

## Chapter 85. Intermediate Care Facilities for Persons with Developmental Disabilities

### Subchapter A. General Provisions

#### §8501. Introduction

A. These rules and regulations contain the minimum licensure standards for intermediate care facilities for persons with developmental disabilities (ICF/DD), pursuant to R.S. 40:2180 et seq.

B. Standards are established to ensure minimum compliance under the law, equity among those served, provision of authorized services, and proper disbursement. It is the ICF/DD facility's responsibility to keep these standards current. The standards are the basis for surveys by the state agency, and are necessary for the ICF/DD to remain in compliance with state regulations for licensure.

C. Monitoring of an ICF/DD's compliance with state regulations is the responsibility of Department of Health and Hospitals, Health Standards Section (HSS).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3181 (December 2012).

#### §8503. Definitions

*Administrator*—the person appointed by the governing body who is responsible for the day to day functions of the ICF/DD. The administrator can also be called a chief executive officer (CEO).

*Bedroom Space*—a distinct area used as a sleeping area.

*Building Systems*—plumbing, mechanical and electrical systems necessary for the complete operations of a facility.

*Curator*—a person appointed by the court when an individual is interdicted to act as guardian with either limited or full powers over the individual's estate and/or person, depending on the needs of the individual interdicted.

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

*Developmental Disabilities (DD)*—severe, chronic disabilities which are attributable to mental retardation, cerebral palsy, autism, epilepsy, or any other condition, other than mental illness, found to be closely related to mental

retardation. This condition results in an impairment of general intellectual functioning or adaptive behavior similar to that of mental retardation, and requires treatment or services similar to those required for MR/DD, are manifested before the person reaches age 22 and are likely to continue indefinitely.

*Discipline*—training that is expected to produce a specified character or pattern of behavior, and especially is expected to produce moral or mental improvement.

*Discipline*—a field of study, a branch of instruction or learning, or a branch of knowledge or teaching.

*Direct Service Management*—the act of controlling the various aspects of ICF/DD involving direct services to individuals in order to ensure effective care and treatment.

*Direct Service Worker*—an employee of an ICF/DD who works directly with individuals as a major function of his/her job.

*Existing Licensed Facility*—a structure which has been licensed by the department and has received occupancy approval from the local/parish authorities or occupancy approval from Louisiana State Facility Planning and Control and the Office of the State Fire Marshal prior to the effective date of promulgation of these provisions as a final Rule.

*Family*—the natural or adoptive father, mother, brother, and sister, but may be interpreted broadly to include any person, whether related to the individual by blood or not, who resides in the individual's home and takes part in the individual's family life.

*Governing Body*—a person or persons with the ultimate responsibility for conducting the affairs of the ICF/DD. The governing body is responsible for appointing an administrator of the ICF/DD.

*Intermediate Care Facility for Persons with Developmental Disabilities (ICF/DD)*—any 24-hour residential facility, whether public or private, that provides services to individuals that meet the criteria to reside in that facility.

*Individual*—a person who receives services from an ICF/DD.

*Legally Responsible Person*—as appropriate, the parent(s) or tutor of a minor or the curator of an interdicted individual.

*License*—a written certification, whether provisional or regular, of an ICF/DD's authorization to operate under state law.

*Living Units*—an integral living space utilized by a particular group of individuals who reside in that space.

*Major Renovation*—any repair or replacement of building materials or equipment which does not meet the definition of *minor alteration*.

*Minor Alteration*—repair or replacement of building materials and equipment with materials and equipment of a similar type that does not diminish the level of construction

beyond that which existed prior to the alteration. This does not include any alteration to the “functionality” or original design of the construction (for example, normal maintenance, re-roofing, painting, wallpapering, asbestos removal, and changes to the electrical and mechanical systems).

*Parent*—the natural or adoptive mother and father of an individual.

*Passive Physical Restraint*—the least amount of direct physical contact required on the part of a staff member to prevent an individual from harming himself/herself or others.

*Psychotropic Medication*—prescription medication given for the purpose of producing specific changes in mood, thought processes, or behavior. They exert specific effects on brain function and can be expected to bring about specific clinically beneficial responses in individuals for whom they are prescribed. The term as used in this policy does not include all drugs which affect the central nervous system, or which may have behavioral effects. For example, the term does not include anticonvulsants or hormones.

*Qualified Mental Retardation Professional (QMRP)*—the professionally qualified person responsible for overseeing the implementation of an individual’s service plan. A QMRP is a person who has specialized training or one year of experience in training or one year of experience in treating or working with the mentally retarded as described in §8579 below.

*Qualified Professional (QP)*—a psychologist or physician as described in §8579 below.

*Re-Establishment Facilities*—an existing licensed facility that maintains its license while it has temporarily suspended operation in all or portions of a building due to substantial structural damage.

*Replacement Facilities*—an existing structure that has obtained substantial structural damage beyond repair and is being totally replaced at another site location or on the same site.

*Restraint*—the extraordinary restriction of an individual’s freedom or freedom of movement.

*Service Plan*—a comprehensive, time-limited, goal-oriented, individualized plan for care, treatment, and education of an individual in care of an ICF/DD. The *service plan* is based on a current comprehensive evaluation of the individual’s needs.

*SIP*—shelter in place.

*Start of Construction*—the date the construction permit was issued for new construction, provided that the actual start of construction commenced within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footing, the installation of piles, the construction of columns, or any other work beyond the stage

of excavation; or the placement of a manufactured home. Permanent construction does not include land preparation such as clearing, grading, or filling; nor does it include excavation of a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial repair or substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a structure, whether or not that alteration affects the external dimensions of the structure.

*Structure*—any building or other structure.

*Substantial Structural Damage*—damage of any origin sustained by a structure, whereby the cost of restoration to its pre-damaged condition equals or exceeds 50 percent of its pre-damaged market value, or equals or exceeds a smaller percentage established by the authority having jurisdiction. Evaluation shall be as determined and accepted by the Department of Public Safety, Office of the State Fire Marshal in accordance with RS 40:1574 C-G.

*Time-Out Procedure*—the isolation of an individual for a period of less than 30 minutes in an unlocked room.

*Training*—any activity outside the normal routine of the ICF/DD which promotes the development of skills related to individual care, increases the knowledge of the person involved in a related field or fosters the development of increased professionalism.

*Treatment Strategy*—an orientation or set of clinical techniques informed by a particular therapeutic model and used to meet a diagnosed need of an individual in care over and above the provisions of basic care.

*Tutor*—pursuant to Louisiana civil law, a person appointed to have the care of the person of a minor and the administration of his/her estate. There are four types of tutorship.

1. Tutorship by Nature. Upon the death of either parent, the tutorship of minor individuals belongs of right to the other parent. Upon divorce or judicial separation, the tutorship of each minor individual belongs of right to the parent under whose care he/she has been placed.

2. Tutorship by Will. The right of appointing a tutor belongs exclusively to the father or mother dying last. The appointment may be through the surviving parent’s will or by declaration in notaries act executed before a notary public and two witnesses. If the parents are divorced or judicially separated, only one with court-appointed custody may appoint a tutor by will or notaries act.

3. Tutorship by the Effect of Law. When a tutor has not been appointed for a minor by the parent dying last, the court shall appoint the nearest ascendant in the direct line of the minor.

4. Tutorship by Appointment of the Judge. When a minor is an orphan and has had no tutor appointed by either

parent, or any relation claiming tutorship by effect of law, the court shall appoint a tutor for the minor.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3182 (December 2012).

#### **§8505. Licensing Requirements**

A. All ICF/DD providers shall be licensed by the Department of Health and Hospitals. An ICF/DD shall not be established, opened, operated, managed, maintained, or conducted in the state without a license issued by DHH. Each ICF/DD shall be separately licensed.

B. DHH is the only licensing authority for ICF/DD providers in the state of Louisiana. It shall be unlawful to operate an ICF/DD provider without possessing a current, valid license issued by the department.

C. Each ICF/DD license shall:

1. be issued only to the person or entity named in the license application;
2. be valid only for the ICF/DD provider to which it is issued, and only for the specific geographic address of that provider;
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 the last day of the twelfth month after the date of issuance, unless timely renewed by the ICF/DD provider;
5. not be subject to sale, assignment, donation, or other transfer, whether voluntary or involuntary;
6. be posted in a conspicuous place on the licensed premises at all times; and
7. specify the maximum number of individuals which may be served by the ICF/DD facility.

D. The licensed ICF/DD provider shall abide by and adhere to any federal, state and local laws, rules, policy, procedure, manual, or memorandums pertaining to ICF/DD provider facilities.

E. A separately licensed ICF/DD provider shall not use a name which is substantially the same as the name of another ICF/DD provider licensed by the department.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3183 (December 2012).

#### **§8507. Initial Licensing Application Process**

A. An application packet for licensing as an ICF/DD must be obtained from the department. A completed initial license application packet for the ICF/DD must be submitted

to and approved by the department prior to an applicant providing services.

B. An initial applicant must submit a completed licensing packet to DHH, which shall include:

1. a completed ICF/DD licensure application and the non-refundable licensing fee as established by statute;
2. a completed disclosure of ownership and control information form;
3. a copy of a statewide criminal background check, including sex offender registry status, on all owners and administrators;
4. a copy of the approval letter of the architectural facility plans from the Office of the State Fire Marshal and any other office/entity designated by the department to review and approve the facilities architectural plans, if the facility must go through plan review;
5. a copy of the on-site inspection report with approval for occupancy from the Office of the State Fire Marshal;
6. a copy of the health inspection report with approval of occupancy from the Office of Public Health;
7. zoning approval from local governmental authorities; and
8. any other documentation or information required by the department for licensure.

C. Any person convicted of any felony listed below is prohibited from being the owner or administrator of an ICF/DD facility. Any licensing application from such a person shall be rejected by the department.

1. For purposes of this Paragraph, conviction of a felony means:
  - a. any felony relating to the violence, abuse, or negligence of a person;
  - b. any felony relating to the misappropriation of property belonging to another person;
  - c. any felony relating to cruelty to the infirmed, exploitation of the infirmed, or sexual battery of the infirmed;
  - d. any felony relating to a drug offense;
  - e. any felony relating to crimes of a sexual nature;
  - f. any felony relating to a firearm or deadly weapon;
  - g. any felony relating to Medicare or Medicaid fraud; or
  - h. any felony relating to fraud or misappropriation of federal or state funds.

D. If the initial licensing packet is incomplete, the applicant shall be notified of the missing information and shall have 90 days from receipt of notification to submit the

additional requested information. If the additional requested information is not submitted to the department within 90 days, the application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an ICF/DD provider must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

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

F. Applicants must be in compliance with all of the appropriate federal, state, departmental, or local statutes, laws, ordinances, rules, regulations, policy, manuals, memorandums and fees before the ICF/DD provider will be issued an initial license to operate by DHH.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3183 (December 2012).

### **§8509. Initial Licensing Surveys**

A. Prior to the initial license being issued to the ICF/DD, an initial licensing survey shall be conducted on site at the facility to assure compliance with the licensing laws and standards.

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

C. In the event the initial licensing survey finds that the ICF/DD facility is non-compliant with any licensing laws or regulations or any other required statutes, law, ordinances, rules or regulations, but the department in its sole discretion determines that the noncompliance does not present a potential threat to the health, safety, or welfare of the individuals receiving services, the department may issue a provisional initial license for a period not to exceed six months. The facility must submit a plan of correction to DHH for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. If all such noncompliance or deficiencies are determined to by the department to be corrected on a follow-up survey, then a full license shall be issued. If all such noncompliance or deficiencies are not corrected on the follow-up survey or new deficiencies affecting the health, safety, or welfare of a

client are cited, the provisional license shall expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license packet and fee. However, at the sole discretion of the department the provisional license may be extended for an additional period not to exceed nine days in order for the ICF/DD to correct the noncompliance or deficiencies.

D. In the event that the initial licensing survey finds that the ICF/DD facility is noncompliant with any licensing laws or regulations or any other required statute, law, ordinance, Rule, or regulation, or that present a potential threat to the health, safety, or welfare of the individuals receiving services, the department shall deny the initial license.

E. The initial licensing survey of an ICF/DD provider shall be a scheduled, announced survey. There shall be at least one individual in the ICF/DD facility at the time of the initial licensing survey.

F. Once an ICF/DD provider has been issued an initial license, the department shall conduct licensing surveys at intervals deemed necessary by DHH to determine compliance with licensing regulations, as well as other required statutes, laws, ordinances, rules, regulations, and fees. These licensing surveys shall be unannounced.

1. An acceptable plan of correction may be required from an ICF/DD provider for any survey where deficiencies have been cited. Such plan of correction shall be approved by the department.

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

3. If deficiencies have been cited, regardless of whether an acceptable plan of correction is required, the department may issue appropriate sanctions, including, but not limited to:

- a. civil monetary penalties;
- b. directed plans of correction; and
- c. license revocations.

G. DHH surveyors and staff shall be given access to all areas of the facility and all relevant files during any licensing or other survey. DHH surveyors and staff shall be allowed to interview any provider staff, participant, or person receiving services, as necessary to conduct the survey.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3184 (December 2012).

### **§8511. Types of Licenses and Expiration Dates**

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

1. Full Initial License. In the event that the initial licensing survey finds that the ICF/DD facility is compliant

with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations and fees, the department shall issue a full license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended or terminated.

2. **Provisional Initial License.** In the event that the initial licensing survey finds that the ICF/DD facility is non-compliant with any licensing laws or regulations or any other required statutes, laws, ordinances, Rules, regulations or fees, the department is authorized to issue a provisional initial license pursuant to the requirements and provisions of these regulations.

3. **Full Renewal License.** The department may issue a full renewal license to an existing licensed ICF/DD provider which 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, suspended, or terminated.

