
Veronica Dent, Medicaid Program Manager, LDH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT
Department of Health
Bureau of Health Services Financing

Behavioral Health Service Providers
Licensing Standards
(LAC 48:I.Chapters 56 and 57)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapters 56 and 57 as authorized by R.S. 36:254 and R.S. 40:2151-2162. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 328 of the 2020 Regular Session of the Louisiana Legislature and Acts 372 and 433 of the 2021 Regular Session of the Louisiana Legislature revised the requirements relative to the licensure of certain providers of behavioral health services. In compliance with Acts 328, 372, and 433, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of behavioral health service providers in order to: 1) provide further definitions and provisions related to the geographic service area, 2) update the licensure and staff requirements, 3) update admission, transfer and discharge requirements, and 4) add provisions governing mobile services, mental health intensive outpatient programs, and onsite access to medication assisted treatment.

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

Chapter 56. Behavioral Health Service Providers

Subchapter A. General Provisions

§5601. Introduction

A. - B. ...

C. The following providers shall be licensed under the BHS provider license:

1. substance use/addiction treatment facilities;

2. - 3. ...

D. Licensed substance use/addiction treatment facilities and mental health clinics have one year from the date of

promulgation of the final Rule to comply with all of the provisions herein.

NOTE: Existing licensed substance use/addiction treatment facilities and mental health clinics shall be required to apply for a BHS provider license at the time of renewal of their current license(s).

E. The following entities shall be exempt from the licensure requirements for BHS providers:

1. - 10. ...

11. an individual licensed physician assistant (PA), or a group practice of licensed PAs, providing services under the auspices of and pursuant to the scope of the individual's license or group's licenses;

12. school-based health clinics/centers that are certified by the LDH, Office of Public Health, and enrolled in the Medicaid Program;

13. those local public school governing authorities, if such exemption is applicable to only school-based BHS provided through the Medicaid Early and Periodic Screening, Diagnostic, and Treatment program;

14. a health care provider or entity solely providing case management or peer support services, or a combination thereof;

a. - d.NOTE. Repealed.

15. facilities or services operated for the sole purpose of providing substance use or mental health services to courts that are recognized and certified by the Louisiana Supreme Court as specialty courts;

16. an individual licensed advanced practice registered nurse (APRN), or a group practice of licensed APRNs, providing services under the auspices of and pursuant to the scope of the individual's license or group's licenses;

17. rural health clinics (RHCs) providing RHC services under a license issued pursuant to R.S. 40:2197; and

18. facilities or services operated by the Department of Public Safety and Corrections, Corrections Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1682 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1379 (July 2017), LR 48:

§5603. Definitions

* * *

Addiction Counselor—any person who is licensed, certified, or registered in accordance with state statute and procedures established by the Addictive Disorder Regulatory Authority and who, by means of his special knowledge acquired through formal education or practical experience, is qualified to provide addiction counseling services to those individuals afflicted with or suffering from an addictive disorder or certain co-occurring disorders.

* * *

Addiction Outpatient Treatment Services (ASAM Level I)—an outpatient program that offers comprehensive, coordinated, professionally directed and defined addiction treatment services that may vary in level of intensity and may be delivered in a wide variety of settings. Services are provided in regularly scheduled sessions of fewer than nine contact hours a week.

Addictive Disorder—the repeated pathological use of substances including but not limited to alcohol, drugs, or tobacco, or repeated pathological compulsive behaviors

including but limited to gambling, which cause physical, psychological, emotional, economic, legal, social, or other harms to the individual afflicted with the addiction or to others affected by the individual's affliction. Addiction disorder includes instances where withdrawal from or tolerance to the substance or behaviors are present, and also instances involving use and abuse of substances.

Advanced Practice Registered Nurse (APRN)—a licensed health care practitioner who is acting within the scope of practice of his/her respective licensing boards(s) and/or certifications.

Alternate Service Delivery Area—an area that is not contiguous to the geographic service area of the licensed BHS parent location and/or is in an LDH region where a BHS provider may be allowed to provide Homebuilders services when the provider has less than three staff providing such services in that region.

Ambulatory Withdrawal Management with Extended on-site Monitoring (ASAM Level 2-WM)—an organized outpatient addiction treatment service that may be delivered in an office setting or health care or behavioral health services provider by trained clinicians who provide medically supervised evaluation, withdrawal management and referral services. The services are designed to treat the client's level of clinical severity to achieve safe and comfortable withdrawal from mood-altering chemicals and to effectively facilitate the client's entry into ongoing treatment and recovery. The services are provided in conjunction with intensive outpatient treatment services (level 2.1).

Authorized Licensed Prescriber—a physician, PA, nurse practitioner, or medical psychologist (MP) licensed in the state of Louisiana and with full prescriptive authority who is authorized by the BHS provider to prescribe treatment to clients of the specific BHS provider at which he/she practices.

Behavioral Health Services—mental health services, substance use/addiction treatment services, or a combination of such services, for adults, adolescents and children. Such services may be provided in a residential setting, in a clinic setting on an outpatient basis, or in a home or community setting.

Business Location or Primary Business Office Location—the physical location/address that is designated by the provider as the main or primary business office location; there shall be only one designation of the main or primary business office location per provider; the main or primary business office location may be a licensed residential location, a licensed outpatient clinic, or other office location within the geographic service area authorized by the license.

Campus—for purposes of this Chapter, a location where BHS services are provided that is within the geographic service area as the licensed BHS provider. A campus may have multiple buildings/multiple addresses as long as those buildings are contiguous and not separated by public streets, and are within the same geographic service area as the licensed BHS provider.

Certified Addiction Counselor (CAC)—pursuant to R.S. 37:3387.1, any person who, by means of his specific knowledge acquired through formal education and practical experience, is qualified to provide addictive disorder counseling services and is certified by the ADRA as a CAC. The CAC shall not practice independently and shall not render a diagnostic impression.

Certified Clinical Supervisor—any person holding the necessary credential of licensed, certified, or registered addiction counselor or any person who holds a specialty substance use credential in another professional discipline in a human services field at the master's level or higher; and who has satisfied the requirements established by the Addictive Disorder Regulatory Authority (ADRA) to provide clinical supervision.

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

Change of Ownership (CHOW)—the addition, substitution, or removal, whether by sale, transfer, lease, gift or otherwise, of a licensed health care provider subject to this rule by a person, corporation, or other entity, which results in a change of controlling interest of assets or other equity interests of the licensed entity may constitute a CHOW of the licensed entity. An example of an action that constitutes a CHOW includes, but is not limited to, the leasing of the licensed entity.

Client—any person who seeks and receives treatment or services, including but not limited to rehabilitation services or addiction counseling services, furnished by a provider licensed pursuant to this Chapter.

