

John Bel Edwards
GOVERNOR



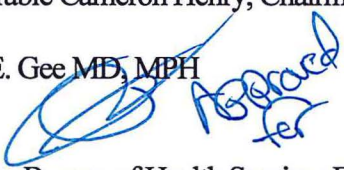
Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana
Louisiana Department of Health
Office of the Secretary

October 5, 2017

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary 

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Adult Brain Injury Facilities - Licensing Standards.

The Department published a Notice of Intent on this proposed Rule in the August 20, 2017 issue of the *Louisiana Register* (Volume 43, Number 8). A public hearing was held on September 28, 2017 at which members of the public and Louisiana Department of Health staff listed on the attached attendance roster were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the November 20, 2017 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

REG/WJR/RKA

Attachments (3)

NOTICE OF INTENT

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

**Adult Brain Injury Facilities
Licensing Standards
(LAC 48:I.Chapter 87)**

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 48:I.Chapter 87 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2120.31-40. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 245 of the 2005 Regular Session of the Louisiana Legislature directed the Department of Health and Hospitals to adopt provisions governing the licensing of adult brain injury facilities. In compliance with Act 245, the Department of Health, Bureau of Health Services Financing proposes to adopt provisions governing the licensing of adult brain injury facilities.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 87. Adult Brain Injury Facilities Licensing Standards

Subchapter A. General Provisions

§8701. Introduction

A. These rules and regulations contain the minimum licensure standards for adult brain injury facilities, pursuant to R.S. 40:2120.31 - 40:2120.40. Brain injuries may result in mild, moderate or severe impairments in cognition, physical functioning and psychosocial behavior. Unique care is necessary to rehabilitate and provide for the needs of these individuals in order for them to achieve their fullest capacity. It is the intent of these minimum licensing standards to protect the health, safety, and well-being of the citizens of the state who suffer from brain injuries and are receiving care in an adult brain injury facility. Contained herein are the core requirements for adult brain injury facilities as well as level specific requirements, depending upon the services provided in the following settings:

1. residential level of care;
2. community living level of care; and
3. outpatient level of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8703. Definitions

Abuse—the willful infliction of physical or mental injury on an individual by other parties, including but not limited to such means as sexual abuse, exploitation, or extortion of funds or

other things of value, unreasonable confinement and/or intimidation to such an extent that his/her health, self-determination or emotional well-being is endangered.

Acquired Brain Injury-an injury to the brain that has occurred after birth and is not hereditary, congenital, or degenerative. The injury commonly results in a change in neuronal activity, which affects the physical integrity, the metabolic activity or the functional ability of the cell. It can also result in the disturbance of behavioral or emotional functioning. These impairments may be either temporary or permanent and cause partial or total functional disability or psychosocial maladjustments. The term does not refer to brain injuries induced by birth trauma.

Activities of Daily Living (ADLs)-activities considered the basic, vital, daily activities for persons and are identified as bathing, grooming, dressing, dining, toileting and ambulation/transfer.

Adult-an individual 18 years of age or older.

Adult Brain Injury (ABI) Facility-any of the following:

1. *Residential Level of Care*-a facility publicly or privately owned, located at one or more geographic addresses, providing a rehabilitative treatment environment which serves four or more adults who suffer from brain injury and at least one of whom is not related to the operator. Services shall include personal assistance or supervision for a period of 24 hours

continuously per day preparing them for community integration. Such services shall be provided by adult brain injury facilities licensed to provide residential level of care services.

2. *Community Living Level of Care*-a home or apartment publicly or privately owned, providing a rehabilitative treatment environment which serves one to six adults who suffer from brain injury and at least one of whom is not related to the operator. Services may include personal assistance or supervision for a period of up to 24 hours continuously per day in a home or apartment setting preparing them for community integration.

a. The apartment or home shall contain, at a minimum, a living/dining/bedroom area, kitchen/kitchenette, bathroom and storage space.

b. There shall be no more than three bedrooms in an apartment and no more than six beds per home.

c. Such treatment environment shall be provided by adult brain injury facilities licensed to provide community living level of care services.

3. *Outpatient Level of Care*-a facility publicly or privately owned providing an outpatient rehabilitative treatment environment which serves adults who suffer from brain injury, at least one of whom is not related to the operator, in an outpatient day treatment setting in order to advance the individual's independence for higher level of community or transition to a greater level of independence in community or

vocational function. Such services shall be provided by adult brain injury facilities licensed to provide outpatient level of care services.

Assistance with Activities of Daily Living-services that provide assistance with activities of daily living. Such assistance may be the actual performance of the task for the individual, providing hands-on assistance with the performance of the tasks, or supervision and prompting to allow the individual to self-perform such tasks.

Behavioral Services-services that identify maladaptive behaviors which interfere with the person's safe integration into the community and the formulation of an inclusive behavior management program to decrease identified maladaptive behaviors.

Brain Injury-an acquired or traumatic injury to the brain. Such term does not include brain dysfunction caused by congenital disorders, degenerative disorders or birth trauma but may include brain injuries caused by anoxia due to trauma.

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

Client-an individual receiving care from an ABI facility who is medically stable and does not require an IV, a functioning feeding tube, or other artificial or mechanical supports for life sustaining processes.

Cognitive Rehabilitation-a systematic, functionally oriented service of therapeutic cognitive activities based on an assessment and an understanding of the behavior of a client. Services are directed to achieve functional improvement by either:

1. reinforcing, strengthening or re-establishing previously learned patterns of behavior; or
2. establishing new patterns of cognitive activity or mechanisms to compensate for impaired neurological systems.

Community Integration-the participation in the mainstream of community life and maintaining social relationships with family members, peers and others in the community who do not have brain injuries. Integration also means that clients have equal access to and full participation in community resources and activities available to the general public at the maximum amount of safety and independence as possible.

Department (LDH)-the Louisiana Department of Health, formerly known as Department of Health and Hospitals or DHH.

Direct Care Staff-an employee of the facility, either contracted or directly employed, who provides personal care services to the clients. Such services may include, but are not limited to, assistance with ADLs and IADLs.

Director-the person designated by the owner or governing body as responsible for carrying out the day-to-day management, administration, supervision and operation of the facility.

Employed-performance of a job or task for compensation, such as wages or a salary. An employed person may be one who is contracted or one who is hired directly.

Functional Limitations-actual behaviors or mental or physical disabilities exhibited by adults with brain injuries or conditions presented by their environment, or both, that shall be modified or minimized in order for clients to fulfill their potential or maximize their functioning.

Head Injury-a traumatic or acquired brain injury.

Health Standards Section (HSS)-the agency or office within the Louisiana Department of Health with the responsibility for the inspection and licensure of adult brain injury facilities.

Impairment-any loss or abnormality of psychological, cognitive, physiological, or anatomical structure or functioning.

Instrumental Activities of Daily Living (IADLs)-activities considered to be instrumental, essential activities for persons, but are not usually considered as basic or vital activities of daily living, and may not be daily activities. Such activities include, but are not limited to:

1. socialization;
2. managing personal affairs;
3. financial management;
4. shopping;
5. housekeeping; and

6. appropriate transportation, correspondence, behavior and health management, etc.

Medication Management Program-a systematic, functionally, oriented program formulated in consultation with the client's primary provider and implemented by staff, either contracted or directly employed, and trained by a nursing director. The program shall be based upon an assessment and understanding of the behaviors of the client and recognition of the unique medical and pharmacological needs of the client. It shall also mean an incorporation of the most appropriate level of assistance necessary to advance towards independence.

Neglect-the failure to provide food, shelter, clothing, medical or other health services, appropriate security and supervision or other personal services necessary for a client's well-being.

Non-Operational-the ABI facility is not open and available for business operation as stated on the licensing application and business location signage.

Nursing Director-a person who meets the legal requirement of a registered nurse (RN) in the state of Louisiana.

Personal Care-services and supports including but not limited to:

1. bathing, hair care, skin care, shaving, nail care, oral hygiene, overall hygiene and activities of daily living;

2. interventions to assist with eating and bowel and bladder management;

3. positioning;

4. care of adaptive personal care devices; and

5. an appropriate level of supervision.

Primary Provider-a provider, board-certified in his/her specialty, who currently holds a valid license in Louisiana and is responsible for overseeing the decision making process for admission and continued stay of clients.

Rehabilitation-the process of providing those comprehensive services deemed appropriate to the needs of a client in a coordinated manner in a program designed to achieve functional objectives of improved health, welfare, maximum physical, cognitive, social, psychological and community functioning.

Rehabilitative Treatment Environment-a rehabilitation setting that provides for all of the following:

1. a provision of a range of choices, with personal preference, self-determination and dignity of risks receiving full respect and consideration;

2. a variety of social interactions that promote community integration;

3. an environment of peer support and mentorship;

4. professional team involvement;

5. a physical environment conducive to enhancing the functional abilities of the client;

6 necessary therapeutic services which may include social work, behavioral services, speech therapy, physical therapy, occupational therapy, vocational services and therapeutic recreational services;

NOTE: All therapeutic providers shall be licensed under state and, if applicable, national boards.

7. a medication management program;
8. cognitive rehabilitation activities; and
9. the identification of functional limitations.

Representative—a person who voluntarily, with the client's written authorization, may act upon the client's direction regarding matters concerning the health and welfare of the client, including having access to personal records contained in the client's file and receiving information and notices about the client's overall care and condition.

1. No member of the governing body, administration or staff, either contracted or directly employed, of an ABI facility or any member of their family may serve as the representative for a client unless they are related to the client by blood or marriage.

2. In the case of an individual that has been interdicted, the representative is the court-appointed curator or his/her designee.

Support-activities, materials, equipment, or other services designed and implemented to assist the client with a brain injury. Examples include, but are not limited to:

1. instruction;
2. training;
3. assistive technology; or
4. removal of architectural barriers.

Therapeutic Recreational Services-services that identify leisure activities and assistance in modifying and adapting identified leisure activities to allow safe participation by the client as a means to improve quality of life and aid in integration into the community.

Traumatic Brain Injury-an insult to the brain, not of a degenerative or congenital nature, caused by an external physical force that may produce a diminished or altered state of consciousness, which results in an impairment of cognitive abilities or physical functioning. It can also result in the disturbance of behavioral or emotional functioning. These impairments may be either temporary or permanent and cause partial or total functioning disability, or psychosocial maladjustment.

Vocational Services-services provided directly or through cooperating agencies to a client in accordance with his individualized plan and designed to improve or enhance skills and

behaviors necessary for successful placement in a volunteer or work setting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8705. Licensure Requirements

A. Any entity or person(s) that operates an ABI facility shall have a license issued from the Department of Health (LDH). LDH is the only licensing authority for ABI facilities in the State of Louisiana. It shall be unlawful to establish, open, operate, manage, maintain or conduct services of an ABI facility without possessing a current, valid license issued by LDH. Each facility shall be separately licensed.

B. The department may issue a license to an ABI facility to provide any or all of the following services:

1. residential services (a license is required for each offsite location);
2. community services; and
3. outpatient services.

C. The department may issue multiple licenses to a single facility in accordance with the number of offsite locations operated by such facility.

D. An ABI facility license shall:

1. be issued only to the person or entity named in the license application;
2. be valid only for the entity or person to which it is issued and only for the specific geographic address(es) of each facility owned and operated by the entity or person;
3. be valid for one year from the date of issuance, unless revoked, suspended, modified or terminated prior to that date, or unless a provisional license is issued;
4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the ABI facility;
5. not be subject to sale, assignment, donation or other transfer, whether voluntary or involuntary; and
6. be posted in a conspicuous place on the licensed premises at all times.

E. In order for the ABI facility to be considered operational and retain licensed status, the facility shall meet the following conditions:

1. The residential ABI facility shall continuously have at least one employee available by telephone or telecommunications for the ABI facility 24 hours per day, seven days per week.
2. There shall be staff member(s), either contracted or directly employed, on-site at all times when there are clients present sufficient to meet the needs of the clients.

3. The ABI facility shall have provided services to at least two clients in the preceding 12 months prior to licensure renewal.

F. The licensed ABI facility shall abide by and adhere to any state law, rules, policy, procedure, manual or memorandums pertaining to ABI facilities.