4. **Provisional Renewal License.** The department, in its sole discretion, may issue a provisional license to an existing licensed ICF/DD provider for a period not to exceed six months, for the following reasons:

- a. the existing ICF/DD provider has more than five deficient practices or deficiencies cited during any one survey;
- b. the existing ICF/DD provider has more than three validated complaints in a 12-month period;
- c. the existing ICF/DD provider has been issued a deficiency that involved placing an individual at risk for serious harm or death;
- d. the existing ICF/DD provider has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of the follow-up survey; or
- e. the existing ICF/DD provider is not in substantial compliance with all of the applicable federal, state, departmental, and local statutes, laws, ordinances, Rules, regulations, and fees at the time of renewal of the license.

5. When the department issues a provisional license to an existing licensed ICF/DD provider, the provider must submit a plan of correction to DHH for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct an on-site follow-up survey at the ICF/DD provider prior to the expiration of the provisional license. If that on-site follow-up survey determines that the ICF/DD provider has corrected the deficient practices and has maintained compliance during the period of the provisional license, then the department may issue a full license for the remainder of the year until the anniversary date of the ICF/DD license. If that on-site follow-up survey determines that the ICF/DD provider has not corrected the deficient practices, has not maintained

compliance during the period of the provisional license, or if new deficiencies that are a threat to the health, safety, or welfare of a client are cited on the follow-up, the provisional license shall expire. However, at the sole discretion of the department the provisional license may be extended by the department, not to exceed 90 days, in order for the ICF/DD provider to correct the non-compliance or deficiencies.

B. If an existing licensed ICF/DD provider has been issued a notice of license revocation or termination, and the provider's license is due for annual renewal, the department shall deny the license renewal application and shall not issue a renewal license.

1. The denial of the license renewal application shall not affect in any manner the license revocation, suspension, or termination.

C. 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 provider.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3185 (December 2012).

### **§8513. Changes in Licensee Information or Personnel**

A. An ICF/DD license shall be valid only for the person or entity named in the license application and only for the specific geographic address listed on the license application.

B. Any changes regarding the ICF/DD's facility name, "doing business as" name, mailing address, phone number, or any combination thereof, shall be reported in writing to the department within five days of the change.

C. Any change regarding the provider's key administrative personnel shall be reported in writing to DHH within five days of the change.

1. Key administrative personnel include the:

a. administrator.

2. The facility's notice to DHH shall include the individual's:

a. name;

b. address;

c. hire date; and

d. qualifications.

D. A change of ownership (CHOW) of the ICF/DD shall be reported in writing to the department within five days of the change of ownership. The license of the ICF/DD is not transferable or assignable; the license of an ICF/DD cannot be sold. In the event of a CHOW, the new owner shall submit the legal CHOW document, all documents required for a new license, and the applicable licensing fee. Once all application requirements are completed and approved by the department, a new license shall be issued to the new owner.

1. An ICF/DD provider who is under license suspension, revocation, or termination may not undergo a CHOW.

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

E. If the ICF/DD provider changes its name without a change in ownership, the ICF/DD provider shall report such change to DHH in writing five days prior to the change. The change in the ICF/DD provider name requires a change to the provider's license and payment of the applicable fee.

F. Any request for a duplicate license must be accompanied by the applicable fee.

G. An ICF/DD provider that intends to change the physical address of its geographic location is required to have plan review approval, Office of the State Fire Marshal approval, Office of Public Health approval, compliance with other applicable licensing requirements, and an on-site licensing survey prior to the relocation of the facility. The relocation of the facility's physical address results in a new anniversary date and the full licensing fee shall be paid. Written notice of intent to relocate must be submitted to the licensing section of the department when plan review request is submitted to the department for approval.

H. Any ICF/DD provider who intends to renovate its facility is required to have plan review approval prior to renovation and an on-site licensing survey after renovation of the facility is complete. Written notice of intent to renovate shall be submitted to the licensing section of the department when plan review request is submitted to the department for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3185 (December 2012).

#### **§8515. Renewal of License**

A. License Renewal Application. The ICF/DD provider shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license. The license renewal application packet shall include:

1. the license renewal application;
2. a copy of the current on-site inspection with approval for occupancy from the Office of the State Fire Marshal;
3. a copy of the current on-site inspection report with approval of occupancy from the Office of Public Health;
4. the non-refundable license renewal fee; and
5. any other documentation required by the department.

B. The department may perform an on-site survey and inspection upon annual renewal.

C. Failure to submit to DHH a completed license renewal application packet prior to the expiration of the current license shall result in the voluntary non-renewal of the ICF/DD license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3186 (December 2012).

#### **§8517. Survey Activities**

A. The department may conduct annual licensing surveys and other surveys as deemed necessary to ensure compliance with all laws, rules, and regulations governing ICF/DD providers and to ensure client health, safety and welfare. These surveys may be conducted on-site or as an administrative review.

B. The department shall conduct complaint surveys. Complaint surveys shall be conducted in accordance with R.S. 40:2009.13 et seq.

C. Surveys shall be unannounced surveys.

D. The department may require an acceptable plan of correction from a provider for any survey where deficiencies have been cited, regardless of whether the department takes other action against the facility for the deficiencies cited in the survey. The acceptable plan of correction shall be approved by DHH.

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

F. The department may issue appropriate sanctions for noncompliance, deficiencies, and violations of law, rules and regulations. Sanctions include, but are not limited to:

1. civil monetary penalties;
2. directed plans of correction; and
3. license revocation.

G. DHH surveyors and staff shall be given access to all areas of the facility and all relevant files during any complaint survey. DHH surveyors and staff shall be allowed to interview any provider staff or individual receiving services, as necessary or required to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3186 (December 2012).

#### **§8519. Statement of Deficiencies**

A. The following statements of deficiencies issued by the department to the ICF/DD shall be posted in a conspicuous place on the licensed 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 the ICF/DD provider shall be available for disclosure to the public 30 calendar days after the provider submits an acceptable plan of correction of the deficiencies or 90 calendar days after the statement of deficiencies is issued to the provider, whichever occurs first.

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

1. Correction of the deficient practices, of the violation, or of the non-compliance or deficiency shall not be the basis for the reconsideration.

2. The informal reconsideration of the deficiencies shall be requested in writing within 10 calendar days of receipt of the statement of deficiencies, unless otherwise provided in this Rule.

3. The request for informal reconsideration of the deficiencies shall be made to the department's Health Standards Section. The request for informal reconsideration shall be considered timely if received by the Health Standards Section within 10 calendar days of the provider's receipt of the statement of deficiencies.

4. If a timely request for an informal reconsideration is received, the department shall schedule and conduct the informal reconsideration.

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

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

7. Pursuant to R.S. 40:2009.13, et seq., for complaint surveys in which the licensing agency (Health Standards Section) of the department determines that the complaint involves issues that have resulted in, or are likely to result in, serious harm or death, as defined in the statute, the determination of the informal reconsideration may be appealed administratively to the department's Division of Administrative Law or its successor. The hearing before the Division of Administrative Law or its successor is limited only to whether the investigation or complaint survey was conducted properly or improperly. The Division of Administrative Law or its successor shall not delete or remove deficiencies as a result of such hearing.

8. Pursuant to R.S. 40:2180.2(11), determination of dispute resolutions regarding deficiencies related to visitation during a declared public health emergency or related to Coronavirus Disease 2019 (COVID-19), subject to federal requirements, shall be issued by the department to

the facility within 35 calendar days after the receipt of the request from the intermediate care facilities for persons with developmental disabilities (ICF/DD) for an informal dispute resolution of the deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3186 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 47:1308 (September 2021).

#### **§8521. Denial of License, Revocation of License, or Denial of License Renewal**

A. The department may deny an application for a license, may deny a license renewal, or may revoke a license in accordance with the provisions of the Administrative Procedure Act.

##### **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 ICF/DD facility is non-compliant with any licensing laws or regulations or with any other required statute, laws, ordinances, Rules or regulations that present a potential threat to the health, safety, or welfare of the individuals receiving services.

2. The department shall deny an initial license for any of the reasons a license may be revoked or non-renewed pursuant to these licensing regulations.

##### **C. Voluntary Non-Renewal of a License**

1. If a provider fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the provider.

2. If an ICF/DD fails to timely renew its license, the provider shall immediately cease and desist providing services, unless the provider has individuals in the ICF/DD facility. In which case, the provider shall comply with the following requirements:

a. shall immediately provide written notice to the department of the number of individuals receiving services in the ICF/DD facility;

b. shall immediately provide written notice to the individual, parent, legal guardian, or legal representative of the following:

i. notice of voluntary non-renewal;

ii. notice of closure; and

iii. plans for orderly transition of the individuals receiving services;

c. shall discharge and transition each individual within 15 calendar days of voluntary non-renewal; and

d. shall notify the department of where records will be stored and the contact person for those records.

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

D. Revocation of License or Denial of License Renewal. An ICF/DD's license may be denied renewal or may be revoked for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the ICF/DD licensing laws, rules and regulations or with other required statutes, laws, ordinances, rules or regulations;

2. failure to comply with the terms and provisions of a settlement agreement or education letter with or from the department, the Attorney General's office, any regulatory agency, or any law enforcement agency;

3. failure to uphold resident rights whereby deficient practices may result in harm or injury or death of an individual receiving services;

4. negligent or harmful failure to protect an individual receiving services from a harmful act of an employee or other individual receiving services including, but not limited to:

a. mental or physical abuse, neglect, exploitation, or extortion;

b. an action posing a threat to an individual's health and safety;

c. coercion;

d. threat or intimidation;

e. harassment; or

d. criminal activity;

5. failure to notify the proper authorities, as required by federal or state law or Rule or regulations, of all suspected cases of:

a. mental or physical abuse, neglect, exploitation, or extortion;

b. an action posing a threat to an individual's health and safety;

c. coercion;

d. threat or intimidation;

e. harassment; or

f. criminal activity;

6. 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 records, client records, or provider records;

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

e. information submitted for reimbursement from any payment source;

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

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

9. fraudulent operation of an ICF/DD facility by the owner, administrator, manager, member, officer, or director;

10. an owner, officer, member, manager, administrator, director, or person designated to manage or supervise an individual receiving services has plead 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. For purposes of this paragraph, conviction of a felony means:

a. any felony relating to the violence, abuse, or negligence of a person;

b. any felony relating to the misappropriation of property belonging to another person;

c. any felony relating to cruelty of the infirmed, exploitation of the infirmed, or sexual battery of the infirmed;

d. any felony relating to a drug offense;

e. any felony relating to crimes of sexual nature;

f. any felony relating to a firearm or deadly weapon;

g. any felony relating to Medicare or Medicaid fraud; or

h. any felony relating to fraud or misappropriation of federal or state funds;

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

12. bribery, harassment, intimidation, or solicitation of any client designed to cause that client to use or retain the services of any particular ICF/DD;

13. cessation of business or non-operational status;

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

15. interference with the survey process, including but not limited to, harassment, intimidation, or threats against the survey staff;



16. failure to allow or refusal to allow access to provider, facility or client records by authorized departmental personnel;

17. failure to repay an identified overpayment to the department or failure to enter into a payment agreement to repay such overpayment; or

18. failure to timely pay outstanding fees, fines, sanctions or other debts owed to the department.

E. In the event an ICF/DD's license is revoked or renewal is denied, (other than for cessation of business or non-operational status) any owner, officer, member, director, manager, or administrator of such ICF/DD facility may be prohibited from opening, managing, directing, operating, or owning another ICF/DD facility for a period of two years from the date of the final disposition of the revocation or denial action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3187 (December 2012).

#### **§8523. Notice and Appeal of License Denial, Revocation or Non-Renewal**

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

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

1. The ICF/DD provider shall request the informal reconsideration within 15 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for informal reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section. The request for informal reconsideration shall be considered timely if received by DHH Health Standards within 15 days from the provider's receipt of the notice.

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

3. If a timely request for an informal reconsideration is received by the Health Standards Section, an informal reconsideration shall be scheduled and the provider will receive written notification of the date of the informal reconsideration.

4. The provider shall have the right to appear in person at the informal reconsideration and may be represented by counsel.

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

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

7. The provider will be notified in writing of the results of the informal reconsideration.

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

1. The ICF/DD provider shall request the administrative appeal within 30 calendar days of the receipt of the result of the informal reconsideration. The ICF/DD may forgo its rights to an informal reconsideration, and if so, the ICF/DD shall request the administrative appeal within 30 calendar days of the recipient of the notice of license denial, license revocation, or license non-renewal. The request for administrative appeal shall be in writing and shall be submitted to the department's Division of Administrative Law 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 is received by the Division of Administrative Law or its successor, the administrative appeal of the license revocation or license non-renewal shall be suspensive, and the provider shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision. If the department denied an initial license application, the ICF/DD shall discharge any and all individuals receiving services.

a. Notwithstanding the provisions of Paragraph §8523.C.3 above, if the secretary of the department determines that the violations of the facility pose an imminent or immediate threat to the health, welfare, or safety of a participant or individual receiving services, then the imposition of the license revocation or license non-renewal may be immediate and may be enforced during the pendency of the administrative appeal.

b. If the secretary of the department makes such a determination, the facility shall be notified in writing of such determination.

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

D. If an existing ICF/DD provider has been issued a notice of license revocation and the provider's license is due for annual renewal, the department shall deny the license renewal application. The denial of the license renewal application does not affect in any manner the license revocation.

E. If a timely administrative appeal has been filed by the provider on a license denial, license non-renewal, or license revocation, the department's Division of Administrative Law

or its successor shall conduct the hearing within 90 days of docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the Division of Administrative Law or its successor upon good cause shown.

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

2. If the final agency action is to affirm the license non-renewal or the license revocation, the provider shall discharge any and all individuals receiving services according to the provisions of this Rule. Within 10 days of the final agency decision, the provider must notify the department's licensing section in writing of the secure and confidential location of where client records will be stored.

F. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional initial license to a new ICF/DD or the issuance of a provisional license to an existing ICF/DD. A provider who has been issued a provisional license is licensed and operational for the term of the provisional license. The issuance of a provisional license to an existing ICF/DD is not considered to be a denial of license, a denial of license nonrenewal, or a license revocation.