Clinically Managed High-Intensity Residential Treatment Services (ASAM Level 3.5)—a residential program that offers continuous observation, monitoring, and treatment by clinical staff designed to treat clients experiencing substance-related disorders who have clinically-relevant social and psychological problems, such as criminal activity, impaired functioning and disaffiliation from mainstream values, with the goal of promoting abstinence from substance use and antisocial behavior and affecting a global change in clients' lifestyles, attitudes and values.

Clinically Managed Low Intensity Residential Treatment Services (ASAM Level 3.1)—a residential program that offers at least five hours a week of a combination of low-intensity clinical and recovery-focused services for substance-related disorders. Services may include individual, group and family therapy, medication management and medication education, and treatment is directed toward applying recovery skills, preventing relapse, improving emotional functioning, promoting personal responsibility and reintegrating the client into the worlds of work, education and family life (e.g., halfway house).

Clinically Managed Population Specific High-Intensity Residential Treatment Services (ASAM Level 3.3)—a residential program that offers at least 20 hours per week of a combination of medium-intensity clinical and recovery-focused services in a structured recovery environment to support recovery from substance-related disorders; is frequently referred to as extended or long term care.

Clinically Managed Residential Withdrawal Management (Social) (ASAM LEVEL 3.2-WM)—an organized residential program utilizing 24 hour active programming and containment provided in a non-medical setting that provides relatively extended, sub-acute treatments, medication monitoring observation, and support in a supervised environment for a client experiencing non-life threatening withdrawal symptoms from the effects of alcohol/drugs and impaired functioning and who is able to participate in daily residential activities.

Co-Occurring Disorder—a disorder in which an individual has at least one psychiatric disorder as well as an addictive disorder.

Counselor in Training (CIT)—any person who has not yet met the qualification to become a licensed, certified, or registered counselor, but who has made application to the ADRA in accordance with state statute and procedures established by the ADRA. The CIT shall not practice independently and shall only work under the direct supervision of a licensed addiction counselor (LAC), CAC, or registered addiction counselor; or in the absence of a licensed, certified, or registered addiction counselor, under the direction of a qualified mental health professional.

Department—the LDH or any office or agency thereof designated by the secretary to administer the provisions of this Chapter.

Dispensing Physician—any physician in the state of Louisiana who is registered as a dispensing physician with the Louisiana State Board of Medical Examiners (LSBME) and who dispenses to his/her patients any drug, chemical, or medication, except a bona fide medication sample.

Facility Need Approval (FNA)—the letter of approval from the Office of Behavioral Health (OBH) which is required for licensure applicants for opioid treatment programs prior to applying for a BHS provider license or the letter of approval from the Facility Need Review (FNR) Committee within the department which is required for licensure applicants for psychosocial rehabilitation (PSR) or CPST services prior to applying for a BHS provider license.

FDA—the Food and Drug Administration of the United States Department of Health and Human Services.

Financial Viability—the provider seeking licensure is able to provide verification and continuous maintenance of all of the following pursuant to R.S. 40:2153:

1. ...

2. proof of professional liability insurance of at least \$500,000 or proof of self-insurance of at least \$100,000, along with proof of enrollment as a qualified health care provider with the Louisiana Patient's Compensation Fund (PCF):

a. if the BHS provider is self-insured and is not enrolled in the PCF, professional liability limits shall be \$1 million per occurrence/\$3 million per annual aggregate.

NOTE: the LDH-HSS shall specifically be identified as the certificate holder on any policies and any certificates of insurance issued as proof of insurance by the insurer or producer (agent).

3. proof of workers' compensation insurance; and
4. proof of general liability insurance of at least \$500,000.

Geographic Service Area—the geographic service location for a public or private behavioral health services provider licensed pursuant to this Part shall be defined to include:

1. the parish in which the provider's business office is located;

2. any parish contiguous to the parish in which the provider's business office is located; and

3. any distance within a fifty mile radius of the provider's business office.

Health Standards Section (HSS)—the licensing and certification section of the LDH.

High Risk Behavior—includes substance use, gambling, violence, academic failure, delinquency behavior, and mental health issues such as depression, anxiety, and suicidal ideations.

Intensive Outpatient Treatment Services (ASAM Level 2.1)—professionally directed assessment, diagnosis, treatment and recovery services provided in an organized non-residential treatment setting, including individual, group, family counseling and psycho-education on recovery as well as monitoring of drug use, medication management, medical and psychiatric examinations, crisis mitigation coverage and orientation to community-based support groups. Services may be offered during the day, before or after work or school, in the evening or on a weekend, and the program shall provide nine or more hours of structured programming per week for adults and six or more hours of structured programming per week for children/adolescents.

Licensed Mental Health Professional (LMHP)—an individual who is currently licensed and in good standing in the state of Louisiana to practice within the scope of all applicable state laws, practice acts and the individual's professional license, as one of the following:

1. - 6. ...

7. advanced practice registered nurse (APRN); or

8. ...

Licensed Rehabilitation Counselor (LRC)—any person who holds himself out to the public, for a fee or other personal gain, by any title or description of services incorporating the words "licensed professional vocational rehabilitation counselor" or any similar terms, and who offers to render professional rehabilitation counseling services denoting a client-counselor relationship in which the counselor assumes responsibility for knowledge, skill, and ethical considerations needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to engage in the practice of rehabilitation counseling. An LRC is also known as a licensed professional vocational rehabilitation counselor. An LRC is not permitted to provide assessment or treatment services for substance use/addiction, mental health or co-occurring disorders under his/her scope of practice under state law.

Medical Psychologist—a licensed psychological practitioner who has undergone specialized training in clinical psychopharmacology and has passed a national proficiency examination in psychopharmacology approved by the LSBME.

Medically Monitored Inpatient Withdrawal Management (Medically Supported) (ASAM Level 3.7-WM)—a residential program that provides 24-hour observation, monitoring and treatment delivered by medical and nursing professionals to clients whose withdrawal signs and symptoms are moderate to severe and thus require residential care, but do not need the full resources of an acute care hospital.

Medically Monitored Intensive Inpatient Treatment Services (Co-occurring) (ASAM Level 3.7)—a residential program that provides a planned regimen of 24-hour professionally directed evaluation, observation, medical monitoring and addiction treatment to clients with co-occurring psychiatric and substance disorders whose disorders are so severe that they require a residential level of care but do not need the full resources of an acute care hospital. The program provides 24 hours of structured treatment activities per week, including, but not limited to, psychiatric and substance use assessments, diagnosis treatment, and rehabilitative and rehabilitation services.

Mental Health Clinic—an entity through which outpatient behavioral health services are provided, including screening, diagnosis, management or treatment of a mental disorder, mental illness, or other psychological or psychiatric condition or problem, mental health intensive outpatient services, and 24-hour emergency services that are provided either directly or through formal affiliation with other agencies by an interdisciplinary team of mental health professionals and subordinates in accordance with a plan of treatment or under the direction of a psychiatrist or another qualified physician with psychiatric consultation.