G. A separately licensed ABI facility shall not use a name which is substantially the same as the name of another ABI facility licensed by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8707. Initial Licensure Application Process

A. An initial application for licensing as an ABI facility shall be obtained from the department. A completed initial license application packet for an ABI facility shall be submitted to, and approved by, LDH prior to an applicant providing adult brain injury services. An applicant shall submit a completed initial licensing packet to LDH, which shall include:

1. A completed ABI facility licensure application and the non-refundable licensing fee as established by statute.

2. The type of facility or facilities the applicant intends to operate (residential, community or outpatient).

3. A copy of the approval letter of the architectural facility plans from the entity/office designated by the department to review and approve healthcare facilities' architectural and licensing plans (residential).

4. A copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal (OSFM) (residential and outpatient only).

5. A copy of the health inspection report with approval of occupancy from the Office of Public Health (OPH) (residential and outpatient only).

6. A copy of a statewide criminal background check conducted by the Louisiana State Police, or its authorized agent, on all owners.

7. Proof of financial viability as evidenced by one of the following:

a. verification of sufficient assets equal to \$100,000 or the cost of three months of operation, whichever is less; or

b. a letter of credit issued from a federally insured, licensed lending institution in the amount equal to \$100,000 or the cost of three months of operation, whichever is less.

8. Proof of general and professional liability insurance of at least \$300,000.

9. Proof of worker's compensation insurance.

10. If applicable, clinical laboratory improvement amendments (CLIA) certificate.

11. Disclosure of ownership and control information.

12. A readable 11x17 minimum copy floor sketch of the premises to be licensed, including room usage and dimensions (residential and outpatient only).

13. The days and hours of operation (outpatient only).

14. A copy of the articles of organization or articles of incorporation.

15. Any other documentation or information required by the department for licensure.

B. If the initial licensing packet is incomplete, the department will notify the applicant of the missing information and the deadline to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days of notification, the application will be closed. Once an initial licensing application is closed, an applicant who is still interested in becoming an ABI facility shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

C. Once the initial licensing application has been approved by LDH, the ABI facility applicant shall notify LDH of readiness for an initial survey. If an applicant fails to notify LDH of readiness for an initial survey within 90 days of approval of the application, the application will be closed.

1. After an initial licensing application is closed, an applicant who is still interested in becoming an ABI facility shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

D. Applicants shall be in compliance with all appropriate federal, state, departmental or local statutes, laws, ordinances, rules, regulations and fees before the department will issue the ABI facility an initial license to operate.

E. When issued, the initial ABI facility license shall specify the number of beds, if applicable (residential facility only) and the type(s) of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8709. Initial Licensure Surveys

A. Prior to the initial license being issued to the ABI facility, an initial licensing survey shall be conducted on-site at the ABI facility to assure compliance with the ABI facility licensing standards. The initial licensing survey of an ABI facility shall be an announced survey.

B. No client shall be provided services by the ABI facility until a license is issued to the ABI facility by the LDH.

C. Once an ABI facility has been issued an initial license, the department shall conduct licensing and other surveys at intervals deemed necessary by the department to determine compliance with licensing standards and regulations, as well as other applicable statutes, laws, ordinances, rules and regulations. These surveys shall be unannounced.

1. A plan of correction may be required from an ABI facility for any survey where deficiencies have been cited. Such plan of correction shall be submitted to LDH for approval within the prescribed timeframe.

2. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

3. The department may issue appropriate sanctions, including, but not limited to, civil fines, directed plans of correction, provisional licensure and license revocation for deficiencies and non-compliance with any survey.

4. Pursuant to applicable state law, rules and regulations, monies collected from the imposition of civil fines shall be used for the benefit of clients in adult brain injury facilities.

D. The department's surveyors and staff shall be:

1. given access to all areas of the facility and all relevant files during any licensing or other survey; and

2. allowed to interview any facility staff, participant, or person receiving services, as relevant and necessary to conduct a survey or investigation.

E. The department shall issue written notice to the facility of the results of any survey in a statement of deficiencies, along with notice for a plan of correction, if appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8711. Complaint Investigations

A. The department shall conduct complaint investigations in accordance with R.S. 40:2009.13, et seq.

B. Complaint investigations shall be unannounced.

C. Upon request by the department, an acceptable plan of correction shall be submitted by the facility for any complaint investigation where deficiencies have been cited. Such plan of correction shall be submitted within the prescribed timeframe.

D. A follow-up survey may be conducted for any complaint investigation where deficiencies have been cited to ensure correction of the deficient practices.

E. The department may issue appropriate sanctions, including but not limited to, civil fines, directed plans of correction, provisional licensure, denial of license renewal and

license revocation for non-compliance with any state law or regulation.

F. The department's surveyors and staff shall be:

1. given access to all areas of the ABI facility and all relevant files during any complaint investigation; and

2. allowed to interview any facility staff or resident, as necessary or required to conduct the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8713. Statement of Deficiencies

A. The following statements of deficiencies issued by the department to an ABI facility shall be displayed in a prominent place in the facility premises:

1. the most recent annual survey statement of deficiencies; and

2. any subsequent complaint survey statement of deficiencies.

B. Any statement of deficiencies issued by the department to an ABI facility shall be available for disclosure to the public 30 calendar days after the facility submits an acceptable plan of correction of the deficiencies or 90 calendar days after the statement of deficiencies is issued to the facility, whichever occurs first.

C. Unless otherwise provided in statute or in this Chapter, a facility shall have the right to an informal reconsideration for any deficiencies cited as a result of a survey or investigation.

1. Correction of the deficient practice, the violation, or the noncompliance shall not be the basis for the reconsideration.

2. The informal reconsideration of the deficiencies shall be submitted in writing within 10 calendar days of receipt of the statement of deficiencies, unless otherwise provided for in these provisions.

3. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section.

4. Except as provided for complaint surveys pursuant to R.S. 40:2009.11, et seq., and as provided in this Chapter for license denials, revocations and denial of license renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

5. The facility shall be notified in writing of the results of the informal reconsideration.

6. The request for an informal reconsideration of any deficiencies cited as a result of a survey or investigation does

not delay submission of the required plan of correction within the prescribed timeframe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8715. Types of Licenses

A. In the event that the initial licensing survey finds that the ABI facility is compliant with all licensing laws and regulations, and is compliant with all other applicable required statutes, laws, ordinances, rules, regulations and fees, the department shall issue a full license to the facility. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, or suspended.

B. In the event that the initial licensing survey finds that the ABI facility is non-compliant with any licensing laws or regulations or any other applicable required statutes, laws, ordinances, rules or regulations, but the department in its sole discretion determines that the non-compliance does not present a threat to the health, safety or welfare of the participants or persons receiving services, the department may issue a provisional initial license for a period not to exceed six months.

1. The facility shall submit a plan of correction to LDH for approval and shall be required to correct all such non-

compliance or deficiencies prior to the expiration of the provisional license.

a. If all such non-compliance or deficiencies are determined by the department to be corrected on a follow-up survey, a full license will be issued.

b. If all such non-compliance or deficiencies are not corrected on the follow-up survey, or if new deficiencies that are a threat to the health, safety or welfare of the client(s) are cited on the follow-up, the provisional license will expire.

i. If the applicant still wishes to operate as an ABI facility, it shall begin the initial licensing process again by submitting a new initial license application packet and fee.

C. The department may renew the license of an existing licensed ABI facility that is in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked or suspended.

D. The department, in its sole discretion, may issue a provisional license to a licensed ABI facility for a period not to exceed six months, for any one of the following reasons:

1. the ABI facility has more than five deficient practices or deficiencies cited during any one survey;

2. the ABI facility has more than three validated complaints in one licensed year period;

3. the ABI facility has been issued a deficiency that involved placing a participant at risk for serious harm or death;

4. the ABI facility has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey;

5. the ABI facility is not in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules, regulations and fees at the time of renewal of the license; or

6. there is documented evidence that a representative of the facility has, with or without the knowledge or consent of facility's owner, medical director and/or administrator/director, bribed, harassed, offered, paid for or received something of economic value for the referral of an individual to use the services of a particular brain injury facility.

E. When the department issues a provisional license to a licensed ABI facility, the department may conduct an on-site follow-up survey at the ABI facility prior to the expiration of the provisional license. The existing facility with a provisional license is required to correct all non-compliance or deficiencies at the time the follow-up survey is conducted.

1. If the on-site follow-up survey determines that the ABI facility has corrected the deficient practices and has

maintained compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the ABI facility license.

2. If the on-site follow-up survey determines that the ABI facility has not corrected the deficient practices or has not maintained compliance during the period of the provisional license, the provisional license shall expire.

a. If this occurs, the facility shall coordinate and arrange for discharge or transfer of the clients, as appropriate.

F. If a licensed ABI facility has been issued a notice of license revocation, suspension or modification, and the facility's license is due for annual renewal, the department shall deny the license renewal. The denial of the license renewal does not affect the license revocation, suspension or modification, or any other sanction imposed by the department for violations prior to the denial of the renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8717. Changes in Licensee Information or Key Personnel

A. A license shall apply only to the location stated on the application and such license, once issued, shall not be

transferable from one place to another or from one person to another.

B. Any change in the facility regarding the following shall be reported in writing to the department no less than five days prior to the change:

1. entity name;
2. doing business as (dba) name;
3. geographic address;
4. mailing address and/or electronic address; and
5. telephone number(s) and fax number(s).

C. For a change in facility address, a new license with a new license number will be issued upon receipt by the department of a new completed application and the licensing fee required for a change of address. The anniversary date shall be changed to reflect the date of issuance of the new license.

D. Any change regarding the ABI facility's key administrative personnel shall be reported in writing to the department within five days of the change. Key administrative personnel include the facility director and the nursing director. The facility's notice to the department shall include the individual's name, address, hire date and qualifications.

E. Any request for a duplicate license shall be accompanied by the required fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health,
Bureau of Health Services Financing, LR 43:

§8719. Change of Ownership

A. The license of an ABI facility is not transferable or assignable and cannot be sold.

B. A change of ownership (CHOW) of the facility shall be reported in writing to the department within five days of the change of ownership.

C. A CHOW of a facility shall not be submitted at time of the annual renewal of the facility's license.

D. Before an initial license can be issued to the new owner, all licensing application requirements in accordance with the provisions of this Chapter shall be met.

E. The applicant shall submit to the department, pursuant to §8707 above, the following licensing requirements, including but not limited to:

1. the completed facility license application and non-refundable fee;
2. the disclosure of ownership documentation;
3. a copy of a statewide criminal background check conducted by the Louisiana State Police, or its authorized agent, on all owners;
4. proof of financial viability as evidenced by one of the following:

a. verification of sufficient assets equal to \$100,000 or the cost of three months of operation, whichever is less; or

b. a letter of credit issued from a federally insured, licensed lending institution in the amount equal to \$100,000 or the cost of three months of operation, whichever is less;

5. proof of general and professional liability insurance of at least \$300,000;

6. proof of worker's compensation insurance;

7. if applicable, CLIA certificate of waiver;

8. disclosure of ownership and control information;

9. the days and hours of operation (outpatient only);

10. a copy of the articles of organization or articles of incorporation; and

11. any other documentation or information required by the department for licensure.

F. An ABI facility may not undergo a CHOW if any of the following conditions exist:

1. an ABI facility whose licensure is provisional, is under revocation or is in denial of renewal;

2. an ABI facility is in a settlement agreement with the department; and/or

3. an ABI facility has ceased to operate and does not meet operational requirements to hold a license.

G. The department may deny approval of the CHOW for any of the reasons a license may be revoked or denied renewal pursuant to these licensing provisions.

H. If the CHOW results in a change of geographic address, an on-site survey shall be required prior to issuance of the new license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8721. Renewal of License

A. License Renewal Application.

1. In order to renew a license, the ABI facility shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license.

2. The license renewal application packet shall include:

- a. the license renewal application;
- b. a current fire inspection and a current health inspection, if applicable;
- c. the license renewal fee; and
- d. any other document required by the department.

3. Upon receipt of the completed license renewal application packet, the department shall determine if the ABI facility continues to meet the statutory and regulatory requirements for ABI facilities. The department may perform an on-site survey upon annual renewal at intervals deemed necessary by the department to determine compliance.

4. Failure to submit to the department a completed license renewal application packet prior to the expiration of the current license will result in the voluntary surrender of the ABI facility license.

a. There is no right to an informal reconsideration or an administrative appeal of a voluntary surrender of a license by the facility.

B. The renewal of a license does not in any manner affect any sanction, civil monetary penalty, or other action imposed by the department against the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8723. Denial of License, Revocation of License, License Suspension and Denial of License Renewal

A. The department may deny an application for a license, may deny a license renewal, may suspend a license or may revoke a

license in accordance with the provisions of the Administrative Procedure Act (APA).