1. If a provisional license is issued, the provider shall submit a plan of correction to DHH for approval, and shall be required to correct all noncompliance or deficiencies prior to the expiration of the provisional license.

2. The department shall conduct a follow-up survey, either on-site or by desk review, of the ICF/DD provider prior to the expiration of the provisional license.

3. If the follow-up survey determines that the ICF/DD provider 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 ICF/DD provider.

4. If the follow-up survey determines that all noncompliance or deficiencies have not been corrected, or if new deficiencies that are a threat to the health, safety, or welfare of individuals receiving services are cited on the follow-up survey, the provisional initial license or provisional license shall expire on the date specified on the provisional license. However, at the sole discretion of the department, the provisional license may be extended for an additional period not to exceed 90 days in order for the ICF/DD facility to correct the non-compliance or deficiencies.

5. The department shall issue written notice to the provider of the results of the follow-up survey.

6. A provider with a provisional initial license or an existing provider with a provisional license that expires due to noncompliance or deficiencies cited at the follow-up

survey shall have the right to an informal reconsideration and the right to an administrative appeal as to the deficiencies cited in the follow-up survey.

a. The correction of a violation, noncompliance, or deficiency after the follow-up survey shall not be the basis for the informal reconsideration or the administrative appeal.

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

c. The provider shall request the informal reconsideration in writing to the DHH Health Standards Section within five calendar days of receipt of the notice of the results of the follow-up survey from the department. The informal reconsideration request shall be considered timely if received by the Health Standards Section within five days from provider's receipt of the notice.

d. The provider must request an administrative appeal within five calendar days of receipt of the notice of the results of the informal reconsideration. The facility may forgo its right to an informal reconsideration, and if so, the facility shall request an administrative appeal within five calendar days of receipt of the notice of the results of the follow-up survey. The request for an administrative appeal shall be in writing and shall be submitted to the department's Division of Administrative Law or its successor.

e. A provider with a provisional initial license or an existing provider with a provisional license that expires under the provisions of this section shall cease providing services and discharge clients unless the Division of Administrative Law or its successor issues a stay of the expiration. The stay may be granted by the Division of Administrative Law or its successor upon application by the provider 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 client being served by the provider.

f. If a timely administrative appeal has been filed by a provider with a provisional license that has expired or by an existing provider whose provisional license has expired under the provision of this section, the Division of Administrative Law or its successor shall conduct the hearing within 90 days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the Division of Administrative Law or its successor upon good cause shown.

i. If the final agency decision is to remove all deficiencies, the provider's license will be reinstated upon the payment of any licensing or other fees due to the department and the payment of any outstanding sanctions due to the department.

ii. If the final agency decision is to uphold the deficiencies and affirm the expiration of the provisional license, the provider shall discharge any and all individuals receiving services. Within 10 days of the final agency decision, the provider must notify the department's licensing

section in writing of the secure and confidential location of where client records will be stored.

G. Representation at Hearings. An ICF/DD shall, when allowed by law, have a representative present at all judicial, educational, or administrative hearings which address the status of an individual in the care of the ICF/DD.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3188 (December 2012).

#### **§8525. Cessation of Business**

A. An ICF/DD that intends to close or cease operations shall comply with the following procedures:

1. shall give 30 days advance written notice to the following:

- a. the department; and
- b. the parent(s) or legal guardian or legal representative;

2. shall notify the department of where records will be stored and the contact person for those records; and

3. shall provide for an orderly discharge and transition of the individuals in the facility.

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

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3190 (December 2012).

## **Subchapter B. Administration and Organization**

### **§8531. Governing Body**

A. An ICF/DD shall have an owner or identifiable governing body with responsibility for, and authority over, the policies and activities of the ICF/DD and ultimate authority for:

- 1. the overall operation of the facility;
- 2. the adequacy and quality of care;
- 3. the financial solvency of the facility and the appropriate use of its funds;
- 4. the implementation of the standards set forth in these regulations; and
- 5. the adoption, implementation, and maintenance, in accordance with the requirements of state and federal laws and regulations and these licensing standards, of ICFs/DD and administrative policies governing the operation of the facility.

B. An ICF/DD shall have documents identifying the names and addresses of its owners. When an ICF/DD is owned by any type of corporation, partnership, or association it shall identify the names and address of its members and officers and shall have, where applicable, a charter, partnership agreement, articles of association, by laws, or other organizational documents.

C. An ICF/DD shall have documents identifying all members of the governing body; their addresses; their terms of membership; officers of the governing body, and terms of office of all officers, if applicable.

D. When the governing body of an ICF/DD is composed of more than one person, the governing body shall hold formal meetings at least twice a year.

E. When the governing body is composed of more than one person, an ICF/DD shall have written minutes of all formal meetings of the governing body and by-laws specifying the frequency of meetings and the quorum requirements.

F. Responsibilities of a Governing Body. The governing body of an ICF/DD shall:

- 1. ensure the ICF/DD's continual compliance and conformity with the ICF/DD's charter, bylaws or other organizational documents;
- 2. ensure the ICF/DD's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;
- 3. ensure that the ICF/DD is adequately funded and fiscally sound;
- 4. review and approve the ICF/DD's annual budget;
- 5. ensure the review and approval of an annual external audit;
- 6. ensure that the ICF/DD is housed, maintained, staffed, and equipped appropriately considering the nature of the ICF/DD's program;
- 7. designate a person to act as administrator and delegate sufficient authority to this person to manage the ICF/DD;
- 8. formulate and annually review, in consultation with the administrator, written policies concerning the ICF/DD's philosophy, goals, current services, personnel practices, and fiscal management;
- 9. annually evaluate the administrator's performance;
- 10. have the authority to dismiss the administrator;
- 11. meet with designated representatives of the department whenever required to do so;
- 12. inform designated representatives of DHH prior to initiating any substantial changes in the program, services or physical plant of the ICF/DD; and
- 13. ensure statewide criminal background check on all unlicensed persons.

G. The administrator or a person authorized to act on behalf of the administrator shall be accessible to the ICF/DD staff and designated representatives of DHH at all times.

H. An ICF/DD shall have a written statement describing its philosophy and describing both long-term and short-term goals. An ICF/DD shall have a written program plan describing the services and programs offered by the ICF/DD.

I. Administrative File. An ICF/DD shall have an administrative file including:

1. articles of incorporation or certified copies thereof, if incorporated, bylaws, operating agreements, or partnership documents, if applicable;
2. documents identifying the governing body;
3. a list of members and officers of the governing body and their addresses and terms of membership, if applicable;
4. minutes of formal meetings, if applicable;
5. documentation of the ICF/DD's authority to operate under state law;
6. an organizational chart of the ICF/DD, which clearly delineates the line of authority;
7. all leases, contracts and purchase-of-service agreements to which the ICF/DD is a party;
8. insurance policies;
9. annual budgets and audit reports; and
10. copies of all Incident/Accident Reports.

J. The ICF/DD is not required to admit registered sex offenders; however, if the ICF/DD admits a registered sex offender, as described in R.S. 15:542, or current law, then the ICF/DD shall develop policies and procedures to ensure that residents, their family members, including at a minimum, their primary and secondary contact, and/or their responsible parties, any authorized representative or guardians are notified upon admission of sex offenders living in the facilities. Such policies and procedures must include provisions for addressing the safety and well-being of other residents, staff, and visitors, subject to 42 C.F.R. §483.420, or current law. The requirement of notification shall continue for as long as the information is considered a public record.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3190 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 50:385 (March 2024), repromulgated by the Department of Health, Bureau of Health Services Financing, LR 50:523 (April 2024).

### **§8533. Fund Raising and Publicity**

A. An ICF/DD shall have a policy regarding participation of individuals in activities related to fund-raising and publicity.

B. Consent of the individual receiving services and, where appropriate, the legally responsible person shall be obtained prior to participation in such activities.

C. An ICF/DD shall have written policies and procedures regarding the photographing and audio or audio-visual recordings of individuals.

D. The written consent of the individual receiving services and, where appropriate, the legally responsible person shall be obtained before the individual is photographed or recorded for research or program publicity purposes. Such consent cannot be made a condition for admission into, remaining in, or participating fully in the activities of the facility. Consent agreements must clearly notify the individual receiving services of his/her rights under this regulation, must specify precisely what use is to be made of the photography or recordings, and are valid for a maximum of one year from the date of execution. Individuals are free to revoke such agreements at any time, either orally or in writing.

E. All photographs and recordings shall be used in a manner which respects the dignity and confidentiality of the individual receiving services.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3191 (December 2012).

### **§8535. Research**

A. An ICF/DD shall have written policies regarding the participation of individuals in research projects. These policies shall conform to the National Institute of Mental Health Standards on protection of human subjects.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3191 (December 2012).

## **Subchapter C. Admission, Transfer, and Discharge Criteria**

### **§8541. Admissions**

A. Each ICF/DD shall have written policies and procedures governing the admission, transfer, and discharge of individuals receiving services.

#### **B. Intake and Admissions Policy**

1. An ICF/DD shall have a written description of admission policies and criteria. A copy of the admission policies and criteria shall be provided to the department and shall be available to the legally responsible person for any individual referred for placement. The admission policies and criteria shall include, but is not limited to, the following information:

- a. policies and procedures related to intake. Intake policies shall include, at least, due process procedures for

admission of minors, and determination before admission of appropriate legal status according to appropriate state laws;

- b. the age and sex of individuals receiving services in care;
- c. the needs, problems, situations, or patterns best addressed by the ICF/DD's program;
- d. any other criterion for admission;
- e. criteria for discharge;
- f. any placement requirements on the individual, the legally responsible person, the department, or other involved agencies; and
- g. procedures for ensuring that placement within the program is the least restrictive alternative appropriate to meet the individual's needs.

2. The ICF/DD shall, when applicable, have policies and procedures governing self-admission. Such policies and procedures shall include procedures for notification, as appropriate, of the legally responsible person.

3. An ICF/DD shall not refuse admission to any individual receiving services on the grounds of race, ethnic origin, or disability.

4. An ICF/DD shall not admit more individuals receiving services into care than the number specified on the ICF/DD's license.

5. An ICF/DD shall not accept any individual receiving services for placement whose needs cannot be adequately met by the ICF/DD's program.

6. An ICF/DD shall assess an individual to determine if they are able to meet the needs of that individual. If the ICF/DD is unable to admit the individual based on that assessment the ICF/DD shall provide a written statement to the designated representative of DHH detailing why they are unable to meet the needs of that individuals.

7. An ICF/DD shall ensure that the individual receiving services where appropriate, the legally responsible person, and others, as appropriate, are provided reasonable opportunity to participate in the admission process and decisions. Proper consents shall be obtained before admission. Where such involvement of the legally responsible person is not possible, or not desirable, the reasons for their exclusion shall be recorded in the admission study.

#### C. Intake Evaluation

1. The ICF/DD shall accept an individual into care only when a current comprehensive intake evaluation has been completed, including social, health and family history; and medical, social, psychological and as appropriate, developmental or vocational or educational assessment. This evaluation shall contain evidence that a determination has been made that the individual cannot be maintained in a less restrictive environment within the community.

2. In emergency situations necessitating immediate placement into care, the ICF/DD shall gather as much information as possible about the individual to be admitted and the circumstances requiring placement, formalize this in an "emergency admission note" within two days of admission and then proceed with an intake evaluation as quickly as possible. The intake evaluation shall be completed within 30 days of admission.

D. Clarification of Expectations to Individuals. The ICF/DD shall, consistent with the individual's maturity and ability to understand, make clear its expectations and requirements for behavior and provide the individual referred for placement with an explanation of the ICF/DD's criteria for successful participation in and completion of the program.

#### E. Placement Agreement

1. The ICF/DD shall ensure that a written placement agreement is completed. A copy of the placement agreement signed by all parties involved in its formulation shall be kept in the individual's record and a copy shall be available to DHH, the individual and, where appropriate, the legally responsible person.

2. An ICF/DD shall not admit any individual into care whose presence will be seriously damaging to the ongoing functioning of the ICF/DD or to individuals already in care.

3. The placement agreement shall be developed with the involvement of the individual, where appropriate, the legally responsible person and DHH. Where the involvement of any of these parties is not feasible or desirable, the reasons for the exclusion shall be recorded. The placement agreement shall include, by reference or attachment, at least the following:

- a. discussion of the individual's and the family's expectations regarding:
  - i. family contact and involvement;
  - ii. the nature and goals of care, including any specialized services to be provided;
  - iii. the religious orientation and practices of the individual; and
  - iv. the anticipated discharge date and aftercare plans;
- b. a delineation of the respective roles and responsibilities of all agencies and persons involved with the individual and his/her family;
- c. authorization to care for the individual;
- d. authorization to obtain medical care for the individual;
- e. arrangements regarding visits, vacation, mail, gifts, and telephone calls;
- f. arrangements as to the nature and frequency of reports to, and meetings involving, the legally responsible person and referring agency; and

g. provision for notification of the legally responsible person in the event of unauthorized absence, illness, accident or any other significant event regarding the individual.

4. The ICF/DD shall ensure that each individual, upon placement, is checked for illness, fever, rashes, bruises, and injury. The individual shall be asked if he/she has any physical complaints. The results of this procedure shall be documented and kept in the individual's record.

5. The ICF/DD shall assign a staff member to orient the individual, and where available, the family to life at the ICF/DD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3191 (December 2012).

#### **§8543. Voluntary and Involuntary Transfers and Discharges**

A. There are two types of transfers or discharges from an ICF/DD facility:

1. planned or voluntary discharge; or
2. involuntary transfer or discharge.

B. A planned or voluntary transfer or discharge occurs in the following situations:

1. a planned downsizing of a state facility; or
2. a planned transfer or discharge due to client or authorized representative request.