Mental Health Intensive Outpatient Programs (MH IOPs)—professionally directed assessment, diagnosis, and treatment provided in an organized non-residential treatment setting, including individual, group, family counseling and psycho-education as well as, medication management, medical and psychiatric examinations, and crisis mitigation coverage. Services may be offered during the day, before or after work or school, in the evening or on a weekend, and the program shall provide nine or more hours of structured programming per week for adults and six or more hours of structured programming per week for children/adolescents.

Mental Health Rehabilitation (MHR)—an outpatient healthcare program provider of any PSR, crisis intervention (CI) and/or CPST services that promotes the restoration of community functioning and well-being of an individual diagnosed with a mental health or mental or emotional disorder. The MHR provider utilizes evidence based supports and interventions designed to improve individual and community outcomes.

Mobile Crisis Response Team (MCRT)—unlicensed staff and recognized peer support specialist deploy in teams initially to assess and address a crisis as part of mobile crisis intervention response services, enlisting the assistance of an LMHP if needed. Exceptions to the team deployment may be

made by the team leader. One staff person may deploy after the initial assessment, if appropriate as determined by the team leader. Unlicensed individuals work under the supervision of an LMHP or psychiatrist who is acting within the scope of his/her professional license and applicable state law. MCRTs operate under an agency or facility license issued by LDH Health Standards.

Mobile Unit—any trailer or self-propelled unit equipped with a chassis on wheels and intended to provide behavioral health services on a temporary basis at a temporary location. These units shall be maintained and equipped to be moved.

Mothers with Dependent Children Program or Dependent Care Program—a program that is designed to provide substance use/addiction treatment to mothers with dependent children who remain with the parent while the parent is in treatment.

Nurse—any registered nurse licensed and in good standing with the Louisiana State Board of Nursing (LSBN) or any practical nurse licensed and in good standing with the Louisiana State Board of Practical Nurse Examiners (LSBPE).

Off-Site—a parent facility's alternate location or premises that provides behavioral health services on a routine basis within the geographic service area of the licensed BHS provider that:

1. is detached from the parent provider and does not share the same campus;
2. the geographic service location for a public or private behavioral health services provider licensed pursuant to this Part shall be defined to include:
 - a. the parish in which the provider's business office is located;
 - b. any parish contiguous to the parish in which the provider's business office is located; and
 - c. any distance within a fifty mile radius of the provider's business office.
3. is owned by, leased by or donated or loaned to the parent provider for the purpose of providing behavioral health services; and
4. has a sub-license issued under the parent facility's license.

Onsite Access—for purposes of §5712 of this Rule, the delivery of the treatment to the patient at the location of the residential substance use disorder facility. For purposes of §5712, onsite access does not mean that the residential substance use disorder facility is required to maintain stock of the medication-assisted treatment at the facility.

OSFM—the Louisiana Department of Public Safety and Corrections (LDPSC), Office of State Fire Marshal (OSM).

Parent Facility—the main building or premises of a BHS provider where services are provided on-site and administrative records are maintained.

Partial Hospitalization Services (ASAM Level 2.5)—an organized outpatient service that delivers treatment to adolescents and adults. This level encompasses services that meet the multidimensional instability and complex needs of

people with addiction and co-occurring conditions which do not require 24-hour care.

Peer Support Specialist—an individual with personal lived experience with a minimum of 12 consecutive months of recovery from behavioral health conditions and successfully navigating the behavioral health services system. Recognized peer support specialists must successfully complete an OBH-approved peer training program, continuing education requirements, and clinical supervision prior to providing peer support services.

Physician Assistant—a licensed health care practitioner who is acting within the practice of his/her respective licensing boards(s) and/or certifications.

Prevention Specialist—an individual who works with individuals, families and communities to create environments and conditions that support wellness and the ability of individuals to withstand changes. Prevention specialists are trained in needs assessment, planning and evaluation, prevention education and service delivery, communication, community organization, public policy and environmental change. A Prevention specialist is any person who has received credentials from the ADRA to be a licensed, certified, or registered prevention professional.

Prevention Specialist-in-Training—any person who has not yet met the qualifications to become a licensed, certified, or registered prevention professional, but who has made application to the ADRA in accordance with the provisions of state statute and procedures established by the ADRA, and works under the supervision as required by ADRA.

Registered Addiction Counselor (RAC)—pursuant to R.S. 37:3387.2, any person who, by means of his/her specific knowledge acquired through formal education and practical experience, is qualified to provide addictive disorder counseling services and is registered by the ADRA as a RAC. The RAC shall not practice independently and shall not render a diagnostic impression.

Secretary—the secretary of the LDH or his/her designee.

Site/Premises—a single identifiable geographic location owned, leased, or controlled by a provider where any element of treatment is offered or provided. Multiple buildings may be contained in the license only if they are connected by walkways and not separated by public streets.

State Opioid Treatment Authority (SOTA)—the agency or other appropriate officials designated by the governor or his/her designee, to exercise the responsibility and authority within the state for governing the treatment of opiate addiction with an opioid drug. The SOTA for the state of Louisiana is the OBH.

Substance Use/Addiction Treatment Service—a service related to the screening, diagnosis, management, or treatment for the use of or addiction to controlled dangerous substances, drugs or inhalants, alcohol, problem gambling or a combination thereof; may also be referred to as substance use disorder service.

Unlicensed Professional (UP)—for purposes of this Rule, any unlicensed behavioral health professional who cannot practice independently or without supervision by a LMHP. This includes but is not limited to CACs, RACs and unlicensed addiction counselors, social workers or psychologists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1682 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1380 (July 2017), LR 46:587 (April 2020), LR 48:

Subchapter B. Licensing

§5605. General Provisions

A. - E. ...

F. **Provider Names.** A BHS provider is prohibited from using:

1. ...

2. a name that resembles the name of another BHS provider licensed by the department as determined by the Louisiana Secretary of State;

F.3. - G.11. ...

H. **Plan Review**

1. Plan review is required for outpatient clinics and residential BHS provider locations where direct care services or treatment will be provided, except for the physical environment of a substance use/addiction treatment facility or licensed mental health clinic at the time of this Chapter's promulgation.

2. - 4.b....

I. **Waivers**

1. - 3. ...

4. Waivers are not transferable in a CHOW or geographic change of location, and are subject to review or revocation upon any change in circumstances related to the waiver.

J. - L.9. ...

M. **Geographic Service Area**

1. The geographic service area is the geographic area that a BHS provider's license allows services (including all telehealth services) to be provided to clients.