B. Denial of an Initial License

1. The department shall deny an initial license in the event that the initial licensing survey finds that the ABI facility is non-compliant with any licensing laws or regulations that present a potential threat to the health, safety, or welfare of the clients or persons receiving services.

2. The department shall deny an initial license in the event that the initial licensing survey finds that the ABI facility is non-compliant with any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety or welfare of the clients or persons receiving services.

3. The department shall deny an initial license for any of the reasons that a license may be revoked or denied renewal.

C. Revocation of License, Suspension of License or Denial of License Renewal. An ABI facility license may be revoked, suspended, or denied renewal for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the ABI facility licensing laws, rules and regulations;

2. failure to be in substantial compliance with other applicable statutes, laws, ordinances, rules or regulations;

3. failure to comply with the terms and provisions of a settlement agreement or education letter;

4. failure to uphold client rights whereby deficient practices may result in harm, injury or death of a client;

5. failure to protect a client from a harmful act of an employee or other client including, but not limited to:

a. abuse, neglect, exploitation, or extortion;

b. any action posing a threat to a client's health and safety;

c. coercion;

d. threat or intimidation; or

e. harassment;

6. failure to notify the proper authorities of all suspected cases of neglect, criminal activity, mental or physical abuse, or any combination thereof.

7. knowingly making a false statement in any of the following areas, including but not limited to:

a. application for initial license or renewal of license;

b. data forms;

c. clinical, client or facility records;

d. matters under investigation by the department or the Office of the Attorney General;

e. information submitted for reimbursement from any payment source;

8. knowingly making a false statement or providing false, forged or altered information or documentation to LDH employees or to law enforcement agencies;

9. the use of false, fraudulent or misleading advertising;

10. fraudulent operation of an ABI facility by the owner, director/administrator or manager;

11. an owner, officer, member, manager, director/administrator or person designated to manage or supervise participant care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court;

NOTE: For purposes of this paragraph, conviction of a felony means a felony relating to the violence, abuse or negligence of a person, or to the misappropriation of property belonging to another person.

12. failure to comply with all reporting requirements in a timely manner as required by the department;

13. submission of non-sufficient funds for any payment to the department;

14. failure to allow or refusal to allow the department to conduct an investigation or survey or to interview facility staff or participants;

15. failure to allow or refusal to allow access to authorized departmental personnel to records; or

16. bribery, harassment, or intimidation of any participant designed to cause that participant to use the services of any particular ABI facility.

E. If the secretary of the department determines that violations of the facility pose an imminent or immediate threat to the health, welfare or safety of a participant or person receiving services, the secretary may suspend the license. A license suspension is immediate and shall be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the facility will be notified in writing of such determination.

F. In the event an ABI facility license is revoked, suspended or renewal is denied, any owner, officer, member, manager and director/administrator of such ABI facility is prohibited from owning, managing, directing or operating another ABI facility for a period of two years from the date of the final disposition of the revocation, suspension or denial action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8725. Notice and Appeal of License Denial, License Revocation, License Suspension and Denial of License Renewal

A. Notice of a license denial, license revocation, license suspension or denial of license renewal shall be given to the facility in writing.

B. The ABI facility has a right to an administrative reconsideration of the license denial, license revocation, license suspension or denial of license renewal.

1. The ABI facility has 15 calendar days from the receipt of the notice of the license denial, license revocation or denial of license renewal to request an administrative reconsideration. The request for administrative reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section.

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

3. If a timely request for an administrative reconsideration is received by the Health Standards Section, an administrative reconsideration shall be scheduled; the facility shall be notified in writing of the scheduled date.

4. The facility shall have the right to appear in person at the administrative informal reconsideration; the facility may be represented by counsel at the administrative reconsideration.

5. Correction of a violation or deficiency which is the basis for the denial, revocation, suspension or denial of license renewal shall not be a basis for reconsideration.

6. The administrative reconsideration process is not in lieu of the administrative appeals process.

7. The facility will be notified in writing of the results of the administrative reconsideration.

C. The ABI facility has a right to an administrative appeal of the license denial, license revocation, license suspension or denial of license renewal.

1. The ABI facility has 30 days from receipt of the notice of the results of the administrative reconsideration of the license denial, license revocation, license suspension or denial of license renewal to request an administrative appeal.

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

b. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law (DAL) or its successor.

2. The request for administrative appeal shall include any documentation that demonstrates that the

determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal of a license revocation or denial of license renewal is made, then the license revocation or denial of license renewal action shall be suspensive during the pendency of the appeal. The facility shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

4. A license suspension is immediate and shall be enforced during the pendency of the administrative appeal.

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

D. If a timely administrative appeal has been filed by the facility on an initial license denial, denial of license renewal or license revocation, the DAL, or its successor, shall conduct the hearing in accordance with the APA.

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

2. If the final agency decision is to affirm the denial of license renewal or license revocation, the facility

shall discharge any and all clients receiving services according to the provisions of this Chapter.

a. Within 10 calendar days of the final agency decision, the facility shall notify HSS, in writing, of the secure and confidential location where the client records will be stored and the name and contact information of the person(s) responsible for the client records.

E. There is no right to an informal reconsideration or an administrative appeal of the issuance or expiration of a provisional license.

F. A facility with a provisional license that expires due to deficiencies cited at the follow-up survey shall have the right to an informal reconsideration and the right to an administrative appeal only as to the validity of such cited deficiencies.

1. The correction of any deficiency after the follow-up survey shall not be the basis for the informal reconsideration or for the administrative appeal.

2. The informal reconsideration and the administrative appeal are limited to the whether the deficiencies were properly cited at the follow-up survey.

3. The facility shall request the informal reconsideration within five days of receipt of the notice of the results of the follow-up survey from the department.

4. The facility shall request the administrative appeal within 15 days of receipt of the notice of the results of the follow-up survey from the department.

5. A facility with a provisional license that expires under the provisions of this Subsection shall cease providing services unless the DAL issues a stay of the expiration. The stay may be granted by the DAL upon application by the facility at the time the administrative appeal is filed and only after a contradictory hearing and only upon a showing that there is no potential harm to the clients being served by the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8727. Cessation of Business

A. A cessation of business or closure is deemed to be effective the date on which the facility stops providing services to the community or clients.

1. Except as provided in §8729 (Temporary Inactivation of a License Due to a Declared Disaster or Emergency) and §8731 (Inactivation of License due to Non-Declared Emergency or Disaster) of these licensing regulations, a license shall be immediately null and void if an ABI facility ceases to operate.

B. A cessation of business is considered to be a voluntary action on the part of the facility. As such, there is no right to an informal reconsideration and no right to an administrative appeal of a cessation of business or voluntary closure.

C. Upon the cessation of business, the facility shall immediately return the original license to the department.

D. A facility that intends to close or cease operations shall comply with the following procedures:

1. give 30 days advance written notice to:

- a. the department;
- b. clients; and
- c. attending physicians; and

2. provide for an orderly discharge and transition of all clients admitted to the facility.

E. In addition to the 30 days advance written notice, the facility shall submit a written plan for the disposition of client services-related records for approval by the department.

The plan shall include the following:

1. the effective date of the closure;

2. provisions that comply with federal and state laws on storage, maintenance, access and confidentiality of the closed facility's client services-related records;

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

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

b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction; and

4. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the closing facility, at least 15 days prior to the effective date of closure.

F. If a facility fails to follow these procedures, the owners, managers, officers, directors and administrators may be prohibited from opening, managing, directing, operating or owning an ABI facility for a period of two years.

G. Once the facility has ceased doing business, the facility shall not provide services until the facility has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8729. Inactivation of a License Due to a Declared Disaster or Emergency

A. A facility licensed in a parish which is the subject of 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 one year, provided that the following conditions are met:

1. the facility shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

- a. the facility has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

- b. the facility intends to resume operation as an ABI facility in the same service area;

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

- d. includes an attestation that all clients have been properly discharged or transferred to another facility; and

- e. provides a list of each client and where that client is discharged or transferred;

2. the facility resumes operating as an ABI facility in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

3. the ABI facility continues to pay all fees and cost due and owed to the department including, but not limited

to, annual licensing fees and outstanding civil monetary penalties; and

4. the ABI facility continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate an ABI facility license, the department shall issue a notice of inactivation of license to the ABI facility.

C. Upon completion of repairs, renovations, rebuilding or replacement, the ABI facility which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. The ABI facility shall submit a written license reinstatement request to the licensing agency of the department at least 15 days prior to the anticipated date of reopening.

a. The license reinstatement request shall inform the department of the anticipated date of opening, and shall request scheduling of a licensing survey.

b. The license reinstatement request shall include a completed licensing application with appropriate licensing fees.

2. The facility resumes operating as an ABI facility in the same service area within one year.

D. Upon receiving a completed written request to reinstate an ABI facility license, the department may conduct a licensing survey. If the ABI facility meets the requirements for licensure

and the requirements under this Section, the department will issue a notice of reinstatement of the ABI facility license.

1. The licensed capacity of the reinstated license shall not exceed the licensed capacity as approved by the OSFM.

E. No change of ownership in the ABI facility shall occur until such ABI facility has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as an ABI facility.

F. The provisions of this Section shall not apply to an ABI facility which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the ABI facility license and any applicable facility need review approval for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8731. Inactivation of License due to Non-Declared Emergency or Disaster

A. An ABI facility in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

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

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

b. the ABI facility intends to resume operation as an ABI facility in the same service area;

c. the ABI facility attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

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

NOTE: Pursuant to these provisions, an extension of the 30 day deadline for initiation of request may be granted at the discretion of the department.

2. the ABI facility continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil fines; and

3. the ABI facility continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to temporarily inactivate an ABI facility license, the department

shall issue a notice of inactivation of license to the ABI facility.

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

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

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

E. Upon completion of repairs, renovations, rebuilding or replacement of the facility, an ABI facility which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. the ABI facility shall submit a written license reinstatement request to the licensing agency of the department;

2. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing or physical environment survey; and

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

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

NOTE: The licensed capacity of the reinstated license shall not exceed the licensed capacity as approved by the OSFM.

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

H. The provisions of this Section shall not apply to an ABI facility which has voluntarily surrendered its license and ceased operation.

I. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the ABI facility license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health,
Bureau of Health Services Financing, LR 43:

**§8733. Operating Without a License or in Violation of
Departmental Regulations, Fines and Injunctive Relief**

A. In accordance with applicable state laws, rules and regulations, the department shall fine any ABI facility that operates without a valid license issued by the department, or operates in violation of departmental regulations. Such fines are not to exceed two hundred fifty dollars for each day of such offense.

B. Any such fines levied and collected by the department, subject to applicable law, shall be used for the benefit of clients in ABI facilities and shall be distributed in accordance with criteria promulgated by rules of the department.

C. Notwithstanding the provisions of this Section, the department may impose a fine(s) pursuant to La. R.S. 40:2199 and the regulations promulgated thereunder.

D. The facility may request an administrative reconsideration and/or an administrative appeal of a fine in accordance with the delay, notice and other procedures set forth in R.S. 40:2199 and the regulations promulgated thereunder.

E. If any ABI facility operates without a valid license issued by the department, or in violation of departmental regulations, the department may cause a civil suit to be instituted in a district court in the parish in which the

facility is located for injunctive relief, including a temporary restraining order, to restrain the institution, society, agency, corporation, person or persons or any group operating the facility from continuing the violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8735. Fees

A. Any remittance submitted to the department in payment of a required fee shall be in the form of a company or certified check or money order made payable to the "Louisiana Department of Health".

B. Fee amounts shall be determined by the department.

C. Fees paid to the department are not refundable.

D. A fee is required to be submitted with:

1. an initial application;
2. a renewal application;
3. a change of controlling ownership;
4. a change of name or physical address; and
5. each offsite Residential location.

E. Submission of fees that are returned for non-sufficient funds may result in the license being denied, either initially or at time for renewal, revoked or suspended.

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health,
Bureau of Health Services Financing, LR 43:

Subchapter B. Organization and Administration

§8741. Governing Body

A. Governing Body. The ABI facility shall have an identifiable governing body which has the responsibility and authority for the policies and procedures of the facility.

1. The governing body shall be designated in writing.

2. When the governing body of a facility is comprised of more than one person, the governing body shall hold formal meetings at least twice a year. There shall be written bylaws specifying frequency of meetings and quorum requirements. There shall be written minutes of all meetings.