C. The client and/or legal representative(s) must give their written consent to all non-emergency situations, however, written consent by the client and/or legal representative(s) is not required for those situations involving a planned downsizing of a state facility. Notification shall be made to the parents or legal representative(s) as soon as possible, if applicable.

D. Prior to a planned discharge of an individual, the ICF/DD's staff shall formulate an aftercare plan specifying the supports and resources to be provided to the individual. Aftercare plans shall be kept in the individual's record.

E. Prior to discharge, the ICF/DD's staff shall ensure that the individual is aware of and understands his/her aftercare plan and the department's representative shall be notified of the plans.

F. If the client is being discharged to another ICF/DD or provider, representatives from the staff of both the sending and receiving facilities or providers shall confer as often as necessary to share appropriate information regarding all aspects of the client's care and habilitation training. The transferring ICF/DD is responsible for developing a final summary of the client's developmental, behavioral, social, health and nutritional status, and with the consent of the client and/or legal representative, providing a copy to authorized persons and agencies. A copy of the summary

shall be included in the client's record and must accompany the client upon discharge to another ICF/DD or provider. This summary shall include:

1. the name and home address of the individual and, where appropriate, the legally responsible person;
2. the name, address, telephone number of the ICF/DD;
3. a summary of services provided during care;
4. a summary of growth and accomplishments during care;
5. the assessed needs which remain to be met and alternate service possibilities which might meet those needs; and
6. a statement of an aftercare plan and identification of who is responsible for follow-up services and aftercare.

G. The ICF/DD shall have a written policy concerning unplanned, involuntary discharge. The policy shall ensure that emergency discharges initiated by the ICF/DD take place only when the health and safety of an individual or other individuals might be endangered by the individual's further placement at the agency.

H. The ICF/DD shall give immediate notice of the client's discharge. The resident and his/her responsible party and/or legal representative or interested family member if known and available, have the right to be notified in writing in a language and manner they understand of the transfer and discharge. The notice must be given no less than thirty days in advance of the proposed action, except that the notice may be given as soon as is practicable prior to the action in the case of an emergency. A copy of the notice must be placed in the client's clinical record and a copy transmitted to:

1. the client;
2. a family member of the client, if known;
3. the client's legal representative and legal guardian, if known;
4. the Community Living Ombudsman Program;
5. DHH, Health Standards Section;
6. the regional office of the Office for Citizens with Developmental Disabilities (OCDD) for assistance with the placement decision;
7. the client's physician; and
8. appropriate educational authorities.

I. The resident, or his legal representative or interested family member, if known and available, has the right to appeal any transfer or discharge to the Department of Health and Hospitals, which shall provide a fair hearing in all such appeals.

J. The facility must ensure that the transfer or discharge is effectuated in a safe and orderly manner. The resident and his legal representative or interested family member, if

known and available, shall be consulted in choosing another facility if facility placement is required.

K. When arranging for placement following an emergency discharge, an ICF/DD shall consult with the receiving ICF/DD and the regional office of OCDD, to ensure that the individual is placed in a program that reasonably meets the individual's needs. The ICF/DD shall have a written report detailing the circumstances leading to each unplanned discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3192 (December 2012).

## Subchapter D. Service Delivery

### §8547. General Provisions

Reserved.

### §8549. Individual Service Plan

A. Qualified Mental Retardation Professional (QMRP). An ICF/DD shall ensure that the QMRP, who is an appropriately qualified professional, is assigned to each individual and given responsibility for and authority over:

1. supervision of the implementation of the individual's service plan;
2. integration of the various aspects of the individual's program;
3. recording of the individual's progress as measured by objective indicators;
4. reviewing the individual's service plan, on a quarterly basis;
5. ensuring the timely release, whenever appropriate, of the individual to a less restrictive setting;
6. monitoring any extraordinary restriction of the individual's freedom including use of any form of restraint, any special restriction on an individual's communication with others and any potentially harmful treatment or behavior management techniques applied to the individual; and
7. ensuring the coordination of all care and services.

#### B. The Service Plan

1. An ICF/DD shall, within 30 days of admitting an individual, ensure that a comprehensive written psychological, social, and as appropriate, educational assessment of the individual has been completed and, based on this assessment, shall develop a comprehensive, time-limited, goal-oriented individual service plan addressing the needs identified by the assessment.

2. The assessment shall identify the individual's strengths and needs, establish priorities to assist in the development of an appropriate plan and conclude with

recommendations concerning approaches and techniques to be used.

3. All methods used in assessing an individual shall be appropriate considering the individual's age, cultural background and dominant language or mode of communication.

4. Individual service plans shall be developed by an interdisciplinary team including the QMRP, representatives of the direct service staff working with the individual on a daily basis and other professionals, as indicated.

5. The ICF/DD shall document that, where applicable, the designated representative of DHH and, where appropriate, the legally responsible person have been invited to participate in the planning process and when they do not participate, shall document the reasons, if known, for non-participation.

6. Unless it is clearly not feasible to do so, an ICF/DD shall ensure that the service plan and any subsequent revisions are explained to the individual and, where appropriate, the legally responsible person, in a language or method understandable to the individual.

7. An ICF/DD shall ensure that the service plan for each individual includes the following components:

- a. the findings of the assessment;
- b. a statement of goals to be achieved or worked towards for the individual and his/her family;
- c. a plan for fostering positive family relationships for the individual, when appropriate;
- d. specifications for the daily activities, including training, education and recreation, to be pursued by the program staff and the individual in order to attempt achieve the stated goals;
- e. specification of any specialized services that will be provided directly or arranged for, and measures for ensuring their proper integration with the individual's ongoing program activities;
- f. specification of time-limited targets in relation to overall goals and specific objectives;
- g. methods for evaluating the individual's progress;
- h. goals and preliminary plans for discharge and aftercare;
- i. identification of all persons responsible for implementing or coordinating implementation of the plan; and
- j. the completed service plan shall be signed by all team participants.

8. An ICF/DD shall review each service plan at least annually and evaluate the degree to which the goals have been achieved.

9. An ICF/DD shall continuously monitor the individual's service plan and provide revisions as necessary.

10. The ICF/DD shall prepare quarterly status reports on the progress of the individual relative to the goals and objectives of the service plan. These reports shall be prepared by designated staff and reviewed and approved by the QMRP.

11. An ICF/DD shall ensure that all persons working directly with the individual are appropriately informed of the service plan.

#### C. Education

1. An ICF/DD shall ensure that each individual has access to appropriate educational services consistent with the individual's abilities and needs, taking into account his/her age and level of functioning.

2. All individuals of school age must either be enrolled in a school system or a program approved by the Department of Education.

D. Reports. When the individual is a minor, the administrator of a ICF/DD or his/her designee shall report in writing to the legally responsible person of the individual at least annually, or as otherwise required by law, with regard to the individual's progress with reference to the goals and objectives in the service plan. This report shall include a description of the individual's medical condition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3193 (December 2012).

### **§8551. Food Services**

A. An ICF/DD shall ensure that an individual is, on a daily basis, provided with food of such quality and in such quantity as to meet the recommended daily dietary allowances adjusted for age, gender and activity of the Food Nutrition Board of the National Research Council. The ICF/DD shall have an organized system of food service supervised by a qualified dietitian or an appropriately qualified person. This dietitian or person shall be responsible for:

1. menu planning;
2. initiating food orders or requisitions;
3. establishing specifications for food purchases and insuring that such specifications are met;
4. storing and handling of food;
5. food preparation;
6. food serving;
7. maintaining sanitary standards in compliance with state and local regulations; and
8. orientation, training, and supervision of food service personnel.

B. A person designated by the administrator shall be responsible for the total food service of the ICF/DD. If this person is not a professionally qualified dietitian, regularly

scheduled consultation with a professionally qualified dietitian shall be obtained.

C. The person responsible for food service shall: maintain a current list of individuals with special nutritional needs, have an effective method of recording and transmitting diet orders and changes, record in the individuals' medical records information relating to special nutritional needs, provide nutrition counseling to staff and individuals and manage and coordinate the resources of the dietary services to achieve effective, efficient and sanitary production. This person shall also ensure that any modified diet for an individual shall be:

1. prescribed by the individual's physician and service plan with a record of the prescription kept on file;
2. planned, prepared, and served by persons who have received adequate training; and
3. periodically reviewed and adjusted as needed.

D. An ICF/DD shall ensure that an individual is provided at least three meals or their equivalent daily at regular times with not more than 14 hours between the evening meal and breakfast of the following day. Meal times shall be comparable to those in a normal home. Meals shall be served to individuals in appropriate quantity, at appropriate temperatures, in a form consistent with the development level of the individual and with appropriate utensils.

E. The ICF/DD shall ensure that the food provided to an individual in care by the ICF/DD is in accord with his/her religious beliefs.

F. An ICF/DD shall develop written menus at least one week in advance.

G. Written menus and records of foods purchased shall be maintained on file for 30 days. Menus shall provide for a sufficient variety of foods and shall vary from week to week.

H. No individual shall be denied a meal for any reason except according to a doctor's order.

I. No individual shall be forced-fed or otherwise coerced to eat against his/her will except by order of a doctor.

J. When meals are provided to staff, an ICF/DD shall ensure that staff members eat substantially the same food served to individuals in care, unless age differences or special dietary requirements dictate differences in diet.

K. An ICF/DD shall ensure that all individuals, including the mobile non-ambulatory, eat or are fed in dining rooms, except where contraindicated for health reasons or by the individual's service plan.

L. Table service shall be provided for all individuals who can and will eat at a table, including individuals in wheelchairs.

M. Dining areas in a facility shall be equipped with tables, chairs, eating utensils, and dishes designed to meet the developmental needs of each individual.



N. Dining rooms in a facility shall be adequately supervised and staffed for the direction of self-help dining procedures and to assure that each individual receives an adequate amount of food.

O. Individuals shall be provided with systematic training to develop appropriate eating skills, utilizing adaptive equipment where it serves the development process.

P. Direct-care staff shall be trained in and shall utilize proper feeding techniques.

Q. Individuals shall eat in an upright position unless medically contraindicated.

R. Individuals shall eat in a manner consistent with their developmental needs.

S. An ICF/DD shall purchase and provide to individuals only food and drink of safe quality and the storage, preparation and serving techniques shall ensure that nutrients are retained and spoilage is prevented.

T. Dry or staple food items shall be stored at least twelve inches above the floor, in a ventilated space not subject to sewage or waste water backflow or contamination by condensation, leakage, rodents or vermin.

U. An ICF/DD shall ensure that perishable foods are stored at the proper temperatures to conserve nutritive values.

V. An ICF/DD shall ensure that food served to an individual and not consumed is discarded.

W. An ICF/DD shall show evidence of effective procedures for cleaning all equipment and work areas.

X. Hand washing facilities, including hot and cold water, soap, and paper towels, shall be provided in the food service work areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3194 (December 2012).

### **§8553. Health Care Services**

#### **A. General Provisions**

1. An ICF/DD shall ensure the availability of a comprehensive program of preventive, routine and emergency medical and dental care, as appropriate, for all individuals. The ICF/DD shall have a written plan for providing such care. This plan shall include:

- a. ongoing appraisal of the general health of each individual;
- b. provisions of health education, as appropriate;
- c. establishment of an ongoing immunization program;
- d. approaches that ensure that any medical treatment administered will be explained to the individual in language suitable to his/her age and understanding;

e. an ongoing relationship with a licensed physician and dentist to advise the ICF/DD concerning medical and dental care;

f. availability of a physician on a 24-hour a day, seven days a week basis; and

g. the ICF/DD shall show evidence of access to the resources outlined in this plan.

2. An ICF/DD shall have access to psychiatric and psychological resources, on both an emergency and ongoing basis, as appropriate to meet the needs of individuals.

B. Physician Services. An ICF/DD shall arrange a general medical examination by a physician for each individual within a week of admission unless the individual has received such an examination within 30 days before admission and the results of this examination are available to the ICF/DD.

1. This examination shall include:

- a. an examination of the individual for physical injury and disease;
- b. vision and hearing screening;
- c. a current assessment of the individual's general health; and
- d. whenever indicated, the individual shall be referred to an appropriate medical specialist for either further assessment or treatment.

2. The ICF/DD shall arrange an annual physical examination of all individuals.

3. Physicians shall participate, when appropriate, in the continuous interdisciplinary evaluation of an individual for the purposes of initiation, monitoring, and follow-up of service plans; and

4. An ICF/DD must ensure that an individual receives timely, competent medical care, in keeping with community standards of medical practice when he/she is ill.

#### **C. Immunizations**

1. Individuals receiving services shall have proper immunizations and infection control.

2. The ICF/DD shall ensure:

- a. that the individual has received all immunizations and booster shots which are required by the Department of Health and Hospitals within 30 days of his/her admission; and
- b. reporting of communicable diseases and infections in accordance with law.

#### **D. Medications**

1. An ICF/DD shall ensure that no medication is given to any individual except in accordance with the written order of a physician.

a. There shall be no standing orders for prescription medications.

b. The prescribing physician must be immediately informed of any side-effects observed by staff or any medication errors.

2. An ICF/DD using psychotropic medications on a regular basis shall have a written description of the use of psychotropic medications at the facility including:

a. a description of procedures to ensure that medications are used for therapeutic purposes and in accordance with accepted clinical practice;

b. a description of procedures to ensure that medications are used only when there are demonstrable benefits to the individual unobtainable through less restrictive measures;

c. a description of procedures to ensure continual review of medication and discontinuation of medication when there are no demonstrable benefits to the individual; and

d. a description of an ongoing program to counsel individual's and, where appropriate, their families on the potential benefits and negative side-effects of medication and to involve individuals and, where appropriate, their families in decisions concerning medication.

3. An ICF/DD shall ensure that medications are either self-administered or administered by qualified persons according to state law.

4. A medication shall not be administered to any individual for whom the medication has not been ordered.

5. An ICF/DD shall ensure that medication is used for therapeutic and medical purposes only and are not administered in excessive dosages.