2. For purposes of this licensing rule, the geographic service area shall be established as follows:

a. for providers owned and/or operated by a human service district or authority, the geographic service area shall be the parishes and jurisdiction of the district or authority in statute;

b. for providers participating in the Homebuilders program, the geographic service area shall be the parishes of the LDH region in which the provider is licensed and has its primary business office location;

i. upon receipt of a written waiver request from such provider, the LDH Health Standards Section may grant a waiver to a Homebuilders provider to operate in another LDH region for good cause shown;

ii. the LDH Health Standards Section may request from the Homebuilders provider any documentation or information necessary to be able to evaluate and make a determination to grant or deny the waiver request; and

iii. if granted, the waiver shall be for a limited time, and not to exceed six months.

c. for mobile crisis response teams, the geographic service area shall be the parishes of the LDH region in which the provider is licensed and has its primary business office location;

d. for all other BHS providers, the geographic service area shall be as follows:

i. for providers of residential services the geographic service area shall be the fixed, licensed residential location geographic address and any licensed offsite residential location geographic address only;

ii. for providers of outpatient services (other than providers with a mental health service program that provide services only in the home and community – see below) the geographic service area shall be:

(a). the geographic address of the licensed outpatient clinic;

(b). the geographic address of any licensed offsite outpatient clinic;

(c). in a home or community location in the parish in which the primary business office of the BHS provider is located;

(d). in a home or community location in any parish contiguous to the parish in which the BHS provider's primary business office is located, and

(e). in a home or community location that is within a 50 mile radius of the BHS provider's primary business office.

iii. for providers of a mental health service program that provide services only in the home and community (defined as providers without a fixed, licensed outpatient clinic that only provide behavioral health services to clients in a home or community setting) the geographic service area shall be:

(a). the geographic address of the home or community location in the parish in which the designated primary business office of the BHS provider is located;

(b). the geographic address of the home or community location in any parish contiguous to the parish in which the BHS provider's primary business office is located; and

(c). the geographic address of the home or community location that is within a 50 mile radius of the BHS provider's designated primary business office.

3. A BHS provider may not provide telehealth services outside of its geographic service area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2162.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1687 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1380 (July 2017), LR 46:588 (April 2020), LR 48:

§5606. License Restrictions and Exceptions

A. - A.2. ...

B. A BHS provider may apply for a waiver from the HSS to provide home or community services to a client residing outside of the provider's designated geographic service area only under the following conditions:

B.1. - D. ...

E. Exception to Service Delivery Area. A BHS Homebuilders provider may request the approval of an

alternate service delivery area that shall include the following submitted to the HSS:

1. letter of FNR approval for the alternate geographic service delivery area; and

2. attestation that the Homebuilders program currently has less than three staff providing Homebuilders services in the alternate geographic service delivery area;

F. Exceptions during a Gubernatorial Declared State of Emergency or Disaster

1. To ensure the health and safety of clients, and the coordination and continuation of services to clients, during a gubernatorial declared state of emergency or disaster in Louisiana, the department, through written notice sent electronically to licensed BHS providers, may allow a licensed BHS provider to operate and provide services to existing clients who are receiving outpatient BHS services and who have evacuated or temporarily relocated to another location in the state when the following apply:

a. the client has evacuated or temporarily relocated to a location outside of the provider's licensed region due to the declared state of emergency or disaster;

b. the client shall have been a client of the BHS provider as of the declared state of emergency or disaster, with an approved treatment plan;

c. the provider has sufficient and qualified staff to provide services at the client's temporary location;

d. the provider is responsible for ensuring that all essential services, are provided in accordance with the treatment plan; and

e. the provider shall not interfere with the client's right to choose a provider of his/her choice if the client elects a new BHS provider in the area where the client relocates. The provider shall facilitate client's selection.

2. Under the provisions of §5606.F.1-4, the department's initial written notice to licensed BHS providers to authorize these allowances shall be for a period not to exceed 45 days. The department may extend this initial period, not to exceed an additional 45 days, upon written notice sent electronically to the licensed BHS providers.

3. Under the supervision of §5606.F.1-4, the department, in its discretion, may authorize these allowances statewide or to certain affected parishes.

4. A BHS provider who wants to provide services to a client that has temporarily relocated out of state must contact that state's licensing/certification department to obtain any necessary licensing and/or certification before providing services in that state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2162.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 46:588 (April 2020), amended LR 48:

§5607. Initial Licensure Application Process

A. ...

B. The completed initial licensing application packet shall include:

1. - 2. ...

3. the LDH plan review approval letter from OSFM, if applicable;

4. - 10. ...

11. if operated by a corporate entity, such as a corporation or a limited liability company, current proof of registration and status with the Louisiana Secretary of State;

12. any other documentation or information required by the department for licensure including, but not limited to:

- a. documentation for opioid treatment programs, such as a copy of the OBH FNA letter; and
- b. a copy of the FNR approval letter for providers of PSR/CPST;

13. for a residential substance use disorder facility, submission of the attestation in accordance with §5712 of this Rule.

C. Deadline for Submitting Initial Licensure Application for Unlicensed Agencies

1. Any unlicensed agency that is a provider of any PSR, CI and/or community psychiatric support and treatment services prior to the promulgation of this Rule and is required to be licensed as a BHS provider has 180 days from the promulgation of this Rule to submit an initial licensing application packet to HSS.

C.2. - H. ...

I. A BHS provider is prohibited from providing behavioral health services to clients during the initial application process and prior to obtaining a license, unless the applicant qualifies as one of the following facilities:

1. ...
2. a licensed substance use/addiction treatment facility; or
3. an agency that is a provider of PSR, community psychiatric support and treatment, and/or CI services.

J. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1688 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1381 (July 2017), LR 48:

§5615. Renewal of License

A. ...

B. To renew a license, the BHS provider shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet shall include:

1. - 5. ...
6. payment of any outstanding fees, fines or monies owed to the department;
7. for a residential substance use disorder facility, submission of the attestation in accordance with §5712 of this Rule; and
8. any other documentation required by the department.

C. - G.3.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1691 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1381 (July 2017), LR 48:

§5643. Core Staffing Personnel Qualifications and Responsibilities

A. ...

B. Professional Staffing Standards. All BHS providers shall, at a minimum, have the following staff:

1. a medical director who:

a. is a physician, or an APRN, or a MP, with a current, unrestricted license to practice in the state of Louisiana with two years of qualifying experience in treating psychiatric disorders;

b. has the following assigned responsibilities:

- i. ...
- ii. provides oversight for provider policy/procedure, client treatment plans and staff regarding the medical needs of the clients according to the current standards of medical practice;

b.iii. - d. ...

2. a clinical director who, for those mental health rehabilitation providers which exclusively provide the evidenced-based practice multi-systemic therapy (MST), functional family therapy (FFT) or Homebuilders:

a. ...

b. has the following assigned responsibilities:

- i. ...
- ii. provides oversight for provider policy/procedure, client treatment plans and staff regarding the clinical needs of the clients according the current standards of clinical practice;

B.2.b.iii. - 4.viii. ...

5. nursing staff who, for those BHS providers whose services include medication management and/or addiction treatment services:

a. provide the nursing care and services under the direction of a registered nurse (RN) necessary to meet the needs of the clients; and

b. - b.i. ...

ii. Nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy, or other document. The BHS provider shall maintain documentation of such arrangement.