3. When the governing body is composed of only one person, this person shall assume all responsibilities of the governing body.

B. Responsibilities of the Governing Body. The governing body of an ABI facility shall:

1. ensure the facility's compliance and conformity with the facility's policies and procedures;

2. ensure the facility's continual compliance and conformity with all relevant federal, state and local laws and regulations;

3. ensure that the facility is adequately funded and fiscally sound;

4. review and approve the facility's annual budget;

5. designate a person to act as director and delegate sufficient authority to this person to manage the facility (a sole owner may be the director);

6. formulate and annually review, in consultation with the director, written policies concerning the facility's philosophy, goals, current services, personnel practices, job descriptions and fiscal management; and

7. annually evaluate the director's performance (if a sole owner is not acting as director).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8743. Governing Body Responsibilities

A. An ABI facility shall comply with all federal, state and local laws, rules and regulations in the development and implementation of its policies and procedures. The governing body shall ensure all of the following requirements are met.

B. Policies and Procedures. The facility shall have:

1. written policies and procedures approved by the governing body that address the following:

- a. confidentiality of client information and security of client files;
 - b. advertising;
 - c. personnel;
 - d. client's rights;
 - e. a grievance procedure to include documentation of grievances, investigation, resolution and response to complainant in a timely manner, time frame in which facility will respond, and an appeals process for grievances;
 - f. safekeeping of personal possessions, if applicable;
 - g. clients' funds, if applicable;
 - h. emergency and evacuation procedures;
 - i. abuse, neglect and exploitation, and documentation and reporting of same;
 - j. incidents and accidents and documentation of same;
 - k. admissions and discharge procedures;
 - l. medication administration; and
 - m. safety of the client while being transported by an agency employee, either contracted or staff, that includes a process for evaluation of the employee's driver's license status inquiry report which may prohibit an employee from transporting clients;
2. minutes of formal governing body meetings;

3. organizational chart of the facility; and
4. written leases, contracts and purchase-of-service agreements (including all appropriate credentials) to which the facility is a party.

C. Organizational Communication

1. A facility shall establish procedures to assure written communication among personnel to provide continuity of services to all clients.
2. Direct care staff shall have access to information concerning clients that is necessary for effective performance of the employee's assigned tasks.

D. Confidentiality and Security of Records. The facility shall ensure the confidentiality of client records, including information in a computerized medical record system, in accordance with applicable federal privacy laws and any state laws and regulations which provide a more stringent standard of confidentiality than the applicable federal privacy regulations and laws.

1. Information from, or copies of, records may be released only to authorized individuals, and the facility shall ensure that unauthorized individuals cannot gain access to or alter client records.

2. Original medical records shall not be released outside the facility unless under court order or subpoena or in

order to safeguard the record in the event of a physical plant emergency or natural disaster.

E. Clinical Records

1. A facility shall maintain a separate record for each client. Such record shall be current and complete and shall be maintained in the facility or in a central administrative location readily available to facility staff and to the department.

2. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of in accordance with state laws.

3. Each record shall include but not be limited to at least the following information:

- a. identifying information to include at least client's name, marital status, date of birth and gender;
- b. dates of admission and discharge;
- c. client's written authorization and contact information of the representative or responsible person;
- d. name and 24 hour contact information for the primary physician and any other physician involved in the client's care;
- e. the admission assessment;
- f. individual service plan, updates and quarterly reviews;

g. progress notes of care and services received and response to treatment;

h. a record of all personal property and funds which the client has entrusted to the facility; and

i. written acknowledgements that the client has received verbal and written notice of client's rights, grievance procedures and client's responsibilities.

4. Storage of any client information or records may be maintained electronically or in paper form.

a. If stored electronically, documents shall be viewable and reproducible as necessary and relevant.

F. Advertising. A facility shall have written policies and procedures regarding the photographing and audio or audiovisual recordings of clients for the purposes of advertising.

1. No client shall be photographed or recorded without the client's or representatives' prior informed written consent.

a. Such consent cannot be made a condition for admission into, remaining in, or participating fully in the activities of the facility.

b. Consent agreements shall clearly notify the client of his/her rights under this regulation and shall specify precisely what use is to be made of the photograph or recordings.

c. Consents are valid for a maximum of one year from the date of execution.

d. Clients are free to revoke such agreements at any time, either orally or in writing.

2. All photographs and recordings shall be used in a way that respects the dignity and confidentiality of the client.

G. Personnel Policies. A facility shall have written personnel policies that include:

1. orientation, ongoing training, development, supervision and performance evaluation of personnel members;

2. written job descriptions for each position, including volunteers;

3. requirements for a health assessment of personnel prior to employment. These policies shall, at a minimum, require that the individual has no evidence of active tuberculosis and is re-evaluated as recommended by the Office of Public Health;

NOTE: Policies shall be in accordance with state rules, laws and regulations for employees, either contracted or directly employed, and volunteers.

4. abuse prevention and reporting procedures that include what constitutes abuse, how to prevent it and requirement that all personnel report any incident of abuse or neglect to the director or his/her designee, whether that abuse or neglect is done by another staff member, either contracted or directly employed, a family member, a client or any other person;

5. criteria for determining employment based on the results of a statewide criminal background check conducted by the Louisiana State Police, or its designee, which shall be conducted upon hire, rehire and in accordance with facility policy for any unlicensed facility personnel;

a. the facility shall have documentation on the final disposition of all charges that bars employment pursuant to applicable state law; and

6. clarification of the facility's prohibited use of social media. The policy shall ensure that all staff, either contracted or directly employed, receive training relative to the restrictive use of social media and include, at a minimum, ensuring confidentiality of client information and preservation of client dignity and respect, including protection of client privacy and personal and property rights.

H. Orientation

1. A facility's orientation program shall include training in the following topics for all personnel:

- a. the policies and procedures of the facility, including but not limited to the prohibited use of social media;
- b. emergency and evacuation procedures;
- c. client's rights;
- d. abuse and neglect prevention and requirements concerning the reporting of abuse and neglect of clients;

e. procedures for reporting of incidents and accidents; and

f. instruction in the specific duties and responsibilities of the employee's job and a competency evaluation of those duties and responsibilities.

2. Orientation for direct care staff, either contracted or directly employed, shall include the following:

a. training in client care services (ADL'S and IADL'S) provided by the facility;

b. infection control to include universal precautions;

c. any specialized training to meet clients' needs; and

d. a new employee shall not be given sole responsibility for the implementation of a client's program plan until this training is documented as successfully completed.

3. All direct care staff shall receive and/or have documentation of certification in basic life support and general first aid procedures within the first 30 days of employment. Direct care staff, either contracted or directly employed, shall have this training prior to being assigned sole responsibility for a client's care.

4. In addition to the topics listed above, orientation for direct care staff, either contracted or directly

employed, shall include an evaluation to ensure competence to provide ADL and IADL assistance.

5. A new direct care staff employee shall not be assigned to carry out a client's care until competency has been demonstrated and documented.

I. Annual Training

1. A facility shall ensure that each direct care staff participates in required training each year. Routine supervision of direct care staff shall not be considered as meeting this requirement.

2. The facility shall document that direct care staff, either contracted or directly employed, receive training on an annual basis in:

- a. facility's policies and procedures;
- b. emergency and evacuation procedures;
- c. client's rights;
- d. abuse and neglect prevention and requirements concerning the reporting of abuse and neglect and incidents and accidents;
- e. client care services (ADL'S & IADL'S);
- f. infection control to include universal precautions; and
- g. any specialized training to meet clients' needs.

3. All direct care staff, either contracted or directly employed, shall have documentation of current certification in basic life support and general first aid.

J. Evaluation. An employee's annual performance evaluation shall include his/her interaction with clients, family, and other employees.

K. Personnel Files

1. A facility shall maintain a separate personnel record for each employee. At a minimum, this file shall contain the following:

a. the application for employment including the applicant's education, training and experience;

b. a statewide criminal background check conducted by the Louisiana State Police, or its designee, prior to an offer of employment for any unlicensed personnel;

i. the facility shall have documented disposition of any charges, if applicable;

c. evidence of applicable professional credentials;

d. documentation of required health assessment as defined in the facility's policies;

e. annual performance evaluation;

f. employee's hire and termination dates;

g. documentation of orientation and annual training;

h. documentation of competency evaluations for duties assigned, including, but not limited to, safety in transporting clients;

i. documentation of a current, unrestricted driver's license (if driving or transporting clients);

j. documentation of a current driver's license status inquiry report available on-line from the State Office of Motor Vehicles for staff, either contracted or directly employed, who are required to transport clients as part of their assigned duties; and

k. comply with the provisions of R.S. 40:2179-2179.2 and the Rules regarding the direct service worker registry.

2. A facility shall not release an employee's personnel file without the employee's written permission, except as required by state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8745. Required Staffing

A. Each ABI facility shall be staffed to sufficiently safeguard the health, safety and welfare of the clients, as required by these regulations.

B. At a minimum, the following staff positions are required; however, one person may occupy more than one position.

1. Director

a. Each facility shall have a qualified director who is an employee of the facility. Responsibilities include the day-to-day management, supervision, operation of the facility and ensuring the individual service plan is implemented and carried out.

i. It is the responsibility of the director to contact the client's representative, if applicable, and request assistance to help the client in adjusting to the facility at the first indication of an adjustment problem.

b. During periods of temporary absence of the director, there shall be a responsible staff person designated to be in charge that has the knowledge and authority to handle any situation that may occur.

c. Director Qualifications. The director shall, at least, meet one of the following criteria upon date of hire:

i. a bachelor's degree from an accredited university or college plus two years of experience in the fields of health, social services, geriatrics, management or administration; or

ii. a master's degree from an accredited university or college in geriatrics, health care administration, or in a human service related field or their equivalent; or

iii. in lieu of a degree, six years of experience in health, social services, geriatrics, management, administration or a combination of undergraduate education and experience for a total of six years.

d. The director shall be at least 21 years of age.

2. Nursing Director. The nursing director or an equally qualified RN shall be available by telecommunications or able to be on-site as needed 24 hours/day.

a. Qualifications. Each facility shall have a nursing director who is currently licensed as a registered nurse in Louisiana without restrictions.

b. Responsibilities. The responsibilities of a nursing director are to advance community integration through:

i. overseeing the medication management program, including staff training to implement the program;

ii. assisting the client in the restoration and maintenance of maximal health;

iii. consulting the primary physician to advance the client with their medication management program;

iv. advancing understanding of their unique medical and pharmacological needs;

v. improving the client's quality of life;
and

vi. ensuring nursing care is provided in accordance with the client's individual service plan.

3. Designated Recreational/Activity Staff. There shall be an individual designated to organize and oversee the recreational and social program(s) of the facility.

4. Direct Care Staff

a. An ABI facility shall have staff sufficient in number and qualifications on duty at all times to meet the needs of clients.

b. An ABI facility that operates on a 24 hour basis shall have staff on duty 24 hours a day, seven days a week.

c. Direct care staff may include care assistants, social workers, activities personnel or other staff who provide direct care services to clients on a regular basis. If employed at more than one facility, direct care staff shall notify each facility of employment and shall ensure their schedule does not overlap.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter C. Client Protection

§8751. Client Rights

A. The facility shall have a written policy regarding client's rights. The policy shall assure the client has the right to:

1. not be deprived of civil or legal rights;
2. not be denied admission, segregated or otherwise subjected to discrimination on the basis of race, sex, handicap, creed, national background or ancestry; a facility that is a religious organization may limit admissions to its own adherents;
3. live within the least restrictive environment possible in order to retain their individuality and personal freedom; staff shall knock and request entrance before entering any bedroom;
4. be treated as individuals and with dignity, be assured choice and privacy and the opportunity to act autonomously, take risks to enhance independence and share responsibility for decisions;
5. be allowed to participate, and have family participate, if desired, in the planning of activities and services;
6. receive or refuse care and services that are adequate, appropriate and in compliance with conditions of residency, relevant federal and state laws, rules and regulations;
7. be free from mental, emotional and physical abuse and neglect and assured that no chemical restraints will be used;

8. have records and other information about the client kept confidential and released only with a client's expressed written consent;

9. have a service animal for medical reasons;

10. have visitors of their choice, as long as the rights of others are not infringed upon;

11. have access to private telephone communication;

12. send and receive mail promptly and unopened;

13. furnish their own rooms and use and maintain personal clothing and possessions as space permits;

14. manage his or her personal funds unless such authority has been delegated to another.