6. Medication shall not be used as a disciplinary measure, a convenience for staff or as a substitute for adequate, appropriate programming.

#### E. Nursing Services

1. An ICF/DD shall ensure that individuals are provided with nursing services, in accordance with their needs.

2. Nursing services to individuals shall include, as appropriate, registered nurse participation in:

- a. the pre-admission study;
- b. the service plan and any reviews and revisions of the service plan;
- c. the development of aftercare plans;
- d. the referral of individuals to appropriate community resources;
- e. training in habits in personal hygiene, family life, and sex education (including family planning and venereal disease counseling);

f. control of communicable diseases and infections through identification and assessment, reporting to medical authorities and implementation of appropriate protective and preventive measures; and

g. modification of the nursing part of the service plan, in terms of the individual's daily needs, at least annually for adults and more frequently for children, in accordance with developmental changes.

3. A registered nurse shall participate, as appropriate, in the planning and implementation of training of direct service personnel including training in:

- a. detecting signs of illness or dysfunction that warrant medical or nursing intervention;
- b. basic skills required to meet the health needs and problems of the individual; and
- c. first aid in the event of accident or illness.

4. An ICF/DD shall have available sufficient, appropriately licensed and qualified nursing staff, which may include licensed practical nurses and other supporting personnel, to carry out the various nursing service activities. The ICF/DD shall verify that all nursing staff has a current Louisiana license upon hire and at least annually.

5. Nursing service personnel at all levels of experience and competence shall be assigned responsibilities in accordance with their qualifications, delegated authority commensurate with their responsibility and provided appropriate professional nursing supervision.

#### F. Pharmacy Services

1. An ICF/DD shall ensure that pharmacy services are provided under the direction of a qualified licensed pharmacist.

2. There shall be a formal arrangement for qualified pharmacy services, including provisions for emergency service.

3. The pharmacist shall:

- a. receive the original, or a direct copy of the physician's drug treatment order;
- b. maintain for each individual an individual record of all medications (prescription and nonprescription) dispensed, including quantities and frequency of refills;
- c. participate, as appropriate, in the continuing interdisciplinary evaluation of individuals for the purposes of initiation, monitoring, and follow-up of service plans; and
- d. establish quality specifications for drug purchases and ensure that they are met.

4. Qualified pharmacy or medical personnel shall:

- a. quarterly review the record of each individual on medication for potential adverse reactions, allergies, interactions, contraindications, rationality and laboratory test modifications; and

b. advise the physician of any recommended changes, stating the reasons for such changes and providing an alternate drug regimen.

5. Poisons, drugs used externally and drugs taken internally shall be stored on separate shelves or in separate cabinets at all locations.

6. Medications that are stored in a refrigerator containing things other than drugs shall be kept in a separate compartment with proper security.

7. If there is a drug storeroom, there shall be an inventory of all drugs kept in such storeroom.

8. Discontinued and outdated drugs, and containers with worn, illegible, or missing labels, shall be removed and returned to the pharmacist for proper disposition.

9. There shall be an effective drug recall procedure that can be readily implemented.

10. There shall be a procedure for reporting adverse drugs to the Federal Food and Drug Administration.

11. An ICF/DD shall have written policies and procedures that govern the safe administration and handling of all drugs developed by the responsible pharmacist, physician, nurse and other professional staff, as appropriate to the ICF/DD.

12. An ICF/DD shall have a written policy governing the self-administration of both prescription and nonprescription drugs.

13. The compounding, packaging, labeling and dispensing of drugs, including samples and investigational drugs, shall be done by the pharmacist or under his supervision, with proper controls and records.

14. Each drug shall be identified up to the point of administration.

15. Whenever possible, drugs that require dosage measurement shall be dispensed by the pharmacist in a form ready to administer to the individual.

16. Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation and security.

17. All drugs shall be kept under lock and key except when authorized personnel are in attendance.

18. The security requirements for drugs of Federal and State laws shall be satisfied in storerooms, pharmacies, and living units.

#### G. Dental Services

1. An ICF/DD shall have an organized system for providing comprehensive diagnostic dental services for all individuals which include a complete extra and intra-oral examination, utilizing all diagnostic aids necessary to properly evaluate the individual's oral condition, within a period of 90 days following admission unless such an examination shall be in the individual's case record.

2. An ICF/DD shall have access to comprehensive dental treatment services for all individuals which include:

a. provision for dental treatment;

b. provision for emergency treatment on a 24-hour, seven-days-a-week basis by a qualified dentist; and

c. a recall system that will assure that each individual is re-examined at specified intervals in accordance with his/her needs, but at least annually.

3. An ICF/DD shall have a dental hygiene program that includes imparting information regarding nutrition and diet control measures to individuals and staff, instruction of individuals and staff in living units in proper oral hygiene methods and instructions of family in the maintenance of proper oral hygiene, where appropriate.

4. Dental progress reports shall be entered in the individual's case record.

5. A copy of the permanent dental record shall be provided to an ICF/DD to which an individual is transferred.

6. There shall be available sufficient, appropriately qualified dental personnel and necessary supporting staff to carry out the dental services programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3195 (December 2012).

### **§8555. Professional and Specialized Programs and Services**

#### A. General

1. An ICF/DD shall have access to the following services in accordance with the needs of individuals:

a. physical and/or occupational therapy;

b. speech pathology and audiology;

c. psychological services;

d. social work services; and

e. training and habilitation services.

2. An ICF/DD shall ensure the following with regard to professional and special services:

a. provide services directly through personal contact with the individual;

b. provide services indirectly through contact with staff members and others working with the individual;

c. develop and record appropriate plans, goals and objectives for the individual and, as appropriate, the individual's family;

d. record all significant contacts with the individual;

e. periodically provide written summaries of the individual's response to the service, the individual's current

status relative to the service and the individual's progress to be maintained in the individual's case record;

f. participate, as appropriate, in the development, implementation and review of service plans and aftercare plans and in the interdisciplinary team responsible for developing such plans; and

g. provide services appropriately integrated into the overall program.

3. An ICF/DD shall ensure that any professional or special service provided by the ICF/DD has:

a. adequately qualified and, where appropriate, appropriately licensed or certified staff according to state or federal law;

b. adequate space and facilities;

c. appropriate equipment;

d. adequate supplies; and

e. appropriate resources.

4. An ICF/DD shall ensure that any professional or special service provided by a person or agency outside the ICF/DD meets all relevant requirements contained herein.

#### B. Physical Therapy and Occupational Therapy

1. Physical therapy and occupational therapy staff shall provide treatment training programs that are designed to:

a. preserve and improve abilities for independent functioning, such as range of motion, strength, tolerance, coordination and activities of daily living;

b. prevent, insofar as possible, irreducible or progressive disabilities, through means such as the use of orthopedic and prosthetic appliances, assistance and adaptive devices, positioning, behavior adaptations and sensory stimulation.

2. The therapist shall function closely with the individual's primary physician and with other medical specialists.

3. Physical and occupational therapy personnel shall be:

a. assigned responsibilities in accordance with their qualifications;

b. delegated authority commensurate with their responsibilities; and

c. provided appropriate professional direction and consultation.

#### C. Speech Pathology and Audiology

1. Speech pathology and audiology services available to the ICF/DD shall include:

a. screening and evaluation of individuals with respect to speech and hearing functions;

b. comprehensive audiological assessment of individuals as indicated by screening results, to include tests of pure tone air and bone conduction, speech audiometry and other procedures, as necessary, and to include assessment of the use of visual cues;

c. assessment of the use of amplification;

d. provision for procurement, maintenance and replacement of hearing aids, as specified by a qualified audiologist;

e. comprehensive speech and language evaluation of residents, as indicated by screening results, including appraisal of articulation, voice, rhythm, and language;

f. treatment services, interpreted as an extension of the evaluation process, that include:

i. direct counseling with individuals, consultation with appropriate staff for speech improvement and speech education activities;

ii. collaboration with appropriate staff to develop specialized programs for developing the communication skills of individuals in comprehension; and

iii. expression and participation in in-service training programs for direct care and other staff.

2. Adequate, direct and continuing supervision shall be provided to personnel, volunteers or supportive personnel utilized in providing speech pathology and audiology services.

#### D. Psychological Services

1. An ICF/DD shall provide psychological services, as appropriate, to the needs of the individual, including strategies to maximize each individual's development of:

a. perceptual skills;

b. sensorimotor skills;

c. self-help skills;

d. communication skills;

e. social skills;

f. self direction;

g. emotional stability;

h. effective use of time (including leisure time); and

i. cognitive skills.

2. There shall be available sufficient, appropriately qualified psychological services staff, and necessary supporting personnel, to carry out the following functions:

a. psychological services to individuals, including evaluation, consultation, therapy, and program development; administration and supervision of psychological services; and

b. participation in direct service staff training.

3. Psychologists providing services to the ICF/DD shall have at least a master's degree from an accredited program and appropriate experience or training.

#### E. Social Work Services

1. Social services as part of an interdisciplinary spectrum of services shall be provided to an individual through the use of social work methods directed toward:

- a. maximizing the social functioning of each individual;
- b. enhancing the coping capacity of his family; and
- c. asserting and safeguarding the human and civil rights of individuals and their families and fostering the human dignity and personal worth of each individual.

2. During the evaluation process, which may or may not lead to admission, social workers shall help the individual and family to consider alternative services and make a responsible choice as to whether and when placement is needed.

3. During the individual's admission to and residence in the ICF/DD or while the individual is receiving services from the ICF/DD, social workers shall, as appropriate, be the liaison between the individual, the ICF/DD, the family, and the community in order to:

- a. assist staff in understanding the needs of the individual and his/her family in relation to each other;
- b. assist staff in understanding social factors in the individual's day-to-day behavior, including staff-individual relationships;
- c. assist staff in preparing the individual for changes in his/her living situation;
- d. help the family to develop constructive and personally meaningful ways to support the individual's experience in the ICF/DD through counseling concerned with problems associated with changes in family structure and functioning, and referral to specific services, as appropriate; and
- e. help the family to participate in planning for the individual's return to home or other community placement.

4. After the individual leaves the ICF/DD, the ICF/DD's social workers shall provide systematic follow-up to assure referral to appropriate community ICF/DDs.

#### F. Training and Habilitation Services

1. Training and habilitation services, defined as the facilitation of or preventing the regression of the intellectual, sensorimotor and affective development of the individual, shall be available to all individuals, regardless of chronological age, degree of retardation, or accompanying disabilities or handicaps.

2. Individual evaluations relative to training and habilitation shall:

- a. be based upon the use of empirically reliable and valid instruments, whenever such tools are available;
- b. provide the basis for prescribing an appropriate program of training experiences for the individual; and
- c. identify priority areas to be addressed.

3. There shall be written training and habilitation objectives for each individual that are:

- a. based upon complete and relevant diagnostic and prognostic data; and
- b. stated in specific behavioral terms that permit the progress of the individual to be assessed.

4. There shall be evidence of training and habilitation services activities designed to meet the training and habilitation objectives set for every individual.

5. There shall be a functional training and habilitation record for each individual maintained by, and available to, the training and habilitation staff.

6. Appropriate training and habilitation programs shall be provided to individuals with hearing, vision, perceptual or motor impairments, in cooperation with appropriate staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3197 (December 2012).

#### §8557. Transportation

A. The ICF/DD shall ensure that each individual is provided with the transportation necessary for implementing the individual's service plan.

B. The ICF/DD shall have means of transporting individuals in cases of emergency.

C. The provider shall have documentation of liability insurance coverage for all owned and non-owned vehicles used to transport individuals. Employee's personal liability insurance shall not be substituted for required coverage.

D. Any vehicle used in transporting individuals in care of the ICF/DD, whether such vehicle is operated by a staff member or any other person acting on behalf of the ICF/DD, shall be properly licensed and inspected in accordance with State law. All vehicles used for the transportation of clients shall be maintained in a safe condition, be operated at a temperature that does not compromise the health, safety, or needs of the individuals, and be operated with all applicable motor vehicle laws.

E. Any staff member of the ICF/DD or other person acting on behalf of the ICF/DD operating a vehicle for the purpose of transporting individuals shall be properly licensed to operate that class of vehicle, according to state law.

F. The ICF/DD shall not allow the number of persons in any vehicle used to transport individuals to exceed the number of available seats with seatbelts in the vehicle.

G. Identification of vehicles used to transport individuals in care of an ICF/DD shall not be of such nature to embarrass or in any way produce notoriety for individuals.

H. The ICF/DD shall ascertain the nature of any need or problem of an individual which might cause difficulties during transportation, such as seizures, a tendency towards motion sickness or a disability. The ICF/DD shall communicate such information to staff transporting clients; any such needs shall be addressed by the provider.

I. The following additional arrangements are required for an ICF/DD serving individuals who use wheelchairs.

1. A ramp device to permit entry and exit of an individual from the vehicle shall be provided for all vehicles normally used to transport persons with disabilities. A mechanical lift may be utilized, provided that a ramp is also available in case of emergency, unless the mechanical lift has a manual override.

2. Wheelchairs used in transit shall be securely fastened inside the vehicle utilizing approved wheelchair fasteners.

3. The arrangement of the wheelchairs shall not impede access to the exit door of the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3199 (December 2012).

## Subchapter E. Client Protections

### §8565. Client Rights

#### A. Civil Rights

1. An ICF/DD shall have written policy on individual civil rights and shall post and distribute a copy of those. This policy shall give assurances that:

a. an individual's civil rights are not abridged or abrogated solely as a result of placement in the ICF/DD's program;

b. an individual's civil rights are protected through accessibility of legal counsel; and

c. an individual is not denied admission, segregated into programs or otherwise subjected to discrimination on the basis of race, religion, ethnic background or disability.

2. An ICF/DD accepting any individual who resides in another state shall comply with the terms Compact on Juveniles, the Interstate Compact on the Placement of Children, and the Interstate Compact on Mental Health.