C. Other Staffing Requirements. The provider shall abide by the following staffing requirements that are applicable to its provider:

1. Licensed Mental Health Professionals

a. The provider shall maintain a sufficient number of LMHPs, who are licensed to practice independently in the state of Louisiana to diagnose and treat mental illness and/or substance use, to meet the needs of the provider's clients.

b. - b.iii. ...

iv. provide on-site and direct professional supervision of any UP or inexperienced professional;

v. - vi. ...

2. Unlicensed Professionals

a. The provider shall maintain a sufficient number of UPs to meet the needs of its clients;

b. - b.v. ...

3. Direct Care Aides

a. A residential provider shall have a sufficient number of direct care aides to meet the needs of the clients;

b. A provider that provides outpatient services shall use direct care aides as needed;

3.c. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1700 (September 2015), amended by the Department of Health,

Bureau of Health Services Financing, LR 43:1383 (July 2017), LR 48:

§5645. Personnel Records

A. - A.10. ...

11. prior to hiring the unlicensed direct care staff member, and once employed, at least every six months thereafter or more often, the provider shall have documentation of reviewing the Louisiana state nurse aide registry and the Louisiana direct service worker registry on the Louisiana Adverse Action website to ensure that each unlicensed direct care staff member does not have a negative finding on either registry; and

A.12. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1702 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

Subchapter F. Admission, Transfer and Discharge

§5669. Interior Space for Residential Facilities

A. - C.3. ...

D. Client Bedrooms. The provider shall ensure that each client bedroom in the facility:

1. - 4. ...

5. contains no more than four beds;

EXCEPTION: Providers licensed as substance use/addiction treatment residential facilities at the time this Rule is promulgated that have more than four clients per bedroom, may maintain the existing bedroom space that allows more than four clients per bedroom provided that the bedroom space has been previously approved by a LDH waiver. This exception applies only to the currently licensed physical location.

6. - 7.c. ...

8. has a window;

D.9. - E.7. ...

8. prohibit bunk beds in the following programs:

- a. clinically managed residential withdrawal management (ASAM level 3.2-WM);
- b. Clinically Managed High Intensity Residential treatment services (ASAM level 3.5);
- c. medically monitored intensive residential treatment services (ASAM level 3.7); and
- d. medically monitored inpatient withdrawal (ASAM level 3.7WM).

F. Bathrooms

1. - 2. ...

3. The provider shall ensure that each client has personal hygiene items, such as a toothbrush, toothpaste, shampoo, and soap as needed.

4. In a multi-level facility, there shall be at least one full bathroom with bathing facility reserved for client use on each client floor.

5. ...

6. The provider shall have at least one separate toilet and a lavatory for the staff located within the facility.

H. - I. ...

J. Staff Quarters. The provider utilizing live-in staff shall provide adequate, separate living space with a private bathroom to include a shower for staff usage only.

K. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1707 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1385 (July 2017), LR 48:

§5670. Mobile Units

A. All BHS providers offering services via a mobile unit shall notify the HSS prior to providing services via a mobile unit.

B. The mobile unit shall be maintained in safe working order and in compliance with applicable state and federal regulations and laws, including but not limited to those regulations and law relative to the safe and effective operation of motor vehicles.

C. A licensed behavioral health provider operating a mobile unit shall provide behavioral health services only in the geographic service area of the licensed behavioral health service provider.

D. All BHS providers utilizing a mobile unit shall have policies and procedures that address the use of mobile units.

NOTE: The provisions of this Section shall be effective upon the promulgation of this Rule and not to exceed one year as a pilot program limited only to currently licensed local governing entity (LGE) BHS providers. At the end of the one year pilot period, LDH will re-evaluate these provisions to determine whether they should continue for LGE BHS providers only, or whether to apply them to all other licensed BHS providers of mobile services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

Subchapter J. Safety and Emergency Preparedness

§5673. Infection Control

A. ...

B. The provider shall have an active Infection Control Program that requires:

1. reporting of infectious disease in accordance with current CDC and state and federal OPH guidelines;

B.2. - 3. ...

4. a designated infection control coordinator who:

a. develops and implements policies and procedures related to infection control that follow most recently published/current state and federal infection control guidelines in preparation for, during, and after a public health emergency or disaster; and

b. ...

5. universal precautions, including proper handwashing and personal protective equipment, as needed; and

6. ...

C. The provider shall maintain a clean and sanitary environment and shall ensure that:

1. appropriate supplies and personal protective equipment, as needed, are available to staff;

C.2. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

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

41:1709 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

§5677. Inactivation of License due to a Declared Disaster or Emergency

A. A licensed BHS provider located in a parish which is the subject of an executive order or proclamation of emergency or disaster issued, may seek to inactivate its license for a period not to exceed one year, provided that the provider:

1. - 1.b....

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

A.I.d. - E. ...

F. During the period of inactivation, the department prohibits CHOW of the provider.

G - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1711 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

Subchapter L. Additional Requirements for Mental Health Programs

§5684. Mobile Services

A. Outreach Mobile Services

1. community outreach services (including access to specialized care;
2. prevention and awareness strategies (primary prevention);
3. screening, brief intervention and referral to treatment (SBIRT);
4. recovery support services;
5. peer recovery coaching;
6. narcan education and distribution;
7. other similar educational and outreach services; and
8. may be provided in a car, van, motor home, kiosk, etc.

B. Outreach Mobile Team

1. LMHP
2. prevention specialist
3. peer support specialist
4. Medical professional (licensed practical nurse (LPN), RN, or medical doctor (MD))

C. Behavioral Health Mobile Clinic (BHMC) Services

1. behavioral health services provided in a mobile unit that travels to various locations within the behavioral health service provider (BHSP)'s geographic service area;
2. only existing licensed LGEs shall be authorized to provide behavioral health services in a BHMC;
3. BHSP may utilize a BMHC to provide services to youth and/or adults who may be struggling to access behavioral health services through traditional means because of barriers to treatment such as transportation, family issues, child care concerns or conflicting work schedules;
4. BHSP shall ensure that services are provided in a secure, private/HIPAA compliant space and offering the same behavioral health services provided in the brick and mortar clinic;

5. BHSP shall ensure client records are maintained in a secure and confidential manner;

6. BHSP shall ensure staff is available consistent with the services provided in the BHMC; and

7. BHMC service shall be provided in a motor home/recreational vehicle type vehicle;

8. BHMC services include the following:

- a. intake, assessments and enrollment of new clients;
- b. medical screens for entrance into a behavioral health treatment service/program by appropriate medical professional in accordance with their scope of practice;
- c. screening, brief intervention and referral to treatment;
- d. counseling services;
- e. coping skills;
- f. case management/care coordination;
- g. stress management;
- h. relapse prevention;
- i. individual recovery planning;
- j. medication assisted treatment (MAT) services (Methadone is excluded from this mobile service); and
- k. pharmacy services.

9. excluded mobile services include, but are not limited to the following:

- a. Opioid Treatment Program (OTP);
- b. substance use disorder residential services;
- c. Medicaid home and community based services (behavioral health and waiver); and
- d. crisis services.