NOTE: If authority to manage personal funds has been delegated to the facility, the client has the right to examine the account during business hours;

15. have freedom to participate in accessible community activities and in social, political, medical, and religious activities and to have freedom to refuse such participation;

16. arrange for third-party services at their own expense, that are not available through the facility as long as the client remains in compliance with the conditions of residency;

17. to be informed of grievance process or procedures and receive response to grievances without fear of reprisal and

to voice grievances and suggest changes in policies and services to either staff or outside representatives without fear of reprisal or other retaliation;

18. be given written notice of not less than 30 days prior to discharge from the facility, except in life-threatening emergencies and when the client is a danger to himself/herself or to others;

19. remain in the current facility, foregoing a recommended transfer to obtain additional services, if a mutually agreed upon risk agreement is signed by the client, the responsible representative (if any) and the facility as long as it does not place the facility in conflict with these or other laws or regulations;

20. receive at least a 24 hour notice prior to a change in room/unit, be informed of the reason for the move and the right to be informed when their roommate is being changed;

21. live in a physical environment which ensures their physical and emotional security and well-being;

22. retain the services of his/her own personal physician, dentist or other health care provider;

23. confidentiality and privacy concerning his/her medical and dental condition and treatment; and

24. select the pharmacy or pharmacist of their choice.

B. Each client shall be fully informed of these rights and of all rules and regulations governing clients' conduct and

responsibilities, as evidenced by written acknowledgement, prior to or at the time of admission and when changes occur. Each client's file shall contain a copy of the written acknowledgement which shall be signed and dated by the director/designee, client and/or representative.

C. A copy of these rights shall be posted conspicuously in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8753. Client Association

A. The facility shall provide a formal process and structure by which clients, in representative groups and/or as a whole, are given the opportunity to advise the director regarding client services and life at the facility. Any client request, concerns or suggestions presented through this process will be addressed by the director within a reasonable time frame, as necessitated by the concern, request or suggestion. The facility shall have policies and procedures addressing the following:

1. the times and frequency of use of the public or communal telephone;
2. visitors;
3. hours and volume for viewing and listening to television, radio, and other media;

4. movement of clients in and out of the home;
5. use of personal property; and
6. care of pets.

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health,
Bureau of Health Services Financing, LR 43:

§8755. Grievance Procedure

A. The facility shall establish and have written grievance procedures to include, but are not limited to:

1. a formal process to present grievances;
2. a formal appeals process for grievances; and
3. a process to respond to client requests and/or client grievances in a timely manner, and the time frames in which the facility shall respond.

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health,
Bureau of Health Services Financing, LR 43:

§8757 Personal Possessions

A. The facility may, at its discretion, offer to clients the service of safekeeping of valuable possessions. The facility shall have a written statement of its policy.

1. If the facility offers such a service, a copy of the written policy and procedures shall be given to a client at the time of his/her admission.

2. The facility shall give the client a receipt listing each item that it is holding in trust for the client. The facility shall maintain a copy of the receipt. AUTHORITY NOTE:

Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8759. Client Funds

A. If a facility offers the service of safekeeping and/or management of clients' personal funds, the facility's admission agreement shall include the client's rights regarding personal funds and list the services offered and charges, if any. Any charges assessed shall not exceed the actual cost incurred by the facility for the provision of the services.

B. There is no obligation for a client to deposit funds with the facility or have the facility manage his/her funds, and the facility may not require the client to deposit his/her funds with the facility. If a facility offers the service of safekeeping and if a client wishes to entrust funds, the facility shall:

1. obtain written authorization from the client and/or his/her representative to safekeeping of funds;

2. provide each client with a receipt listing the amount of money the facility is holding in trust for the client;

3. maintain a current balance sheet containing all financial transactions to include the signatures of staff and the client for each transaction; and

4. not accept more than \$300 of a client's money.

C. If a facility offers the service of safekeeping and/or management of clients' personal funds, the facility shall purchase a surety bond or otherwise provide assurance satisfactory to the secretary to assure the security of all personal funds of clients deposited with the facility. In addition, if a client wishes the facility to assist with the management of all their funds, the facility:

1. shall receive written authorization to manage the client's funds from the client and the representative, if applicable;

2. shall only manage a client's money when such management is mandated by the client's service plan; and

3. shall keep funds received from the client for management in an individual account in the name of the client.

D. When a client is discharged, the facility shall refund the balance of the client's personal funds to the client or representative, if applicable, on the date of discharge or no later than the last day of the month of the month of discharge.

E. In the event of the death of the client, the facility shall refund the balance of the client's personal funds to the executor of the client's estate. If there is no executor, the facility shall refund the balance to the representative or responsible party for the client. The refund shall be made within three months of the date of death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8761. Emergency and Evacuation Procedures

A. Disaster and emergency plans shall be developed by the governing body, and updated annually, which are based on a risk assessment using an all hazards approach for both internal and external occurrences. Disaster and emergency plans shall include provisions for persons with disabilities.

B. The facility shall develop and implement policies and procedures based on the emergency plan, risk assessment, and communication plan which shall be reviewed and updated at least annually. Such policies shall include a system to track on duty staff and sheltered clients, if any, during the emergency.

C. The facility shall develop and maintain an emergency preparedness communication plan that complies with both federal and state laws. Client care shall be well-coordinated within the

facility, across health care providers and with state and local public health departments and emergency systems.

D. Additional Requirements:

1. The ABI facility shall have continuously available telephone service on a 24 hour basis.

2. The ABI facility shall either post telephone numbers of emergency services, including the fire department, police department, medical services, poison control and ambulance or show evidence of an alternate means of immediate access to these services.

3. The ABI facility shall have a detailed written plan and procedure including the evacuation of residences or sheltering in place as appropriate to meet all potential emergencies and disasters such as fire, severe weather and missing clients. The ABI facility shall implement this plan in the event that an emergency or disaster occurs. These emergency and evacuation procedures shall include:

a. an agreement with a host or receiving facility, transportation, medications, food and necessary items to be evacuated with clients to safe or sheltered areas. Plans that family may evacuate the client when possible;

b. means for an ongoing safety program including continuous inspection of the facility for possible hazards, continuous monitoring of safety equipment and investigation of all accidents or emergencies;

c. fire prevention and evacuation plan and this plan shall be posted in each facility in a conspicuous place and kept current;

d. fire drills shall be documented for each shift at least quarterly;

NOTE: The drills may be announced in advance to the clients.

e. shelter in place when appropriate;

f. transportation arrangements for hospitalization or any other services which are appropriate;

g. maintenance of a first aid kit for emergencies; and

h. any emergency equipment appropriate for the ABI facility's client population.

E. The ABI facility shall develop and maintain training and testing programs, including initial training in policies and procedures and demonstrate knowledge of emergency procedures. Such training shall be provided at least annually.

F. The ABI facility shall immediately notify the department and other appropriate agencies of any fire, disaster or other emergency that may present a danger to clients or require their evacuation from the facility.

G. At any time that the ABI facility has an interruption in services or a change in the licensed location due to an emergency situation, the facility shall notify HSS no later than the next stated business day.

AUTHORITY NOTE: Promulgated in accordance with R.S.
36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health,
Bureau of Health Services Financing, LR 43:

§8763. Incidents/Accidents

A. The ABI facility shall have written procedures for the reporting and documentation of unusual incidents and other situations or circumstances affecting the health, safety or well-being of a client or clients. (i.e., death of unnatural causes, injuries, fights or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect).

1. Such procedures shall ensure timely verbal reporting to the director or designee and a preliminary written report within 24 hours of the incident.

2. Incidents or accidents shall be documented in the client record. An incident report shall be maintained by the facility.

B. Incident/Accident Report. When and if an incident occurs, a detailed report of the incident shall be made. At a minimum, the incident report shall contain the following:

1. circumstances under which the incident occurred;
names of clients, staff and others involved;

2. date and time the incident occurred;

3. where the incident occurred (bathroom, bedroom, street, lawn, etc.);

4. immediate treatment and follow-up care;

5. name and address of witnesses and their statements;

6. date and time family or representative was notified;

7. symptoms of pain and injury discussed with the physician; and date and time physician was notified; and

8. signatures of the staff completing the report, client and director.

C. Critical Incidents. When an incident results in death of a client, involves abuse or neglect of a client, or entails any serious threat to the client's health, safety or well-being the facility shall:

1. immediately report verbally to the director and submit a preliminary written report within 24 hours of the incident;

2. immediately notify the department and local law enforcement agency according to state law, with written notification to the above agencies to follow within 24 hours of the suspected incident;

3. immediately notify the family or representative of the client;

4. provide follow-up written reports of the completed investigation to all the above persons and agencies;

5. take appropriate corrective action to prevent future incidents; and

6. document its compliance with all of the above procedures for each incident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8765. Abuse and Neglect

A. The ABI facility shall develop, implement and comply with facility-specific written policies and procedures related to compliance with this Section, including, but not limited to policies and procedures that include provisions for:

1. protect clients from abuse/neglect and/or injury inflicted by other clients, staff or third parties;

2. ensure that the client and/or reporter of the abuse is protected from potential harassment during the investigation;

3. ensure training and maintaining staff awareness of abuse prevention, current definitions of abuse and neglect, reporting requirements and applicable laws;

4. ensure that procedures for reporting critical incidents involving abuse and neglect are followed; and

5. ensure that the director completes an investigation report within five working days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter D. Admissions, Transfers and Discharges

§8771. Admission

A. Admission Criteria

1. The ABI facility shall have a clear and specific written description of admission policies and procedures. This written description shall include, but is not limited to:

a. the application process and the possible reasons for the rejection of an application;

b. types of clients suitable to the ABI facility; and

c. services offered and allowed in the ABI facility.

2. An ABI facility may accept or retain clients in need of additional care beyond routine personal care provided that:

a. the client or the representative, if applicable, and the facility agree that acceptance or retention of the client is appropriate; and

b. the facility has the capability of meeting the needs of the client.

B. Admissions Agreement

1. The ABI facility shall complete and maintain individual written admission agreements with all persons admitted to the facility or with their representative. The facility contract/admissions agreement shall specify:

- a. clear and specific occupancy criteria and procedures(admission, transfer and discharge);
- b. basic services to be made available;
- c. optional services which are available;
- d. payment provisions, including the following:
 - i. covered and non-covered services; and
 - ii. payor or funding source;
- e. client's code of conduct for participation in the program and client's agreement to abide by the same;
- f. the facility shall notify the client or representative at least 30 days prior to rate changes;
- g. refund criteria;
- h. that the department has the authority to examine clients' records as part of the evaluation of the facility;
- i. division of responsibility between the facility, client, family or others (e.g., arranging for or overseeing medical care, purchase of essential or desired

supplies, emergencies, monitoring of health, handling or finances);

j. clients' rights;

k. explanation of the grievance procedure and appeals process; and

l. the development of a service plan specific to the individual client, including participation of the client and/or representative in the development of the plan.

2. The admissions agreement shall be signed by the director and by the client and the representative, if applicable.

C. At the time of admission the ABI facility shall:

1. obtain from the client or the client's family or representative, their plan for both routine and emergency medical care to include the name of physician(s) and provisions and authorization for emergency medical care;

2. document that the client and/or representative was informed of the ABI facility's emergency and evacuation procedures; and

3. if the client has executed a medical power of attorney or an advanced directive, the facility shall maintain a copy of these documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8773. Transfer or Discharge

A. The director shall, in consultation with the client and the representative, if applicable, assist in planning and implementing the transfer or discharge of the client when:

1. the client's adjustment to the ABI facility is not satisfactory as determined by the director in consultation with the client or his/her representative;

2. the client is in need of services that the facility cannot provide or obtain for the client; or

3. the client or representative has failed to pay all fees and costs stated in the admission agreement or otherwise materially breached the admission agreement.

B. When a discharge or transfer is initiated by the facility, the director shall provide the client, and his/her representative, if applicable, with 30 days prior written notice citing the reason for the discharge or transfer, except shorter notice may be given in cases where the client is a danger to self or others.

C. At the request of the client or representative and receiving facility, copies of all pertinent information shall be given to the director of the licensed facility to which the client is transferred.

D. The following discharge information shall be recorded in the client's record:

1. date of discharge;

2. transfer facility;
3. reason(s) for discharge; and
4. condition upon discharge.