#### B. Basic Rights

1. All agencies must conform to applicable state laws and DHH policies and procedures relative to consumer rights, including but not limited to, those concerning confidentiality of client information and grievance procedures and client's right to appeal departmental decisions on service eligibility, planning, and delivery.

2. All agencies must conform to applicable state laws and DHH policies and procedures regarding consumer health and safety including but not limited to those concerning transporting individuals and abuse/neglect reporting.

3. There must be written policies and procedures that protect the client's welfare including the means by which the protections will be implemented and enforced.

4. The client, client's family or legal guardian, where appropriate, must be informed of their rights both verbally and in writing in language the consumer is able to understand.

5. The written policies and procedures, at a minimum, must address the following protections and rights:

a. to human dignity;

b. to acceptance of chosen life style;

c. to impartial access to treatment regardless of race, religion, sex, ethnicity, age or disability;

d. cultural access is evidenced through provision of:

i. interpretive services;

ii. translated material;

iii. use of native language and staff when possible;

and

iv. staff trained in cultural awareness;

e. access to persons with special needs is evidenced through sign language interpretation and mechanical aids and devices that assist those persons in achieving maximum benefit from services;

f. to privacy;

g. to confidentiality and access to consumer records including:

i. requirement for the consumer's written, informal consent for release of information;

ii. emergency unauthorized release;

iii. internal access to consumer records;

iv. external access to consumer records; and

v. conditions for consumer access to his/her records;

h. to a complete explanation of the nature of services and procedures to be received including risks, benefits and available alternative services;

i. to participate, actively, in services including assessment/reassessment, service plan development, and transition/closure;

j. to refuse specific services or participate in any activity that is against their will and for which they have not given consent;

k. to complaint/grievance procedures;

- l. to be informed of the financial aspect of services;
- m. to be informed of the need for parental or guardian consent for treatment of services, if appropriate;
- n. to manage, personally, financial affairs unless legally determined otherwise;
- o. to give informed written consent prior to being involved in research projects;
- p. to refuse to participate in any research project without compromising access to services;
- q. to protection from harm including any form of abuse, neglect, or mistreatment;
- r. to receive services in a safe and humane environment;
- s. to receive the least intrusive services appropriate and available;
- t. to contact any advocacy resources as needed, especially during grievance procedures; and
- u. to be informed of the right to freely choose ICF/DDs from those available.

6. An ICF/DD must ensure that individuals are provided all rights available to them be they interdicted or not.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3199 (December 2012).

#### **§8567. Grievances**

A. An ICF/DD shall have a written grievance procedure for individuals designed to allow individuals to make complaints without fear of retaliation.

B. The ICF/DD shall make every effort to ensure that all individuals and their legally responsible person are aware of and understand the grievance procedure.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3200 (December 2012).

#### **§8569. Behavior Management**

##### **A. Description of Methods Used**

1. The ICF/DD shall have a written description of the methods of behavior management to be used on a facility-wide level. This description shall include:

- a. definitions of appropriate and inappropriate behaviors of individuals; and
- b. acceptable staff responses to inappropriate behaviors.

2. The description shall be provided to all the ICF/DD's staff.

3. An ICF/DD shall have a clearly written list of rules and regulations governing conduct for individuals in care of the ICF/DD. These rules and regulations shall be made available to each staff member, each individual and, where appropriate, the legally responsible person.

B. Any behavior management plan that limits the rights of the individual shall be approved by the Human Rights Committee and consented to by the client or his/her representative or guardian.

C. Prohibition on Potentially Harmful Responses. An ICF/DD shall prohibit the following responses to individuals by staff members:

- 1. any type of physical hitting or other painful physical contact except as required for medical, dental or first aid procedures necessary to preserve the individual's life or health;
- 2. requiring an individual to take an extremely uncomfortable position;
- 3. verbal abuse, ridicule or humiliation;
- 4. withholding of a meal, except under a physician's order;
- 5. denial of sufficient sleep, except under a physician's order;
- 6. requiring the individual to remain silent for a long period of time;
- 7. denial of shelter, warmth, clothing or bedding;
- 8. assignment of harsh physical work;
- 9. physical exercise or repeated physical motions;
- 10. denial of usual services; and
- 11. denial of visiting or communication with family.

##### **D. Time-Out Procedures**

1. An ICF/DD with eight beds or less shall not use time out procedures.

2. An ICF/DD using time-out procedures involving seclusion of individuals in an unlocked room for brief periods shall have a written policy governing the use of time-out procedures. This policy shall ensure that time-out procedures are used only when less restrictive measures are not feasible;

3. Written orders by a physician for time-out procedures shall state the reasons for using time-out and the terms and conditions under which time-out will be terminated or extended, specifying a maximum duration of the use of the procedure which shall under no circumstances exceed one hour.

4. Emergency use of time-out shall be approved by the administrator or his/her designee for a period not to exceed one hour. The ICF/DD shall immediately notify the individual's physician if emergency use of time-out is implemented.

5. When an individual is in time-out, a staff member shall exercise direct physical observation of the individual.

6. An individual in time-out shall not be denied access to bathroom facilities.

7. An ICF/DD shall not use time out on an as needed basis.

#### E. Restraints

1. The facility may employ physical restraints only:

a. as an integral part of an individual program plan that is intended to lead to less restrictive means of managing and eliminating the behavior for which the restraint is applies;

b. as an emergency measure, but only if absolutely necessary to protect the client or others from injury; or

c. as a health related protection prescribed by a physician, but only if absolutely necessary during the conduct of a specific medical or surgical procedure, or only if absolutely necessary for client protection during the time that a medical condition exists.

2. Authorization to use or extend restraints as an emergency measure must be:

a. in effect no longer than 12 consecutive hours; and

b. obtained as soon as the client is restrained or stable.

3. The facility shall not issue orders for restraint on a standing or as needed basis.

4. A client placed in restraints shall be checked at least every 30 minutes by staff trained in the use of restraints, released from the restraint as quickly as possible, and a record of these checks and usage shall be kept.

5. Restraints shall be designed and used so as not to cause physical injury to the client and so as to cause the least possible discomfort.

6. Opportunity for motion and exercise shall be provided and a record of such activity must be kept.

7. Barred enclosures shall not be more than three feet in height and must not have tops.

F. Human Rights Committee. The facility must designate and use a specially constituted committee or committees consisting of members of facility staff, parents, legal guardians, clients (as appropriate), qualified persons who have either experience or training in contemporary practices to change inappropriate client behavior and persons with no ownership or controlling interest in the facility to:

1. review, approve, and monitor individual programs designed to manage inappropriate behavior and other programs that, in the opinion of the committee, involve risks to client protection and rights;

2. insure that these programs are conducted only with the written informed consent of the client, parents (if the client is a minor) or legal guardian; and

3. review, monitor and make suggestions to the facility about its practices and programs as they relate to drug usage, physical restraints, time-out rooms, application of painful or noxious stimuli, control of inappropriate behavior, protection of client rights and funds, and any other areas that the committee believes need to be addressed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3200 (December 2012).

## Subchapter F. Provider Responsibilities

### §8575. General Provisions

Reserved.

### §8577. Staffing Requirements

A. An ICF/DD shall have a written plan for recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of staff members.

1. Recruitment. An ICF/DD shall employ qualified persons.

2. Screening

a. An ICF/DD's screening procedures shall address the prospective employee's qualifications, ability, related experience, health, character, emotional stability and social skills as related to the appropriate job description.

b. Prior to employing any person and upon obtaining a signed release and the names of the references from the potential employee, an ICF/DD shall obtain written references or phone notes on oral references from three persons.

3. Orientation. An ICF/DD's orientation program shall provide training for new employees to acquaint them with the philosophy, organization, program, practices and goals of the facility and shall include instruction in safety and emergency procedures and in the specific responsibilities of the employee's job.

4. Training

a. An ICF/DD shall ensure that each direct service worker participates in in-service training each year. Orientation training and activities related to routine supervision of the employee's tasks shall not be considered for the purposes of this requirement.

b. An ICF/DD shall document that all employees receive training on an annual basis in:

i. emergency and safety procedures;

ii. the principles and practices of individual care;



iii. the ICF/DD's administrative procedures and programmatic goals;

iv. individual rights; and

v. procedures and legal requirements concerning the reporting of abuse and critical incidents.

c. Direct service workers shall, in addition, receive training in acceptable behavior management techniques, crisis management and passive physical restraint.

d. An ICF/DD shall train staff to ensure the immediate accessibility of appropriate first aid supplies in the living units of the ICF/DD.

#### 5. Evaluation

a. An ICF/DD shall undertake an annual performance evaluation of all staff members.

b. For any person who interacts with individuals, an ICF/DD's performance evaluation procedures shall address the quality and nature of a staff member's relationship with individuals.

#### 6. Personnel Practices

a. An ICF/DD shall have written personnel policies and written job descriptions for each staff position.

b. An ICF/DD shall have a written employee grievance procedure.

c. An ICF/DD shall have a written policy on abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment whether that abuse or mistreatment is done by another staff member, a family member, a resident or any other person.

#### B. Number and Qualifications of Staff

1. An ICF/DD shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to ensure that the responsibilities the ICF/DD undertakes are carried out and to adequately perform the following functions:

- a. administrative functions;
- b. fiscal functions;
- c. clerical functions;
- d. housekeeping, maintenance and food service functions;
- e. direct service worker functions;
- f. supervisory functions;
- g. record keeping and reporting functions;
- h. social service functions;
- i. ancillary service functions; and
- j. medication and treatment administration functions.

2. An ICF/DD shall ensure that all staff members are properly certified and/or licensed as legally required.

3. An ICF/DD shall ensure that an adequate number of qualified direct service staff are present with the individuals as necessary to ensure the health, safety and well-being of individuals. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the ICF/DD and the ages and needs of the individuals.

4. An ICF/DD shall not knowingly hire or continue to employ any person whose health, educational achievement, emotional or psychological makeup impairs his/her ability to properly protect the health and safety of the individuals or is such that it would endanger the physical or psychological well-being of the individuals. This requirement is not to be interpreted to exclude continued employment in areas other than direct service capacities of persons undergoing temporary medical or emotional problems.

C. External Professional Services. An ICF/DD shall obtain any required professional services not available from employees of the ICF/DD and shall have documentation of access to such services either in the form of a written agreement with an appropriately qualified professional or a written agreement with the state for required resources.

D. Volunteers/Student Interns. An ICF/DD which utilizes volunteers or student interns on a regular basis shall have a written plan using such resources. This plan shall be given to all volunteers and interns. The plan shall indicate that all volunteers and interns shall:

1. be directly supervised by a paid staff member;
2. be oriented and trained in the philosophy of the facility and the needs of individuals, and methods of meeting those needs;
3. be subject to character and reference checks similar to those performed for employment applicants upon obtaining a signed release and the names of the references from the potential volunteer/intern student; and
4. be aware of and be briefed on any special needs or problems of individuals.

#### E. Direct Care Staff

1. All non-licensed direct care staff must meet minimum mandatory qualifications and requirements for direct service workers as required by R.S. 40:2179 through R.S. 40:2179.1 or a subsequently amended statute and be screened for eligibility for employment on the Louisiana Direct Service Worker Registry.

2. A provider shall ensure that each direct care staff completes no less than 16 hours of supervised classroom training per year to ensure continuing competence. The training must address areas of weakness as determined by the workers' performance reviews and may address the special needs of clients. Orientation and normal supervision shall not be considered for meeting this requirement.

3. All direct care staff shall be trained in recognizing and responding to medical emergencies of clients.

## F. Staff Communications

1. An ICF/DD shall establish procedures to assure adequate communication among staff to provide continuity of services to the individual receiving services. This system of communication shall include:

- a. a regular review of individual and aggregate problems of individuals including actions taken to resolve these problems;
- b. sharing of daily information noting unusual circumstances and other information requiring continued action by staff; and
- c. records maintained of all accidents, personal injuries and pertinent incidents related to implementation of individual's service plans.

2. Any employee of an ICF/DD working directly with individuals in care shall have access to information from individual case records that is necessary for effective performance of the employee's assigned tasks.

3. An ICF/DD shall establish procedures which facilities participation and feedback by staff members in policy-making, planning and program development for individuals receiving services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3201 (December 2012).

### **§8579. Staffing-Qualified Professional and Qualified Mental Retardation Professional**

#### A. A qualified professional (QP) is:

1. a psychologist with at least a master's degree from an accredited program and specialized training or two years experience in treating mentally retarded, emotionally disturbed or learning disabled children whose condition is similar to the condition of the individuals being served; or

2. a physician licensed under state law to practice medicine or osteopathy and with specialized training or two years experience in treating emotionally disturbed, mentally retarded or learning disabled children whose condition is similar to that of the individuals being served.