NOTE: The provisions of this Section shall be effective upon the promulgation of this Rule and not to exceed one year as a pilot program limited only to currently licensed local governing entity (LGE) BHS providers. At the end of the one year pilot period, LDH will re-evaluate these provisions to determine whether they should continue for LGE BHS providers only, or whether to apply them to all other licensed BHS providers of mobile services.

D. Mobile Crisis Response

1. mobile crisis response services are an initial or emergent crisis intervention response for adults 21 years or over intended to provide relief, resolution and intervention provided by a mobile crisis response team (MCRT);

2. this service shall be provided under the supervision of an LMHP with experience regarding this specialized mental health service. the LMHP or physician shall be available at all times to provide back-up, support and/or consultation from assessment of risk and through all services delivered during a crisis; and

3. this service is not intended to be conducted or provided inside the vehicle; the vehicle is for transport of employees to the clients' location in their home/community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

§5691. Behavioral Health Service Providers with a Mental Health Program that Provide Services Only in the Home and Community

A. ...

B. Primary Business Office. The provider offering behavioral health services only in the home or community shall have a business location that:

1. - 2. ...

3. has at least one employee on duty in the primary business office during hours of operation listed on the approved license application;

4. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1713 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

§5692. Mental Health Intensive Outpatient Programs (MHIOPs)

A. The provider shall:

1. develop admission criteria that recognizes the dual-function of MHIOPs (i.e., that they can serve as both a step-down from hospitalization and as a preventative measure to hospitalization);

2. maintain a minimum of nine contact hours per week for adults, at a minimum of three days per week, with a maximum of 19 hours per week;

3. maintain a minimum of six hours per week for children/adolescents, at a minimum of three days per week, with a maximum of 19 hours per week;

4. review and update the treatment plan in collaboration with the client as needed or at a minimum of every 30 days;

5. have the capability to provide:

- a. individual, group, and family therapy;
- b. crisis management/coverage capabilities;
- c. medication management capabilities; and
- d. basic case management services;

6. conduct a biopsychosocial assessment which must include an assessment for substance use/addiction, and refer to a proper level of care for addiction treatment, where indicated;

7. offer aftercare/continuing care group counseling services to people successfully completing a MH IOP; and

8. have a structured psychoeducational curriculum in place that covers, at a minimum, the following subjects:

- a. disease education (i.e., education on mental illness/various psychiatric illnesses);
- b. the role of medication and proper medication management in the treatment of psychiatric illnesses;
- c. education on co-occurring illnesses;
- d. education on developing a long-term recovery plan, and guidance towards getting grounded in community-based support programming geared towards people with chronic mental health challenges;
- e. education on symptom management;
- f. education on crisis management;
- g. education on the role of nutrition in the treatment of mental health issues; and
- h. education on the role of family/key personal stakeholders in a recovery plan.

B. Staffing. The provider shall ensure that:

1. a physician is on site as needed for the management of psychiatric and medical needs and on call 24 hours per day, seven days per week;

2. there is a clinical supervisor on-site 10 hours a week and on call 24 hours per day, seven days per week;

3. there is at least one LMHP on site when clinical services are being provided;

4. each LMHP/UP caseload does not exceed 1:25 active clients; and

5. there are nursing services available as needed to meet the nursing needs of the clients.

a. nursing services may be provided directly by the BHS provider or may be provided or arranged via written contract, agreement, policy or other document. The BHS provider shall maintain documentation of such arrangement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

Subchapter M. Additional Requirements for Substance Use/Addiction Treatment Programs

NOTE In addition to the requirements applicable to all BHS providers, a provider that provides substance use/addiction treatment services shall meet the requirements of Subchapter M.

§5695. Addiction Outpatient Treatment Services (ASAM Level 1)

A. The BHS provider shall:

1. only admit clients clinically appropriate for ASAM level 1 into this program;

A.2. - B.5.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1714 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

§5697. Intensive Outpatient Treatment Services (ASAM Level 2.1)

A. The provider shall:

1. only admit clients clinically appropriate for ASAM level 2.1 into this program;

A.2. - B.5.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1714 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

§5698. Partial Hospitalization Services (substance use only) (ASAM Level 2.5)

A. The provider shall:

1. only admit clients clinically appropriate for ASAM level 2.5 into this program;

A.1.a. - B.5.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1387 (July 2017), LR 48:

§5699. Ambulatory Withdrawal Management with Extended On-Site Monitoring (ASAM Level 2-WM) (Adults Only)

A. The BHS provider shall:

1. only admit clients clinically appropriate for ASAM level 2-WM into this program;

2. ...

3. ensure that level 2-WM services are offered in conjunction with intensive outpatient treatment services (ASAM level 2.1);

B. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1715 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

§5701. Clinically Managed Low-Intensity Residential Treatment Services (ASAM Level 3.1)

A. The BHS provider shall:

1. only admit clients clinically appropriate for ASAM level 3.1 into its Clinically Managed Low-Intensity Residential Treatment Services;

A.2. - B.4.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1715 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

§5703. Clinically Managed Residential Withdrawal (Social) (ASAM Level 3.2-WM)

A. The provider shall:

1. only admit clients clinically appropriate for ASAM level 3.2-WM into its Clinically Managed Residential Withdrawal Management Program;

A.2. - B.1. ...

2. The provider shall orient the direct care staff to monitor, observe and recognize early symptoms of serious illness associated with withdrawal management and to access emergency services promptly.

C. - C.5.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1715 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

§5705. Clinically Managed Population Specific High-Intensity Residential Treatment (ASAM Level 3.3) (Adult Only)

A. The provider shall:

1. only admit clients clinically appropriate for ASAM level 3.3 into its Clinically Managed High-Intensity Residential Treatment Services;

2. offer at least 20 hours per week of a combination of high-intensity clinical and recovery-focused services;

A.3. - B.6. ...

C. Mothers with Dependent Children Program (Dependent Care Program)

1. A provider's Mothers with Dependent Children Program shall:

a. meet the requirements of ASAM level 3.3;

1.b. - 2.f. ...

3. Clinical Care for Children. The provider shall:

a. address the specialized and therapeutic needs and care for the dependent children and develop an individualized treatment plan to address those needs, to include goals, objectives and target dates;

C.3.b. - 7.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

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

41:1716 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

§5707. Clinically Managed High-Intensity Residential Treatment Services (ASAM Level 3.5)

A. The provider shall:

1. admit only clients clinically appropriate for ASAM level 3.5 into its Clinically Managed High Intensity Residential Treatment Services;

A.2. - B.6.d.i. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1717 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

§5709. Medically Monitored Intensive Inpatient Treatment Services (Co-occurring) (ASAM Level 3.7) (Adults Only)

A. The provider shall:

1. admit only clients clinically appropriate for ASAM level 3.7 into its Medically Monitored Intensive Residential Inpatient Treatment Services; and

A.2. - B.4. ...