E. Client records shall be retained for at least six years from the date of discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter E. Participation Requirements

§8777. Services

A. Assessment, Service Coordination, and Monitoring

1. Within seven days of admission, the facility shall complete an assessment to determine the needs and preferences of the client. The assessment shall include but is not limited to:

a. review of physical health, psycho-social status and cognitive status and determination of services necessary to meet those needs;

b. a summary of the client's health needs, if any, including medication, treatment and special diet orders obtained from professionals with responsibility for the client's physical or emotional health;

c. a written description of the activities of daily living and instrumental activities of daily living for

which the client requires assistance, if any, obtained from the client, the client's physician, family or representative;

d. the client's interests, likes and dislikes;

e. recreational and social activities which are suitable or desirable;

f. a plan for handling special emergency evacuation needs; and

g. additional information or documents pertinent to the client's service planning, such as guardianship papers, power of attorney, living wills, do-not-resuscitate orders, or other relevant medical documents.

2. Within 30 days after admission, the facility, with input from the client, and/or his/her representative shall develop and implement a service plan using information from the assessment. The service plan shall include:

a. the client's needs;

b. the scope, frequency and duration of services and monitoring that will be provided to meet the client's needs;

c. staff responsible for providing the services inclusive of third party providers;

d. current medication list from the client's primary care physician; and,

e. identification of the level of assistance that the client requires.

3. The facility shall have a reporting procedure in place for notifying appropriate individuals of any changes in a client's condition.

4. The client's service plan shall be revised when a client's condition or preferences change and signed by the client and the representative, if applicable, and the designated facility staff.

5. The service plan shall be monitored on an ongoing basis to assess its appropriateness and to identify when a client's condition or preferences have changed.

6. A documented review of the client's service plan shall be made at least every three months.

7. All plans and reviews shall be signed by the client, facility staff and the representative, if applicable.

B. Personal and Supportive Services

1. The facility shall provide adequate services and oversight/supervision, including adequate security measures, continuously as needed for any client.

2. The facility shall provide or coordinate services, to the extent needed or desired by clients.

3. The client may participate in these services as written in his/her service plan. The following services are required to be offered:

a. assistance with all ADLs and IADLs;

b. at least three nutritious, varied, and palatable meals a day, seven days a week, that take into account client's dietary requirements, preferences and needs in residential facilities;

i. nourishing snacks, such as fruits and beverages, shall be available to residents at all times; and

ii. the ABI facility shall furnish medically prescribed diets to all clients for which it is designated in the service plan;

c. basic personal laundry services in residential facilities;

d. opportunities for individual and group socialization and to utilize community resources to create a normal and realistic environment for community interaction within and outside the facility (i.e. barber/beauty services, social/recreational opportunities);

e. services for clients who have behavior problems requiring ongoing staff support, intervention, and supervision to ensure no danger or infringement of the rights of other clients or individuals;

f. household services essential for the health and comfort of client (e.g. floor cleaning, dusting, bed making, etc.) in residential facilities;

g. assistance with self-administration of medications; and

h. a program of recreational activities.

C. Medication Management. The ABI facility shall have a medication management program. The medication management program shall be formulated in consultation with the client's primary physician and overseen by the nursing director.

1. The facility shall have written policies and procedures for the implementation of the medication management program.

2. The facility shall assist clients in the self-administration of prescription and non-prescription medication as agreed to in their contract or service plan, as allowed by state statute/regulations and overseen by the nursing director. Only clients who have awareness of their medication regime shall be provided assistance by direct care staff with self-administration of medications.

3. Assistance with self-administration of medications shall be limited to the following:

a. the client may be reminded to take his/her medication;

b. the medication regimen, as indicated on the container may be read to the client;

c. the dosage may be verified by staff, according to the container label; and

d. staff may physically assist the client in pouring or handling medications, including opening the medicine

container (i.e. bottle, mediset, blister pak, etc.), if the client lacks the ability to open the container.

4. If the client has been assessed as able to utilize a pill organizer box, such pill organizer box may be filled by the nursing director or designee, the client with supervision or the client's representative.

5. The facility shall thoroughly review the medication administration staff's ability to follow policy and procedures regarding assisting with medication administration.

6. An employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for medication assistance including the limitations of this assistance.

a. Documentation of training shall include the signature of the employee.

b. Training shall be repeated at least annually.

c. Training for direct care staff assisting with medication management shall include but not be limited to the following:

i. legal aspects of medication assistance;

ii. understanding roles and responsibilities in medication assistance;

iii. definitions of medical terminology;

iv. classifications of medications;

- v. identification of medication;
- vi. dosing and measurement of medications;
- vii. mechanism of action, therapeutic effects of drugs, and response to medications;
- viii. education on side effects, observation, reporting and documentation of side effects; and
- ix. care and safe handling of medications.

7. Direct care staff assisting with medication management shall meet the following:

- a. be a minimum of 18 years of age;
- b. able to read, write and comprehend the English language; and
- c. have no current evidence of drug use, drug abuse or diversion of drugs and no record of conviction of a felony.

8. Limitations. Medication assistance is limited to assistance with oral medication, inhalant medication, topical applications, suppository medication, eye and ear drops as prescribed and documented in the service plan.

- a. Direct care staff providing medication assistance shall not assist with any intramuscular, intravenous or subcutaneous medications.

b. Direct care staff providing medication assistance shall not receive or assume responsibility for writing oral or telephone orders from a physician.

c. Direct care staff providing medication assistance shall not alter medication dosages, as delivered from the pharmacy, without being instructed to do so by the nursing director, in accordance with prescribed medication orders.

9. The facility shall ensure that a client's medications shall be securely stored by the client in the client's own bedroom or stored in a secure central location in the facility, as appropriate for each individual client.

D. Transportation

1. The facility shall have the capacity to provide or to arrange transportation as necessary for the following:

a. medical services, including ancillary services for medically related care (e.g., physician, pharmacist, therapist, podiatrist);

b. personal services, including barber/beauty services;

c. personal errands; and

d. social/recreational opportunities.

2. The facility shall ensure and document that any vehicle used in transporting clients, whether such vehicles are operated by a staff member or any other person acting on behalf

of the facility, is inspected, licensed and insured in accordance with state law.

3. When transportation services are provided by the facility, whether directly or by third party contract, the facility shall document and ensure that drivers have a valid driver's license and that drivers have a current insurable driving record as evidenced by a driver's license status inquiry report available on-line from the Office of Motor Vehicles.

4. When transportation services are provided by the ABI facility, the facility shall ensure that drivers are trained and experienced in assisting a resident being transported, in accordance with the individual client's needs and service plan.

5. Vehicles used for transporting clients shall be handicapped accessible and sufficiently equipped to safely meet the needs of the clients served.

E. Meals (Residential facilities)

1. A facility shall ensure that a client is provided at least three meals, or their equivalent, daily and at regular times.

a. There shall not be more than 14 hours between the evening meal and breakfast of the following day, unless there is a nourishing snack served and/or available between the evening and morning meal.

b. Meal times shall be comparable to those in a normal home.

2. The facility shall make reasonable accommodations to:

- a. meet religious and ethnic preferences;
- b. meet the temporary need for meals delivered to the client's room;
- c. meet clients' temporary schedule changes as well as clients' preferences (e.g. to skip a meal or prepare a simple late breakfast); and
- d. make nutritious snacks, fruits and beverages available to clients when requested.

3. All food preparation areas (excluding areas in clients' units) shall be maintained in accordance with state and local sanitation and safe food handling standards.

4. Staff shall be available in the dining area to serve the food and to give individual assistance as needed.

5. Written reports of inspection by the OPH, Sanitarian Services shall be kept on file in the facility.

6. Specific times for serving meals shall be established and posted.

7. Meals shall be prepared and served in a way that assures that they are appetizing, attractive and nutritious and promotes socialization among the clients.

8. Food shall be palatable, sufficient in quantity and quality and properly prepared by methods that conserve the nutritive value, flavor and appearance.

9. The facility shall have kitchens and dining rooms that are appropriately and adequately furnished to serve the number of clients residing in the facility in a comfortable environment.

a. Dining room(s) may be sized to accommodate clients in either one or two settings.

b. The facility shall have a central kitchen or a warming kitchen.

c. The facility's kitchen(s) and dining room(s) shall meet applicable sanitation and safety standards and shall be well lighted and ventilated.

F. Menus (Residential facilities)

1. Menus shall be planned and written at least one week in advance and dated as served. The current week's menu shall be posted in a conspicuous place in the facility.

2. The facility shall furnish medically prescribed diets to clients in accordance with their service plan and shall be planned or approved by a licensed dietitian.

3. Records of all menus as served shall be kept on file for at least 30 days.

4. All substitutions made on the master menu shall be recorded in writing.

G. Food Supplies

1. All food in the facility shall be labeled as safe for human consumption.

2. Grade "A" pasteurized fluid milk and fluid milk products shall be used or served. Dry milk products may not be used, except for cooking purposes.

H. Food Protection

1. If food is prepared in a central kitchen and delivered to separate facilities, provision shall be made for proper maintenance of food temperatures and a sanitary mode of transportation.

2. Facility's refrigerator(s) shall be maintained at a temperature of 45 degrees Fahrenheit or below.

3. Freezers shall be maintained at a temperature of 0 degrees Fahrenheit or below.

4. Thermometers shall be required for all refrigerators and freezers.

5. Food stored in the refrigerator shall be covered.

6. Pets are not allowed in food preparation and serving areas.

I. Ice and Drinking Water

1. The water supply shall be adequate, of a safe sanitary quality and from an approved source.

2. Clean sanitary drinking water shall be available and accessible in adequate amounts at all times.

3. The ice scoop shall be maintained in a sanitary manner. The handle of the ice scoop shall at no time come in contact with the ice.

J. Recreation

1. The facility shall have a range of indoor and outdoor recreational and leisure opportunities to meet the needs and preferences of clients.

2. The facility shall provide and/or coordinate access to community-based activities.

3. There shall be a monthly posted list of recreational and leisure activities in the facility and the community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter F. Quality Enhancement Plan

§8781. Quality Enhancement

A. An ABI facility shall develop, implement and maintain a quality enhancement (QE) plan that:

1. ensures that the facility is in compliance with federal, state, and local laws;
2. meets the needs of the facility's clients;
3. is attaining the goals and objectives established by the facility;
4. maintains systems to effectively identify issues that require quality monitoring, remediation and improvement activities;

5. improves individual client outcomes and individual client satisfaction;

6. includes plans of action to correct identified issues that:

a. monitor the effects of implemented changes;

and

b. result in revisions to the action plan; and

7. is updated on an ongoing basis to reflect changes, corrections and other modifications.

B. The QE plan shall include:

1. a process for identifying on a quarterly basis the risk factors that affect or may affect the health, safety and/or welfare of the clients of the facility receiving services, that include, but is not limited to:

a. review and resolution of complaints;

b. review and resolution of incidents; and

c. incidents of abuse, neglect and exploitation;

2. a process to review and resolve individual client issues that are identified;

3. a process to review and develop action plans to resolve all system wide issues identified as a result of the processes above;

4. a process to correct problems that are identified through the program that actually or potentially affect the health and safety of the clients; and

5. a process of evaluation to identify or trigger further opportunities for improvement in identification of individual client care and service components.

C. The QE program shall hold bi-annual committee meetings to:

1. assess and choose which QE plan activities are necessary and set goals for the quarter;
 2. evaluate the activities of the previous quarter;
- and
3. implement any changes that protect the clients from potential harm or injury.

D. The QE plan committee shall:

1. develop and implement the QE plan; and
2. report to the director any identified systemic problems.

E. The facility shall maintain documentation of the most recent 12 months of the QE plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter G. Physical Environment

§8785. General Provisions

A. Interior Space

1. The facility shall be designed, constructed, equipped and maintained to meet the accessibility needs of the clients in accordance with applicable federal and state laws, rules and regulations for persons with disabilities.

2. Handrails and sufficient lighting shall be integrated into public areas as appropriate to assist clients in ambulation.

3. Sufficient lighting shall be provided for general lighting and reading in bedrooms and common areas.

4. Night lights for corridors, emergency situations and the exterior shall be provided as needed for security and safety.

5. Windows used for ventilation to the outside and exterior doors used for ventilation shall be screened, intact and operable.

6. The facility shall be kept free of hazards.

7. The facility shall have sufficient and separate storage space for administration records, cleaning supplies (janitorial), food service (supplies), lawn maintenance (equipment) and locked areas for medications.

8. Poisonous and toxic materials shall be identified, and stored in a separate cabinet used for no other purpose.

9. There shall be evidence of routine maintenance and cleaning programs in all areas of the facility. The facility

shall replace or repair broken, worn or defective furnishings and equipment promptly.