B. Qualified mental retardation professional (QMRP) is a professionally qualified person responsible for overseeing the implementation of an individual's service plan. A QMRP is a person who has specialized training or one year of experience in training or one year of experience in treating or working with the mentally retarded and is one of the following:

- 1. a psychologist with a master's degree from an accredited program;
- 2. a licensed doctor of medicine or osteopathy;
- 3. an educator with a degree in education from an accredited program;

#### 4. a social worker shall be:

a. a person with a bachelor's degree in social work from an accredited program;

b. a person who has at least one year of experience working directly with handicapped persons in the appropriate area of handicapping conditions; and is:

- i. a physician;
- ii. a registered nurse;
- iii. an occupational therapist who:

(a). is eligible for certification as an occupational therapist (OTR) by the American Occupational Therapy association; or

(b). is a graduate of an occupational therapist educational program accredited jointly by the American Occupational Therapy association and the committee on allied Health Education and accreditation of the American Medical Association;

#### iv. an occupational therapy assistant who:

(a). is eligible for certification as a certified occupational therapy assistant (COTA) by the American Occupational Therapy Association; or

(b). is a graduate of an occupational therapy assistant program accredited by the American Occupational Therapy association;

v. a physical therapist that is licensed by the state in which he/she practices;

vi. a physical therapy assistant who is a graduate of a two year college-level program approved by the American Physical Therapy association;

vii. a psychologist who has at least a Master's degree in psychology, from an accredited program;

#### viii. a social worker who:

(a). is licensed, if applicable by the state in which practicing;

(b). has a degree from a school of social work accredited or approved by the Council on Social Work Education; or

(c). has graduated from a college or university with a Bachelor of Social Work degree accredited or approved by the Council on Social Work Education;

ix. a speech-language pathologist or audiologist who:

(a). is licensed, if applicable, by the state in which practicing; and

(b). is eligible for a certificate of clinical competence in speech and language pathology or audiology granted by the American Speech, Language, and Hearing Association under its requirements in effect on the publication of this provision; or

(c). meets the educational requirements for certification and is in the process of accumulating the supervised experience required for certification;

x. a recreation staff member with a bachelor's degree in recreation, or in a specialty area such as art, dance, music or physical education;

xi. a music therapist who:

(a). has a four year undergraduate degree in music therapy;

(b). has at least 6 months experience in the field of music therapy; and

(c). is registered with the National Association for Music Therapy or the American Association for Music Therapy; or

xii. a human services professional with at least a bachelor's degree in a human services field (such as psychology, sociology, special education, rehabilitation counseling, juvenile justice, corrections, etc.); or

c. a person in a field other than social work and at least three years of social work experience under the supervision of a qualified social worker;

5 a physical or occupational therapist as defined in federal regulations;

6. a speech pathologist or audiologist as defined by federal regulations;

7. a registered nurse;

8. a therapeutic recreation specialist who:

a. is a graduate of an accredited program; and

b. is licensed by the state; or

9. a rehabilitation counselor who is certified by the Committee on Rehabilitation Counselor Certification.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3202 (December 2012).

### **§8581. Record Keeping**

#### **A. Accounting and Record Keeping**

1. An ICF/DD shall establish a system of business management and staffing to assure maintenance of complete and accurate accounts, books and records.

2. An ICF/DD shall demonstrate fiscal accountability through regular recording of its finances and an annual external audit.

3. An ICF/DD shall not permit funds to be paid, or committed to be paid, to any person to which any of the members of the governing body, administrative personnel, or members of the immediate families have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods

involved are provided at a competitive cost or under terms favorable to the ICF/DD. The ICF/DD shall have a written disclosure of any financial transaction with the facility in which a member of the governing body, administrative personnel, or his/her immediate family is involved.

4. An ICF/DD shall ensure that all entries in records are legible, signed by the person making the entry and accompanied by the date on which the entry was made.

5. All records shall be maintained in an accessible, standardized order and format and shall be retained and disposed of according to state laws.

6. An ICF/DD shall have sufficient space, facilities and supplies for providing effective record keeping services.

#### **B. Confidentiality and Security of Files**

1. An ICF/DD shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of the records and to whom records may be released. Records shall be the property of the ICF/DD and the ICF/DD, as custodian, shall secure records against loss, tampering or unauthorized use.

2. An ICF/DD shall maintain all individuals' case records in accordance with federal and state law, rule, and regulation regarding confidentiality, privacy and retention. Employees of the ICF/DD shall not disclose or knowingly permit the disclosure of any information concerning the individual receiving services or his/her family, directly or indirectly, to any unauthorized person.

3. When the individual receiving services is of majority age and non-interdicted, an ICF/DD shall obtain the individual's written, informed permission prior to releasing any information from which the individual receiving services or his/her family might be identified except for authorized State and Federal agencies and another ICF/DD with professional interest in the individual.

4. When the individual is a minor or is interdicted, the ICF/DD shall obtain written, informed consent from the parent(s), tutor or curator prior to releasing any information from which the individual receiving services might be identified except for authorized state and Federal agencies and another ICF/DD with professional interest in the individual.

5. An ICF/DD shall, upon request, make available information in the case record to the individual receiving services, the legally responsible person or legal counsel of the individual. If, in the professional judgment of the administration of the ICF/DD, it is felt that information contained in the record would be damaging to an individual receiving services, that information may be withheld from the individual requesting the information except under court order.

6. An ICF/DD may use material from case records for teaching or research purposes, development of the governing body's understanding and knowledge of the ICF/DD's services, or similar educational purposes, provided that

names are deleted and other identifying information is disguised or deleted.

7. Individual records shall be retained in accordance with state and/or federal regulations.

C. Individual's Case Record. An ICF/DD shall have a written record for each individual receiving services, which shall include administrative, treatment, and educational data from the time of admission until the time the individual leaves the ICF/DD. An individual's case record shall include:

1. the name, sex, race, religion, birth date and birthplace of the individual;

2. the individual's history including, where applicable, family data, educational background, employment record, prior medical history and prior placement history;

3. a copy of the individual's service plan and any modifications thereto and an appropriate summary to guide and assist direct service workers in implementing the individual receiving services program;

4. the findings made in periodic reviews of the plan, including a summary of the successes and failures of the individual receiving services program and recommendations for any modifications deemed necessary;

5. monthly status reports;

6. a copy of the aftercare plan and any modifications thereto, and a summary of the steps that have been taken to implement that plan;

7. when restraint in any form other than passive physical restraint has been used, a signed order for each use of restraint issued by a qualified professional prior to such use;

8. critical incident reports;

9. reports of any individual's grievances and the conclusions or dispositions of these reports;

10. a summary of family visits and contacts; and

11. a summary of attendance and leaves of absence from the ICF/DD.

#### D. Medical and Dental Records

1. An ICF/DD shall maintain complete health records of an individual receiving services, which shall include:

a. a complete record of all immunizations provided; a record of any medication;

b. records of vision, physical or dental examinations; and

c. a complete record of any treatment provided for specific illness or medical emergencies.

2. Upon discharge, the ICF/DD shall provide a summary of the individual's health record to the person or agency responsible for the future planning and care of the individual receiving services.

3. An ICF/DD shall make every effort to compile a complete past medical history on every individual receiving services. This history shall, whenever possible, include:

a. allergies to medication;

b. immunization history;

c. history of serious illness, serious injury or major surgery;

d. developmental history;

e. current use of prescribed medication;

f. current use of alcohol or non-prescribed drugs; and

g. medical history.

E. Retention of Records. The ICF/DD provider shall retain all client records for a period of six years after the date of the client's discharge, transfer or death.

#### F. Staff Personnel File

1. An ICF/DD shall maintain a personnel file for each employee. At a minimum, this file shall contain the following:

a. the application for employment and/or resume;

b. a criminal history check, prior to an offer of employment, in accordance with state law;

c. reference letters from former employer(s) and personal references or phone notes on such references;

d. documentation of any state or federally required medical examinations or medical testing;

e. evidence of applicable professional credentials/certifications according to state law;

f. annual performance evaluations;

g. personnel actions, other appropriate materials, reports and notes relating to the individual's employment with the facility;

h. employee's hire and termination dates; and

i. documentation of orientation and annual training of staff.

2. The staff member shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

3. An ICF/DD shall retain the personnel file of an employee for at least three years after the employee's termination of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3203 (December 2012).

### **§8583. Client Funds and Assets**

#### A. Money and Personal Belongings

1. An ICF/DD shall permit and encourage an individual to possess his/her own money either by giving an allowance and/or by providing opportunities for paid work, unless otherwise indicated by the individual's service plan and reviewed every 30 days by the QMRP.

2. Money earned, received as a gift or received as allowance by an individual shall be deemed to be that individual's personal property.

3. Limitations may be placed on the amount of money an individual may possess or have unencumbered access to when such limitations are considered to be in the individual's best interests and are duly recorded in the individual's service plan.

4. An ICF/DD shall, as appropriate to the individual's age and abilities, provide training in budgeting, shopping and money management.

5. An ICF/DD shall allow an individual to bring his/her personal belongings to the program and to acquire belongings of his/her own in accordance with the individual's service plan. However, the ICF/DD shall, as necessary, limit or supervise the use of these items while the individual is in care. Where extraordinary limitations are imposed, the individual shall be informed by staff of the reasons, and the decision and reasons shall be recorded in the individual's case record. Reasonable provisions shall be made for the protection of the individual's property.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3205 (December 2012).

#### **§8585. Abuse and Neglect**

A. An ICF/DD shall have comprehensive, written procedure concerning individual abuse and neglect including:

1. a description of ongoing communication strategies used by the ICF/DD to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, reporting requirements and applicable laws;

2. a procedure ensuring immediate reporting of any suspected incident to the administrator or his/her designee and mandating an initial written summary on the incident to the administrator or his/her designee within 24 hours;

3. a procedure for ensuring that the individual is protected from potential harassment during the investigation and which accused staff shall be removed from direct care of individuals during the investigation; and

4. a procedure for disciplining staff members who abuse or neglect individuals.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3205 (December 2012).

#### **§8587 Abuse/Neglect Reporting**

A. An ICF/DD shall have written procedures for the reporting and documentation of deaths of individuals, injuries, fights or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect, unusual incident and other situations or circumstances affecting the health, safety or well-being of an individual or individuals.

B. Such procedures shall ensure timely verbal and written reports to the administrator.

C. When an incident involves abuse or neglect of an individual, death of an individual, or entails any serious threat to the individual's health, safety or well-being, an ICF/DD shall:

1. ensure immediate verbal reporting to the administrator or his/her designee and a preliminary written report within 24 hours of the incident;

2. ensure notification to designated representatives of the DHH Health Standards Section within 24 hours of occurrence or discovery of the incident. A final report must be submitted to HSS within five working days. Extensions may be granted on a case by case basis with good cause. The ICF/DD shall utilize the department's Online Tracking Incident System (OTIS). This requires that the ICF/DD maintain internet access and keeps the department informed of an active e-mail address. Reports to Health Standards Section utilizing OTIS should include the following:

a. abuse and allegations of abuse;

b. neglect and allegations of neglect; and

c. major injuries of unknown source including, but not limited to, fractures, burns, suspicious contusions, head injuries and unanticipated deaths;

3. ensure that other appropriate authorities are notified, according to state law;

4. ensure immediate, documented attempts to notify the legally responsible person of the individual;

5. ensure immediate attempts to notify other involved agencies and parties, as appropriate; and

6. ensure immediate notification of the appropriate law enforcement authority whenever warranted.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3205 (December 2012).

#### **§8589. Quality of Life**

A. Family Involvement

1. An ICF/DD shall have a written description of strategies used by the ICF/DD's program to foster ongoing positive communication and contact between individuals and their families, their friends and others significant people in their lives.

2. An ICF/DD shall have evidence that the individual's family and, where appropriate, the legally responsible person have been informed of:

- a. the philosophy and goals of the ICF/DD;
- b. behavior management and disciplinary practices of the ICF/DD;
- c. the ICF/DD's arrangements for individuals' participation in religious observances;
- d. any specific treatment or treatment strategy employed by the ICF/DD to be implemented for a particular individual;
- e. visiting hours, visiting rules and procedures, arrangements for home visits and procedures for communicating with individuals by mail or telephone;
- f. a procedure for registering complaints concerning the individual's care or treatment; and
- g. the name, telephone number and address of a staff person who may be contacted by the legally responsible person to ask questions or register concerns on an ongoing basis.

B. Community Involvement. An ICF/DD shall have a written plan to foster participation by individuals in normal community activities to the degree possible considering the individual's level of functioning.

C. Communication and Visits. An ICF/DD shall have a written description of rules and procedures concerning telephone communications by individuals, sending and receiving of mail by individuals and visits to and from an individual's family and friends.

#### 1. Telephone Communication

a. An ICF/DD shall allow an individual to receive and originate telephone calls subject only to reasonable rules and to any specific restrictions in the individual's service plan.

b. Any restriction on telephone communication in an individual's service plan must be formally approved by the QMRP and shall be reviewed every 30 days by the QMRP.

#### 2. Mail

a. An ICF/DD shall allow individuals to send and receive mail unopened and unread by staff unless contraindicated by the individual's service plan and reviewed every 30 days by the QMRP.

b. An ICF/DD shall ensure that individuals have access to all materials necessary for writing and sending letters and shall, when necessary ensure that individuals who wish to correspond with others are given any required assistance.

#### 3. Visits

a. An ICF/DD shall allow an individual to visit or be visited by family and friends subject only to reasonable

rules and to any specific restrictions in the individual's service plan.

b. Special restrictions shall be imposed only to prevent serious harm to the individual. The reasons for any special restrictions shall be recorded in the individual's service plan. Special restrictions must be reviewed every 30 days by the QMRP and, if restrictions are renewed, the reasons for renewal shall be recorded in the individual's service plan.

#### D. Clothing

1. An ICF/DD shall ensure that individuals are provided with clean, well-fitted clothing appropriate to the season and to the individual's age, sex and individual needs.

2. Clothing shall be maintained in good repair.

3. All clothing provided to an individual shall go with the individual at discharge.

4. Clothing shall belong to the individual and not be shared in common.

#### E. Religion

1. An ICF/DD shall have a written description of its religious orientation, particular religious practices that are observed and any religious restrictions on admission. This description shall be provided to the individual, and where appropriate, the legally responsible person and the responsible agency.

2. Every individual shall be permitted to attend religious services in accordance with his/her faith. The ICF/DD shall, whenever possible, arrange transportation and encourage participation by those individuals who desire to participate in religious activities in the community.

3. Individuals shall not be forced to attend religious services.

4. When the individual is a minor, the ICF/DD shall determine the wishes of the legally responsible person with regard to religious observance and instruction at the time of placement and shall make every effort to ensure that these wishes are carried out.

#### F. Work

1. An ICF/DD shall have a written description of the ICF/DD's approach to involving individuals in work including:

a. a description of any unpaid tasks required of individuals;

b. a description of any paid work assignments including the pay scales for such assignments;

c. a description of the ICF/DD's approach to supervising work assignments; and

d. assurance that the conditions and compensation of such work are in compliance with applicable state and federal laws.