5. its on-site nursing staff is solely responsible for 3.7 program and does not provide services for other levels of care at the same time;

6. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1718 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

§5711. Medically Monitored Inpatient Withdrawal Management (Medically Supported) (ASAM Level 3.7-WM) (Adults Only)

A. The provider shall:

1. admit only clients clinically appropriate for ASAM level 3.7-WM into its Medically Monitored Inpatient Withdrawal Management Program;

A.2. - C.2.e.ii ...

3. Clinical Supervisor and UPs

3.a. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1718 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

Subchapter N. Additional Requirement for Substance Use/Addictive Residential Treatment Programs

NOTE: In addition to the requirements applicable to all BHS providers, residential programs that treat substance use/addiction shall meet the applicable requirements below.

§5712. Onsite Access to Medication-Assisted Treatment

A. Each residential substance use disorder facility licensed as a BHS provider that provides treatment for opioid use disorder shall provide all of the following:

1. onsite access, as defined in the Rule, to at least one form of FDA-approved opioid antagonist treatment; and

2. onsite access, as defined in this Rule, to at least one form of FDA-approved partial opioid agonist treatment.

B. A residential substance use disorder facility licensed as a BHS provider shall not be found to be in violation of this Section if prior authorization from a patient's health insurer, a Medicaid program, is required, and the preapproval request is denied by the patient's health insurer.

C. Each residential substance use disorder facility licensed as a BHS provider which provides treatment for opioid use disorder shall submit to the department on its initial licensing application and/or its annual licensing renewal application an attestation as to whether it is complying with the requirements of §5712.A and when such compliance began.

D. If the licensed facility is not fully complying with the requirements of §5712.A, then the attestation that the facility submits to the department shall include a report addressing its progress toward satisfying the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:

Subchapter O. Additional Requirement for Substance Opioid Treatment Programs

§5723. General Provisions

A. A provider with an opioid treatment program shall:

1. meet the requirements of the protocols established by OBH/SOTA;
2. ...
3. upon the death of a client:
 - a. report the death of a client enrolled in their clinic to the SOTA within 24 hours of the discovery of the client's death;
 - b. ...
 - c. submit documentation on the cause and/or circumstances to SOTA and to HSS, if applicable, within 24 hours of the provider's receipt of the documentation; and

3.d. - 4....

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1720 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1388 (July 2017), LR 48:

§5725. Treatment

A. - B.5.c. ...

C. Counseling. The provider shall ensure that:

1. - 4. ...
5. all counseling is provided individually or in homogenous groups, including but not limited to family member(s), spouse, child(ren) or significant other as identified by the client, not to exceed 12 clients.

D. Physical Evaluations/Examinations. The provider shall ensure that each client has a documented physical evaluation and examination by a physician or APRN as follows:

1. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1721 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

§5727. Additional Staffing Requirements

A. - A.1.b. ...

c. The provider's pharmacist or dispensing physician shall:

i. - v. ...

vi. maintain medication records for at least three years in accordance with state laws, rules and regulations;

vii. approve all transport devices for take-home medications in accordance with the program's diversion control policy;

viii. work collaboratively with the medical director to decrease the dose to accomplish gradual, but complete withdrawal, only when requested by the member;

ix. contribute to the development of the initial treatment plan;

x. contribute to the documentation for the treatment plan review every 90 days in the first two years of treatment; and

xi. document response to treatment in progress notes at least every 30 days.

2. Nursing

a. - b. ...

c. The responsibilities of the nurse(s) include but are not limited to:

i. administering medications;

ii. monitoring the client's response to medications;

iii. evaluating the client's use of medications and treatment from the program and other sources;

iv. documenting responses to treatment in progress notes at least every 30 days;

v. contributing to documentation for the treatment plan review every 90 days in the first two years of treatment;

vi. conducting drug screens; and

vii. participating in discharge planning.

3. Licensed Mental Health Professionals

a. ...

b. licensed mental health professionals shall have a current, valid and unrestricted license in the state of Louisiana, and must comply with current, applicable scope of practice and supervisory requirements identified by their respective licensing boards.

i. - ii. Repealed.

c. the LMHP providing substance use treatment services shall have documented credentials, experience and/or training in working with members who have substance use disorders, which shall be maintained in the individual's personnel record.

d. the provider shall ensure that:

i. the caseload of the LMHP shall not exceed 75 active clients; and

ii. there is an LMHP on site at least five hours/week.

e. licensed mental health professionals shall provide the following services:

i. conduct orientation;

ii. develop the initial plan for treatment;

iii. revise treatment to include input by all disciplines, members and significant others;

iv. provide individual counseling;

v. contribute to the development as well as document the initial treatment plan;

vi. document response to treatment in progress notes at least every 30 days;

vii. contribute to the development as well as document reviews of treatment plan every 90 days in the first two years of treatment by the treatment team; and

viii. conduct in discharge planning as appropriate.

4. Unlicensed Professionals

a. - b. ...

c. unlicensed professionals of substance use services must be registered with the addictive disorders regulatory authority (ADRA) and meet regulations and requirements in accordance with RS 37:3387 et seq.

i. written verification of ADRA registration and documentation of supervision when applicable shall be maintained in the individual's personnel record.

ii. unlicensed staff who fall under a professional scope of behavioral health practice with formal board approved clinical supervision and whose scope includes the provision of substance use services will not need to register with ADRA.

d. unlicensed substance use providers must meet at least one of the following qualifications:

i. be a master's prepared behavioral health professional that has not obtained full licensure privileges and is participating in ongoing professional supervision. When working in substance use treatment settings, the master's-prepared UP must be supervised by an LMHP, who meets the requirements of this Section;

ii. be a registered addiction counselor;

iii. be a certified addiction counselor; or

iv. be a CIT that is registered with ADRA and is currently participating in a supervision required by the addictive disorders practice act.

e. unlicensed professionals perform the following services under the supervision of a physician or LMHP:

i. participate in conducting orientation;

ii. participate in discharge planning as appropriate; and

iii. provide support to the treatment team where applicable, while only providing assistance allowable under the auspices of and pursuant to the scope of the individual's license.

5. Physician or APRN. There shall be a physician or APRN who is on-site as needed or on-call as needed during hours of operation.

a. the physician or APRN shall have a current, valid unrestricted license to practice in the state of Louisiana. The physician or APRN shall be on-site or on-call as needed during the hours of operation to provide the following services:

i. examine member for admission (physician only)

ii. administer medications;

iii. monitor the member's response to medications;

iv. evaluate the member's use of medication and treatment from the program and other sources;

v. contribute to the development of the initial treatment plan;

vi. contribute to the documentation regarding the response to treatment for treatment plan reviews;

vii. contribute to the documentation for the treatment plan review every 90 days in the first two years of treatment;

viii. conduct drug screens; and

ix. participate in discharge planning.