10. The facility shall have an effective pest control program.

11. The facility shall have a system in place to control water temperature to prevent burns and ensure client safety.

12. The facility shall be maintained at a comfortable seasonal temperature (65 to 80 degrees Fahrenheit) in all indoor public and private areas.

13. The facility shall be furnished according to the activities offered. Furniture shall be clean, safe, operable, where applicable and appropriate for the functional program. Furniture shall be available to facilitate usage by the number of clients in the facility.

B. Exterior Space

1. A facility shall ensure that the grounds and any structure thereon shall be maintained in operating condition and free from any reasonably foreseeable hazard to health and safety.

a. Garbage and rubbish stored outside shall be secured securely in noncombustible, covered containers and shall be removed on a regular basis.

b. Trash collection receptacles and incinerators shall be separate from outdoor recreational space.

c. Areas determined to be unsafe, including but not limited to steep grades, cliffs, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced off or have natural barriers to protect clients.

d. Fences shall be in good repair and constructed in such a way as to provide safety and security.

2. A facility shall provide clients access to safe, suitable outdoor space designated for recreational use.

3. The parking lot shall not double as recreational space.

4. If a facility accepts clients that have dementia or other conditions that may cause them to leave or walk away from the home/facility, an enclosed area shall be provided adjacent to the home/facility so that the clients may go outside safely.

5. Signage. The facility's address or name shall be displayed so as to be easily visible from the street.

6. The facility shall ensure that exterior areas are well lit at night.

C. Common Space

1. A facility shall not share common living, or dining space with another facility licensed to care for individuals on a 24 hour basis.

2. The facility shall provide common areas to allow clients the opportunity for socialization.

3. Common areas for leisure shall be at least 60 square feet per licensed capacity.

4. Dining rooms and leisure areas shall be available for use by clients at appropriate times to provide periods of social and diversified individual and group activities.

5. Outpatient facilities and 24 hour facilities shall provide public restrooms of sufficient number and location to serve clients and visitors.

6. The facility's common areas shall be accessible and maintained to provide a clean, safe and attractive environment for the clients.

7. Space used for administration, sleeping or passage shall not be considered as dining or leisure space.

D. Laundry

1. The facility shall have provisions to provide laundry services that are adequate to handle the needs of the clients, including those with bladder and/or bowel incontinence.

2. On-site laundry facilities, if provided, shall be located in a specifically designated area and there shall be adequate space for sorting, processing and storage of soiled material.

3. Laundry rooms shall not open directly into client common areas or into food service areas.

4. Domestic washers and dryers which are for the exclusive use of clients may be provided in client areas,

provided they are installed in such a manner that they do not cause a sanitation problem, offensive odors or safety concerns.

5. Universal precautions shall be followed in all laundry areas. Hand cleaning facilities shall be available in or near any laundry area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8787. Residential Facilities

A. The ABI facility shall ensure that each single occupancy bedroom has a floor area of at least 100 net square feet, exclusive of bathrooms, closets or storage space and that each multiple occupancy bedroom has a floor area of at least 70 net square feet for each client. There shall be no more than two clients per bedroom. The facility shall strive to maintain a home-like environment.

B. A facility shall not use a room with a ceiling height of less than seven feet, six inches as a bedroom, unless, in a room with varying ceiling heights, the portions of the room where the ceiling is at least seven feet, six inches allow a usable floor space.

C. A facility shall not use as a bedroom any room which does not have a window opening to the outside.

D. Each client in the facility shall have his/her own bed. Cots, bunk beds or portable beds are prohibited.

E. A facility shall ensure that sheets, pillows and pillow cases, bedspreads and blankets are provided for each client as needed. Linens that are torn, worn or frayed shall not be utilized.

F. Each client shall be provided with individual space, in the bedroom, for personal possessions or clothing such as dressers, chest of drawers, etc.

G. Clients shall be allowed to decorate their own bedrooms with personal effects, such as pictures, etc.

H. Each bedroom shall have a closet which opens directly into the room and be of sufficient size to serve the occupants of the bedroom.

1. If the bedroom does not have a closet opening into the room, there shall be a moveable closet or armoire available in the bedroom.

2. If a moveable closet or armoire is used, this space shall not be counted in the net floor space.

I. There shall be adequate, gender segregated, toileting, bathing and hand washing facilities, in accordance with *LAC Title 51, Public Health-Sanitary Code*.

J. One bathroom shall serve no more than four beds and shall contain wash basins with hot and cold water, flush toilets and bath or shower facilities with running hot and cold water.

K. Each bathroom shall be located so that they open into a hallway, common area or directly into the bedroom. If the bathroom only opens directly into a bedroom, it shall be for the sole use of the occupants of that bedroom only.

L. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene, unless clients are individually given such items. Tubs and showers shall have slip-proof surfaces.

M. A facility shall provide toilets, baths and showers which allow for individual privacy, unless clients require assistance for care.

N. A facility's bathrooms shall contain mirrors secured to the walls at convenient heights and other furnishings necessary to meet the client's basic hygienic and grooming needs.

O. A facility's bathrooms shall be equipped to facilitate maximum self-help by clients. Grab bars, shower chairs, toilet extensions and other handicap aides are to be provided as needed in bathrooms.

P. Toilets, wash basins and other plumbing or sanitary areas in a facility shall continuously be maintained in operable condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8789. Community Living

A. General. Community Living Facilities shall provide a home or apartment setting, or efficiency/studio apartments providing a rehabilitative treatment environment. The community living facility shall be equipped in a manner to help ensure clients their privacy, dignity and independence while preparing them for community integration. There shall be no more than three bedrooms per apartment or six beds per home. Each shall strive to maintain a home-like environment and shall be furnished for living. Each home/apartment shall include at a minimum:

1. a food preparation area consisting of a sink with hot and cold running water, electrical outlets in compliance with applicable laws and regulations, mini refrigerator, cooking appliance, food storage cabinets and counter space;

2. a bathroom that is shared by no more than four individuals which includes a toilet, sink and shower or tub with hot and cold running water, shall be equipped with functional aides and shall be accessible to the individual(s) using it and electrical outlets shall be in compliance with applicable laws and regulations;

3. dining/sitting/bedroom area;

4. sufficient storage/closet space;

5. an operating emergency call system (wired or wireless) is required for those clients that live alone without 24 hour on-site supervision and shall be easily accessible to

those clients that live alone, in the event of an emergency and shall register at a location that is monitored at all hours of the day and night;

6. a lockable front door that can be controlled by the client;

7. Heating, ventilation and air conditioning (HVAC) thermostats that can be individually controlled by the client, with a locking mechanism provided, if required to prevent harm to a client;

8. at least one operating telephone available 24 hours/day; and

9. the ABI facility shall ensure that any living situation that is selected by the client is:

a. accessible to and functional for the inhabitants of the living space, considering any handicapping condition or other disability of the clients;

b. free from any hazard to the health or safety of the clients;

c. properly equipped with useable facilities for sleeping, food storage and preparation, sanitation, bathing, personal hygiene and household cleaning;

d. accessible to transportation; and

e. accessible to any services as required by the client's plan of services or individual program, and in compliance with applicable health, safety and sanitation codes.

B. A client may reside in an efficiency/studio apartment that shall have a minimum of 250 net square feet of floor space, excluding bathrooms and closets.

C. Homes or apartments with separate bedrooms shall have a living area (living/dining/kitchenette) of at least 190 net square feet, excluding bedroom, bathroom and closets. Each separate bedroom shall have a minimum of 100 net square feet, excluding bathroom and closet or wardrobe space.

D. Homes or apartments with a bedroom designed for two individuals shall have a minimum of 200 net square feet excluding bathrooms and closet or wardrobe space. Clients sharing a two person bedroom shall agree, in writing, to this arrangement. No bedrooms shall accommodate more than two clients.

E. Bedrooms shall contain an outside window. A room where access is through a bathroom or another bedroom is prohibited for use as a client's bedroom.

F. There shall be at least 60 net square feet of common space for each home or apartment.

G. Bathrooms shall be located so that they open into a hallway, common area or directly into the bedroom.

1. If the bathroom only opens directly into a bedroom, it shall be for the sole use of the occupants of that bedroom only.

2. Non-skid surfacing or strips shall be installed in all showers and bathing areas. Grab bars shall be installed in

all showers and bathing areas if determined to be necessary for the client(s) residing in this space.

3. Hot and cold water faucets shall be easily identifiable.

4. Bathrooms shall not be utilized for storage or purposes other than those indicated by this Subsection.

H. The facility shall have a written plan for providing support and supervision to the clients in supervised living situations. The plan shall ensure:

1. regular contact between the facility personnel and the client at a minimum of three times a week or as specified in the client's service plan; and

2. provisions for emergency access by clients to an appropriate facility staff member on a 24 hour basis.

I. A facility shall, through routine visits by staff to the home or apartment, determine and document that:

1. there is no reasonable cause for believing that the client's mode of life or living situation presents any risks to the client's health or safety;

2. the living situation is maintained in a clean and safe condition;

3. the client is receiving required medical care; and

4. the current plan of services provides appropriate and sufficient services to the client.

J. Staff may have and utilize pass keys to apartments or homes as may be necessary for services or emergencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§8791. Outpatient Services

A. General. The ABI facility that elects to provide the outpatient level of care shall do so in a facility that meets the following space requirements:

1. At a minimum, one therapy room shall be provided within the treatment space. Use of this room for evaluations and private communication with client and/or family as well as therapy requiring privacy or seclusion shall be permitted.

2. A therapy room shall have a minimum clear floor area of 70 square feet.

3. Size requirements shall be based upon the types of services provided and the equipment used for therapeutic treatment. Sufficient space shall be provided to allow access to the equipment by the client and the therapist when in use.

4. At least one hand-washing station shall be provided within the treatment area.

5. Designated work space shall be provided for therapists and/or other staff.

6. There shall be a secure area for storage of client treatment records.

7. There shall be an administrative area available and designated for office equipment.

8. There shall be a separate toilet room for clients and staff/visitors.

9. The outpatient facility shall be in compliance with federal, state and local rules, laws and regulations applicable to persons with disabilities.

10. There shall be a waiting area for clients with sufficient seating for numbers of clients served.

B. Exterior Space. There shall be parking spaces sufficient to meet the numbers of clients served, with a covered space for drop off and pick up, maintained well-lit as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 40:2120.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring the safe and effective operation of adult brain injury facilities.

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

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

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, September 28, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The

deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary

John Bel Edwards
GOVERNOR



Rebekah E. Gee MD, MPH
SECRETARY

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

PUBLIC HEARING CERTIFICATION
September 28, 2017
9:30 a.m.

RE: Adult Brain Injury Facilities
Licensing Standards
Docket # 09282017-01
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 September 28, 2017 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.



Medicaid Policy and Compliance
Section

09/28/17
Date

DHH/BHSF PUBLIC HEARING

Topic – Adult Brain Injury Facilities Licensing Standards

Date – September 28, 2017

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	State of Louisiana Department of Health 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	Medicaid Policy & Compliance
2. RICK SEIDL	ACADIANA BRAIN INJURY P.O. BOX 23 YOUNGSVILLE, LA. 70592	337-224-7139	ACADIANA BRAIN INJURY CTR
3. MARGARET SEIDL	ACADIANA BRAIN INJURY P.O. BOX 23 YOUNGSVILLE, LA. 70592	337-224-7234	ACADIANA BRAIN INJURY CTR
4. LaVon Johnson	LDH	(225)342-1119	Legal
5. Brand Blanchard	LDH	342-2471	NSE
6.			

John Bel Edwards
GOVERNOR



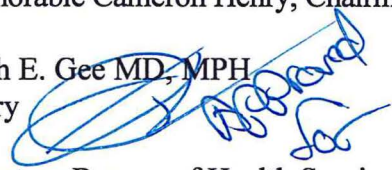
Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana
Louisiana Department of Health
Office of the Secretary

October 5, 2017

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary 

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Nursing Facility - Reimbursement Methodology.

The Department published a Notice of Intent on this proposed Rule in the August 20, 2017 issue of the *Louisiana Register* (Volume 43, Number 8). A public hearing was held on September 28, 2017 at which only Louisiana Department of Health staff were present. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the November 20, 2017 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

REG/WJR/CEC

Attachments (3)

John Bel Edwards
GOVERNOR



Rebekah E. Gee MD, MPH
SECRETARY

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

PUBLIC HEARING CERTIFICATION
September 28, 2017
9:30 a.m.