6. Medical Director.

a. the provider shall ensure that its medical director is a licensed physician with a current, valid unrestricted license to practice in the state of Louisiana with two years of qualifying experience in treating psychiatric disorders.

b. the medical director shall provide the following services:

i. decrease the dose to accomplish gradual, but complete withdrawal, only when requested by the member;

ii. provide medically approved and medically supervised assistance for withdrawal, only when requested by the member;

iii. participate in the documentation of reviews of treatment plan every 90 days in the first two years of treatment;

iv. order take home doses; and

v. participate in discharge planning.

7. Clinical Supervisor (CS)

a. state regulations require supervision of unlicensed professionals by a CS, who:

i. is an LMHP that maintains a current and unrestricted license with its respective professional board or licensing authority in the state of Louisiana;

ii. shall be on duty and on call as needed; and

iii. has two years of qualifying clinical experience as an LMHP in the provision of services provided by the provider;

b. the CS shall have the following responsibilities:

i. provide supervision utilizing evidenced-based techniques related to the practice of behavioral health counseling;

ii. serve as resource person for other professionals counseling persons with behavioral health disorders;

iii. attend and participate in care conferences, treatment planning activities, and discharge planning;

iv. provide oversight and supervision of such activities as recreation, art/music, or vocational education;

v. function as member advocate in treatment decisions;

vi. ensure the provider adheres to rules and regulations regarding all behavioral health treatment, such as group size, caseload, and referrals;

vii. provide only those services that are within the person's scope of practice; and

viii. assist the clinical director and/or medical director and governing body with the development and implementation of policies and procedures.

B. Training. All direct care employees shall receive orientation and training for and demonstrate knowledge of the following, including, but not limited to:

1. - 3. ...

4. poly-drug addiction;

5. information necessary to ensure care is provided within accepted standards of practice; and

6. non-licensed direct care staff are required to complete a basic clinical competency training program approved by OBH prior to providing the service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1721 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 48:

§5729. Medications

A. - B.4....

5. Exceptions to the Standard Schedule. The provider shall request and obtain approval for a federally identified exception to the standard schedule from the SOTA. Any exception shall be for an emergency or severe travel hardship.

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2161.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1722 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1388 (July 2017), LR 48:

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. 49:978.1 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 Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on April 1, 2022.

Public Hearing

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 March 14, 2022. 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 March 31, 2022 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 March 14, 2022. 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.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Behavioral Health Service Providers Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 21-22. It is anticipated that \$7,560 will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections since the fees from currently licensed providers will continue to be collected in the same amounts.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

In compliance with Act 328 of the 2020 Regular Session of the Louisiana Legislature and Acts 372 and 433 of the 2021 Regular Session of the Louisiana Legislature, this proposed rule amends the provisions governing the licensing of behavioral health service providers in order to: 1) provide further definitions and provisions related to the geographic service area, 2) update the licensure and staff requirements, 3) update admission, transfer and discharge requirements, and 4) add provisions governing mobile services, mental health intensive outpatient programs, and onsite access to medication assisted treatment. Implementation of this proposed rule will impact behavioral health providers that elect to offer behavioral health services via mobile units, since any costs with regard to the mobile unit will be incurred by the provider. Since behavioral health providers may choose whether or not to utilize mobile units, it is not possible to estimate the potential impact on these providers in FY 21-22, FY 22-23 and FY 23-24; however, those that pursue this option will benefit from the guidance the rule provides for offering services via a mobile unit.

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.

Dr. Courtney N. Phillips
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Facilities Licensing Standards**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 21-22. It is anticipated that \$540 will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed rule amends the provisions governing the licensing of nursing facilities in order to allow a facility to request one six-month extension of a two year license inactivation following the issuance of an executive order or proclamation of an emergency or disaster. It is anticipated that implementation of this proposed rule will not result in costs to nursing facility providers in FY 21-22, FY 22-23 and FY 23-24, but will be beneficial to facilities requiring additional time to reopen following a declared emergency or disaster.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known effect on competition and employment.

Tasheka Dukes, RN
Deputy Assistant Secretary
2202#049

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office



State of Louisiana
Louisiana Department of Health
Office of the Secretary

April 8, 2022

Via Statutorily Prescribed Email

To: The Honorable Fred H. Mills, Jr., Chairman, Senate Health & Welfare Committee
The Honorable Larry Bagley, Chairman, House Health & Welfare Committee

From: Dr. Courtney N. Phillips
Secretary

Re: Second Report LAC 48:I.9767 – Nursing Facilities – Licensing Standards

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Health, Bureau of Health Services Financing, submits its second report regarding the proposed Nursing Facilities – Licensing Standards, LAC 48:I.9767.

A Notice of Intent on the proposed amendments was published in the February 20, 2022 issue of the *Louisiana Register* (LR 48:362). No written comments were received and there was no request 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 February 20, 2022, Notice of Intent when it is published as a final rule in the May 20, 2022, issue of the *Louisiana Register*.

Please contact Cynthia York, at cynthia.york@la.gov, if you have any questions or require additional information about this matter.

Cc: Tasheka Dukes, RN, Assistant Secretary HSS, LDH
Veronica Dent, Medicaid Program Manager, LDH
Bethany Blackson, Legislative Liaison, LDH
Catherine Brindley, Editor, *Louisiana Register*, Office of the State Register

NOTICE OF INTENT
Department of Health
Bureau of Health Services Financing

Nursing Facilities
Licensing Standards
(LAC 48:I.9767)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.9767 as authorized by R.S. 36:254 and 40:2009.1 et seq. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of nursing facilities in order to allow a facility to request one six-month extension of a two year license inactivation following the issuance of an executive order or proclamation of an emergency or disaster.

Title 48

PUBLIC HEALTH-GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 97. Nursing Facilities

Subchapter B. Organization and General Services

§9767. Emergency Preparedness

A. - J.2. ...

K. Inactivation of License due to Declared Disaster or Emergency

1. A licensed nursing facility in an area or areas which have been affected by an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed two years, provided that the following conditions are met:

a. - a.iii. ...

* * *

b. the licensed nursing facility resumes operating as a nursing facility in the same service area within two years of issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

i. A nursing facility may request one extension, not to exceed an additional six months for good cause shown by the facility. This request for an extension may be granted at the sole discretion of the department.

K.1.c. - M.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1905 (November 2016), amended LR 48:

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.

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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. 49:978.1 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 Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on April 1, 2022.

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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.

Dr. Courtney N. Phillips
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Facilities Licensing Standards**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 21-22. It is anticipated that \$540 will be expended in FY 21-22 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed rule amends the provisions governing the licensing of nursing facilities in order to allow a facility to request one six-month extension of a two year license inactivation following the issuance of an executive order or proclamation of an emergency or disaster. It is anticipated that implementation of this proposed rule will not result in costs to nursing facility providers in FY 21-22, FY 22-23 and FY 23-24, but will be beneficial to facilities requiring additional time to reopen following a declared emergency or disaster.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known effect on competition and employment.

Tasheka Dukes, RN
Deputy Assistant Secretary
2202#049

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office