RE: Nursing Facilities
Reimbursement Methodology
Docket # 09282017-04
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 September 28, 2017 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.

A handwritten signature in blue ink, likely of the Secretary, Rebekah E. Gee.

Medicaid Policy and Compliance
Section

09/28/17

Date

DHH/BHSF PUBLIC HEARING

Topic – **Nursing Facilities Reimbursement Methodology**

Date – September 28, 2017

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	State of Louisiana Department of Health 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	Medicaid Policy & Compliance
2. DENIS S. BEARD	LDH	225-342-3613	RATE SETTING & AUDIT
3.			
4.			
5.			
6.			

NOTICE OF INTENT

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

**Nursing Facilities
Reimbursement Methodology
(LAC 50:II.20001)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:II.20001 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 Services Financing provides reimbursement to nursing facilities, through vendor payments, for services rendered to Medicaid eligible individuals who reside in nursing facilities.

As a result of a budgetary shortfall in state fiscal year (SFY) 2017-2018, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities in order to suspend the provisions of LAC 50:II.Chapter 200 and to impose provisions to ensure that the current rates in effect do not increase for the SFY 2018 rating period (*Louisiana Register*, Volume 43, Number 7). This proposed Rule is being promulgated to continue the provisions of the July 1, 2017 Emergency Rule.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20001. General Provisions

A. - B.7. ...

C. Effective for the rate period of July 1, 2017 through June 30, 2018, the department shall suspend the provisions of LAC 50:II.Chapter 200 governing the reimbursement methodology for nursing facilities and impose the following provisions governing reimbursements for nursing facility services.

1. During this time period, no inflation factor will be applied to the base resident day weighted medians and prices calculated as of July 1, 2016.

2. All costs and cost components that are required by Rule to be trended forward will only be trended forward to the midpoint of the 2017 state fiscal year (December 31, 2016).

3. The base capital per square foot value, land value per square foot, and per licensed bed equipment value utilized in the calculation of the fair rental value (FRV) component will be set equal to the value of these items as of July 1, 2016.

4. Base capital values for the Bed Buy-Back Program (LAC 50:II.20012) purposes will be set equal to the value of these items as of July 1, 2016.

5. Nursing facility providers will not have their weighted age totals for the FRV component calculation purposes increased by one year as of July 1, 2017.

6. As of the July 1, 2018 rate setting, nursing facility provider weighted age totals for the FRV component calculation purposes will be increased by two years to account for the suspended year of aging occurring as of the July 1, 2017 rate period.

7. No other provisions of LAC 50:II.Chapter 200 shall be suspended for this time period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, 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 28:1473 (June 2002), repromulgated LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2262 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:825 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1522 (September 2016), LR 43:525 (March 2017), LR 43:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

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 or autonomy as described in R.S. 49:972.

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

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

no impact on the provider's ability to provide the same level of service as described in HCR 170.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, September 28, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary

John Bel Edwards
GOVERNOR



Rebekah E. Gee MD, MPH
SECRETARY

State of Louisiana
Louisiana Department of Health
Office of the Secretary

October 5, 2017

MEMORANDUM

TO: The Honorable John A. Alario, President, Louisiana Senate
The Honorable Taylor F. Barras, Speaker of the House
The Honorable Fred H. Mills, Jr., Chairman, Senate Committee on Health and Welfare
The Honorable Frank A. Hoffmann, Chairman, House Committee on Health and Welfare
The Honorable Eric LaFleur, Chairman, Senate Finance Committee
The Honorable Cameron Henry, Chairman, House Appropriations Committee

FROM: Rebekah E. Gee MD, MPH
Secretary

RE: Oversight Report on Bureau of Health Services Financing Proposed Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the attached documents for the proposed Rule for Nursing Facilities - Standards for Payment - Level of Care Pathways.

The Department published a Notice of Intent on this proposed Rule in the August 20, 2017 issue of the *Louisiana Register* (Volume 43, Number 8). A public hearing was held on September 28, 2017 at which only Louisiana Department of Health staff. No oral testimony was given or written comments received regarding this proposed Rule.

The Department anticipates adopting the Notice of Intent as a final Rule in the November 20, 2017 issue of the *Louisiana Register*.

The following documents are attached:

1. a copy of the Notice of Intent;
2. the public hearing certification; and
3. the public hearing attendance roster.

REG/WJR/RKA

Attachments (3)

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services**

**Nursing Facilities - Standards for Payment
Level of Care Pathways
(LAC 50:II.10156)**

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:II.10156 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 Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing level of care pathways in order to clarify the provisions of the June 20, 2013 Rule which amended the provisions governing the standards for payment for nursing facilities to clarify level of care determinations (*Louisiana Register*, Volume 41, Number 7). The department now proposes to amend the provisions governing level of care pathways in order to further clarify these provisions.

Title 50

**PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Medical Assistance Program**

Subpart 3. Standards for Payment

Chapter 101. Standards for Payment for Nursing Facilities

Subchapter G. Levels of Care

§10156. Level of Care Pathways

A. - C.4. ...

D. Activities of Daily Living Pathway

1. - 3.e. ...

f. toileting--includes getting on and off the toilet, wiping, arranging clothing, etc.;

D.3.g. - E.1.c. ...

2. In order for an individual to be approved under the Cognitive Performance Pathway, the individual must have any one of the conditions noted below:

a. - b. ...

c. have a memory problem and is sometimes understood (e.g., the individual's ability is limited to making concrete requests);

d. have a short term memory problem and is rarely or never understood;

e. be moderately impaired in daily decision making (e.g., the individual's decisions are consistently poor or unsafe, cues or supervision is required at all times) and the individual is usually understood (e.g., the individual has

difficulty finding words or finishing thoughts and prompting may be required);

f. be moderately impaired in daily decision making (e.g., the individual's decisions are consistently poor or unsafe, cues or supervision is required at all times) and the individual is sometimes understood, (e.g., his/her ability is limited to making concrete requests);

g. be moderately impaired in daily decision making (e.g., the individual's decisions are consistently poor or unsafe, cues or supervision is required at all times) and the individual is rarely or never understood;

h. be minimally impaired in daily decision making (e.g., the individual has some difficulty in new situations or his/her decisions are poor and requires cues and supervision in specific situations only) and the individual is sometimes understood (e.g., the individual's ability is limited to making concrete requests); or

i. be minimally impaired in daily decision making (e.g., the individual has some difficulty in new situations or his/her decisions are poor, cues and supervision are required in specific situations only) and the individual is rarely or never understood.

j. - m. Repealed.

F. Physician Involvement Pathway

1. ...
2. The following are investigated for this pathway:
 - a. physician visits occurring during the 14 day look back period(excluding emergency room exams); and
 - b. physician orders issued during the 14 day look-back period (excluding order renewals without change and hospital inpatient visits).
3. In order for an individual to be approved under the physician involvement pathway, the individual must have:
 - a. one day of doctor visits and at least 4 new order changes within the 14 day look-back period; or
 - b. at least 2 days of doctor visits and at least 2 new order changes during the 14 day look-back period.
 - i. - iii. Repealed.
4. Supporting documentation is required and must include:
 - a. a copy of the physician's orders; or
 - b. the home health care plans documenting the diagnosis, treatments and conditions within the designated time frames; or
 - c. the appropriate form designated by OAAS to document the individual's medical status and condition.
5. This pathway is approved for limited stay/length of service as deemed appropriate by OAAS.

G. Treatments and Conditions Pathway

1. The intent of this pathway is to identify individuals with unstable medical conditions that may be affecting a person's ability to care for himself/herself.

a. - h. Repealed.

2. The following are investigated for this pathway:

a. stage 3-4 pressure sores during the 14 day look-back period;

b. intravenous feedings during the 7 day look-back period;

i. - iii. Repealed.

c. intravenous medications during the 14 day look-back period;

d. daily tracheostomy care and ventilator/respiratory suctioning during the 14 day look-back period;

e. pneumonia during the 14 day look-back period and the individual had associated need for assistance with IADLs, ADLs, or restorative nursing care;

f. daily respiratory therapy provided by a qualified professional during the 14 day look-back period;

g. daily insulin injections with two or more order changes during the 14 day look-back period; or

h. peritoneal or hemodialysis during the 14 day look-back period.

3. In order for an individual to be approved under the treatments and conditions pathway, the individual must have:

a. any one of the conditions listed in G.2.a-h above; and

b. supporting documentation for the specific condition(s) identified. Acceptable documentation must include:

i. a copy of the physician's orders; or

ii. the home health care plans documenting the diagnosis, treatments and conditions within the designated time frames; or

iii. the appropriate form designated by OAAS to document the individual's medical status and condition.

4. This pathway is approved for limited stay/length of service as deemed appropriate by OAAS.

H. Skilled Rehabilitation Therapies Pathway

1. The intent of this pathway is to identify individuals who have received, or are scheduled to receive physical therapy, occupational therapy or speech therapy.

2. In order for an individual to be approved under this pathway, the individual must:

a. have received at least 45 minutes of active physical therapy, occupational therapy, and/or speech therapy during the seven day look-back period; or

b. be scheduled to receive at least 45 minutes of active physical therapy, occupational therapy, and/or speech therapy scheduled during the seven day look-forward period.

i. - v. Repealed.

3. Supporting documentation of the therapy received/scheduled during the look-back/look-forward period, is required and must include:

a. a copy of the physician's orders for the received/scheduled therapy;

b. the home health care plan notes indicating the received/scheduled therapy;

c. progress notes indicating the physical, occupational, and/or speech therapy received;

d. nursing facility or hospital discharge plans indicating the therapy received/scheduled; or

e. the appropriate form designated by OAAS to document the individual's medical status and condition.

4. This pathway is approved for limited stay/length of service as deemed appropriate by OAAS.

I. Behavior Pathway

1. The intent of this pathway is to identify individuals who have experienced repetitive behavioral challenges which have impacted his/her ability to function in the community during the specified screening/assessment look-back period.

a. - d. Repealed

2. The following are investigated for this pathway:

a. wandering;

i. - iv. Repealed.

b. verbally or physically abusive behavior;

i. - iv. Repealed.

c. socially inappropriate behavior; and

d. delusions or hallucinations.

d.i. - e. Repealed.

3. In order for an individual to be approved under the behavior pathway, the individual must have either:

a. exhibited any one of the following behaviors four or more days of the screening tool's seven day look-back period:

i. wandering;

ii. verbally abusive;

iii. physically abusive; or

iv. socially inappropriate or disruptive;

or

b. exhibited any one of the following behaviors during the assessment tool's three day look-back period and behavior(s) were not easily altered:

- i. wandering;
- ii. verbally abusive;
- iii. physically abusive; or
- iv. socially inappropriate or disruptive;

or

c. experienced delusions or hallucinations that impacted his/her ability to live independently in the community within the specific screening/assessment tool's look-back period.

J. Service Dependency Pathway

1. The intent of this pathway is to identify individuals who are currently in a nursing facility or receiving services through the Adult Day Health Care Waiver, the Community Choices Waiver, Program of All Inclusive Care for the Elderly (PACE) or receiving long-term personal care services.

2. - 3. ...

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 and the Office of Aging and Adult Services, LR 37:342 (January 2011),

amended LR 39:1471 (June 2013), LR 41:1289 (July 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:

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 or autonomy as described in R.S. 49:972.

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

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

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Thursday, September 28, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH

Secretary

John Bel Edwards
GOVERNOR



Rebekah E. Gee MD, MPH
SECRETARY

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

PUBLIC HEARING CERTIFICATION
September 28, 2017
9:30 a.m.

RE: Nursing Facilities
Standards for Payment
Level of Care Pathways
Docket # 09282017-05
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 September 28, 2017 in Baton Rouge, Louisiana constitute the official record of the above-referenced public hearing.


Medicaid Policy and Compliance
Section

09/28/17
Date

DHH/BHSF PUBLIC HEARING

Topic – Nursing Facilities Standards for Payment Level of Care Pathways

Date – September 28, 2017

PERSONS IN ATTENDANCE

Name	Address	Telephone Number	AGENCY or GROUP you represent
1. Cornette Scott	State of Louisiana Department of Health 628 N. 4th Street Baton Rouge, LA 70802	225-342-3881	Medicaid Policy & Compliance
2. Melanie Richard	628 N. 4th St.	225-342-8487	OAAS
3. Kirsten Clebert	Bienville Bldg.	225-219-1149	OAAS
4.			
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