2. An ICF/DD shall demonstrate that any individual work assignments are designed to provide a constructive experience for individuals and are not used as a means of performing vital ICF/DD functions at low cost.

3. All work assignments shall be in accordance with the individual's service plan.

4. An ICF/DD shall assign as unpaid work for individuals only housekeeping tasks similar to those performed in a normal home setting.

5. When an individual engages in off-grounds work, the ICF/DD shall document that:

- a. such work is voluntary and in accordance with the individual's service plan;
- b. the QMRP approved such work;
- c. such work is supervised by qualified personnel;
- d. the conditions and compensation of such work are in compliance with applicable state and federal laws; and
- e. such work does not conflict with the individual's program.

#### G. Recreation and Activities Programs

1. An ICF/DD shall have a written plan for providing recreational services based on the individual needs, interests and functioning levels of individuals served. This plan shall ensure that a range of indoor and outdoor recreational and leisure opportunities are provided for individuals.

2. An ICF/DD shall utilize the recreational resources of the community whenever appropriate. The ICF/DD shall arrange the transportation and supervision required for maximum usage of community resources.

3. An ICF/DD shall have sufficient, adequately trained staff to carry out the stated objectives of the ICF/DD's recreation plan.

4. An ICF/DD which has recreation staff shall ensure that recreation staff are apprised of and, when appropriate, involved in the development and review of service plans.

H. Personal Care and Hygiene. An ICF/DD shall establish procedures to ensure that individuals receive training in good habits of personal care, hygiene and grooming.

I. Safety. An ICF/DD shall establish procedures to ensure that individuals receive training in safety and self protection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3205 (December 2012).

### **§8591. Visitation by Close Family Members of a Resident During a Declared Public Health Emergency**

A. For purposes of this Section, a public health emergency (PHE) means a declaration made pursuant to the Health Emergency Powers Act, R.S. 29:760 et seq.

B. ICF/DDs shall comply with any federal law, regulation, requirement, order, or guideline regarding visitation in ICF/DDs issued by any federal government agency during a declared PHE. The provisions of the licensing rules in §8591.C-G shall be preempted by any federal statute, federal regulation or guidance from a federal government agency that requires an ICF/DD to restrict resident visitation in a manner that is more restrictive than the rules.

C. ICF/DDs shall comply with any Louisiana state health officer (SHO) order or emergency notice regarding visitation in ICF/DDs during a declared PHE.

D. ICF/DDs shall comply with any executive order or proclamation issued by the governor of the state of Louisiana regarding visitation in ICF/DDs during a declared PHE.

E. The provisions of this Section regarding visitation by a close family member of a resident of an ICF/DD to visit the resident during any state of PHE shall apply to all ICF/DDs licensed by LDH.

F. For purposes of this Section, a close family member shall mean a parent, step-parent, sibling, step-sibling, aunt, uncle, child, step-child, spouse, mother-in-law, father-in-law, grandparent, grandchild, or legal representative of the ICF/DD resident.

G. Subject to compliance with the requirements of §8591.B-D, each ICF/DD shall allow close family members of the residents to visit a resident of the ICF/DD during a declared PHE when a resident, or his legal or designated representative, requests a visit with close family members of the resident, subject to the following conditions and requirements:

1. Each ICF/DD shall have a written policy and procedure addressing visitation by close family members of the resident. A copy of the written policy and procedure shall be available, without cost, to the resident and his legal or designated representative, upon request. The ICF/DD shall provide a link to an electronic copy of the policy and procedure to close family members of the residents, upon request.

2. An ICF/DD's policy and procedure regarding visitation by close family members may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the ICF/DD, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical considerations of an individual resident.

3. An ICF/DD's policy and procedure on visitation by close family members shall, at a minimum, require the following:

a. that the ICF/DD shall give special consideration and priority for visitation by close family members and other designated persons to residents receiving end-of-life care;

b. that visitation by close family members and other designated persons may be screened for infectious agents or infectious diseases and will pass such screening prior to each visitation, utilizing at least the current screening or testing methods and protocols recommended by the Centers for Disease Control and Prevention, as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the ICF/DD shall utilize those methods and protocols;

c. that a close family member or other designated person may not be allowed to visit an ICF/DD resident if such close family member or other designated person has obvious signs or symptoms of an infectious agent or infectious disease, or if such close family member or other designated person tests positive for an infectious agent or infectious disease;

d. that a close family member or other designated person may not be allowed to visit an ICF/DD resident if the close family member and other designated person refuses to comply with the provisions of the ICF/DD's policy and procedure or refuses to comply with the ICF/DD's reasonable time, place, and manner restrictions;

e. that close family members and other designated persons may be required to wear personal protective equipment as determined appropriate by the ICF/DD, considering the resident's medical condition or clinical considerations;

i. at the ICF/DD's discretion, personal protective equipment may be made available by the ICF/DD to close family members and other designated persons;

f. that an ICF/DD's policy and procedure include provisions for compliance with a Louisiana state health officer (SHO) order or emergency notice or governor's executive order or proclamation limiting visitation during a declared PHE;

g. that an ICF/DD's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines issued by any federal government agency regarding visitation in ICF/DDs during a declared PHE;

h. that the resident and close family members shall have the right to consensual, nonsexual physical contact such as hand holding or hugging; and

i. that includes provisions for off-site visitation, allowing a close family member to visit an ICF/DD resident away from the facility campus; the policy and procedure shall include requirements for allowing the resident to return to the facility upon certain conditions, such as meeting

testing and isolation requirements recommended by the CDC, the Centers for Medicare and Medicaid Services (CMS), a Louisiana SHO order or emergency notice, or a governor's executive order or proclamation.

4. An ICF/DD shall submit a written copy of its visitation policies and procedures on close family member visitation, to the Health Standards Section surveyors of the LDH at the initial licensure survey.

5. After licensure, an ICF/DD shall make its visitation policies and procedures available for review by the Department of Health at any time, upon request.

6. An ICF/DD shall within 24 hours after establishing its written policies and procedures on close family member visitation, make its written policies and procedures easily accessible from the home page of its website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1308 (September 2021), amended LR 50:385 (March 2024), repromulgated LR 50:523 (April 2024).

## Subchapter G. Emergency Preparedness

### §8595. Emergency Preparedness Plan

A. The ICF/DD shall incorporate an all hazards risk assessment into the facility's emergency preparedness plan which is designed to manage the consequences of medical emergencies, power failures, fire, natural disasters, declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its emergency preparedness plan in the event or occurrence of a disaster or emergency. This plan shall be reviewed, updated and approved by the governing body at least annually. Upon the department's request, a facility shall present its emergency preparedness plan for review.

B. At a minimum the emergency preparedness plan shall include and address the following.

1. The emergency preparedness plan shall be individualized and site specific. All information contained in plan shall be current and correct. The plan shall be made available to representatives of the Office of the State Fire Marshal and the Office of Public Health upon request of either of these offices. The facility's plan shall follow all current applicable laws, standards, rules or regulations.

2. The facility's plan shall contain census information, including transportation requirements for the ICF/DD residents as to the need for:

a. wheelchair accessible or para-transit vehicle transport; or

b. the numbers of ICF/DD residents that do not have any special transport needs.



3. The plan shall contain a clearly labeled and legible master floor plan(s) that indicate the following:

- a. the areas in the facility that is to be used by residents as shelter or safe zones during emergencies;
- b. the location of emergency power outlets;
- c. the locations of posted, accessible, emergency information; and
- d. the detail of what will be powered by emergency generator(s), if applicable.

4. The facility's plan shall be viable and promote the health, safety and welfare of facility's residents.

5. The facility shall provide a plan for monitoring weather warnings and watches and evacuation orders from local and state emergency preparedness officials. This plan will include who will monitor, what equipment will be used, and procedures for notifying the administrator or responsible persons.

6. The plan shall provide for the delivery of essential care and services to residents during emergencies, who are housed in the facility or by the facility at another location, during an emergency.

7. The plan shall contain information about staffing for when the ICF/DD is sheltering in place or when there is an evacuation of the ICF/DD. Planning shall include documentation about staff that have agreed to work during an emergency and contact information for such staff. Plan shall include provisions for adequate, qualified staff as well as provisions for the assignment of responsibilities and duties to staff.

8. The facility shall have transportation or arrangements for transportation for evacuation, hospitalization, or any other services which are appropriate. Transportation or arrangements for transportation shall be adequate for the current census and meet the ambulatory needs of the residents.

9. The plan shall include procedures to notify the resident's family or responsible representative whether the facility is sheltering in place or evacuating to another site. The plan shall include which staff are responsible for providing this notification. If the facility evacuates, notification shall include:

- a. the date and approximate time that the facility is evacuating; and
- b. the place or location to which the facility is evacuating, including the:
  - i. name;
  - ii. address; and
  - iii. telephone number.

10. The plan shall include the procedure or method whereby each facility resident has a manner of identification attached to his person which remains with him at all times in the event of sheltering in place or evacuation, and whose

duty and responsibility this will be; the following minimum information shall be included with him:

- a. current and active diagnosis;
- b. medications, including dosage and times administered;
- c. allergies;
- d. special dietary needs or restrictions; and
- e. next of kin or responsible person and contact information.

11. The plan shall include an evaluation of the building and necessary systems to determine the ability to withstand wind, flood, and other local hazards that may affect the facility and should also include:

- a. if applicable, an evaluation of each generator's fuel source(s), including refueling plans and fuel consumption; and
- b. an evaluation of the facility's surroundings to determine lay-down hazards, objects that could fall on facility, and hazardous materials in or around the facility, such as:
  - i. trees;
  - ii. towers;
  - iii. storage tanks;
  - iv. other buildings;
  - v. pipe lines;
  - vi. chemicals;
  - vii. fuels; and
  - viii. biologics.

12. For ICF/DDs that are geographically located south of Interstate 10 or Interstate 12, the plan shall include the determinations of when the facility will shelter in place and when the facility will evacuate for a hurricane and the conditions that guide these determinations.

a. A facility is considered to be sheltering in place for a storm if the facility elects to stay in place rather than evacuate when located in the projected path of an approaching storm of tropical storm strength, or a tropical cyclone. The facility has elected to take this action after reviewing all available and required information on the storm, the facility, the facility's surroundings and consultation with the local or parish Office of Homeland Security and Emergency Preparedness (OHSEP). The facility shall accept all responsibility for the health and well being of all residents that shelter with the facility before during and after the storm. In making the decision to shelter in place or evacuate the facility shall consider the following:

- i. what conditions will facility shelter for;
- ii. what conditions will facility close or evacuate for; and

iii. when will these decisions be made.

b. If the facility shelters in place, the facility's plan shall include provisions for seven days of necessary supplies to be provided by the facility prior to emergency event, to include:

- i. drinking water or fluids; and
- ii. non-perishable food.

13. The facility's emergency plan shall include a posted communications plan for contacting emergency services and monitoring emergency broadcasts and whose duty and responsibility this will be.

14. The facility's plan shall include how the ICF/DD will notify OHSEP and LDH when the decision is made to shelter in place and whose responsibility it is to provide this notification.

15. The facility shall have a plan for an ongoing safety program to include:

- a. continuous inspection of the facility for possible hazards;
- b. continuous monitoring of safety equipment and maintenance or repair when needed;
- c. investigation and documentation of all accidents or emergencies;
- d. fire control and evacuation planning with documentation of all emergency drills (residents can be informed of emergency drills);
- e. all aspects of the facility's plan, planning, and drills shall meet the current requirements of the Office of the State Fire Marshal, and the Life Safety Code NFPA 101; and
- f. the facility shall inform the resident and/or responsible party of the facility's emergency plan and the actions to be taken.

C. An ICF/DD shall electronically enter current facility information into the department's ESF-8 portal or into the current LDH emergency preparedness webpage or electronic database for reporting.

1. The following information shall be entered or updated before the fifteenth of each month:

- a. operational status;
- b. census;
- c. emergency contact and destination location information; and
- d. emergency evacuation transportation needs categorized by the following types:
  - i. *red*—high-risk residents who will need to be transported by advanced life support ambulance due to dependency on mechanical or electrical life sustaining devices or very critical medical condition;

- ii. *yellow*—residents who are not dependent on mechanical or electrical life sustaining devices, but cannot be transported using normal means (buses, vans, cars), may need to be transported by an ambulance; however, in the event of inaccessibility of medical transport, buses, vans or cars may be used as a last resort; and

- iii. *green*—residents who do not need specialized transportation may be transported by car, van, bus or wheelchair accessible transportation.

2. An ICF/DD shall also enter or update the facility's information upon request, or as described per notification of an emergency declared by the secretary. Emergency events may include, but are not limited to:

- a. hurricanes;
- b. floods;
- c. fires;
- d. chemical or biological hazards;
- e. power outages;
- f. tornados;
- g. tropical storms; and
- h. severe weather.

3. Effective immediately, upon notification of an emergency declared by the secretary, all ICFs/DD shall file an electronic report with the ESF-8 portal or into the current LDH emergency preparedness webpage or electronic database for reporting.

- a. The electronic report shall be filed, as prescribed by department, throughout the duration of the emergency declaration.

- b. The electronic report shall include, but is not limited to, the following:

- i. status of operation;
- ii. availability of beds;
- iii. generator status;
- iv. evacuation status;
- v. shelter in place status;
- vi. mobility status of clients;
- vii. range of ages of clients;
- viii. intellectual levels/needs of clients; and
- ix. any other client or facility related information that is requested by the department.

NOTE: The electronic report shall not be used to request resources or to report emergency events.

D. The facility's plan shall include a process for tracking during and after the emergency/disaster for on-duty staff and sheltered clients.

E. The facility's plan shall also include a process to share with the client, family, and representative appropriate information from the facility's emergency plan.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3207 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:524 (March 2017).

#### **§8597. Emergency Plan Activation, Review and Summary**

A. The facility's emergency plan(s) shall be activated at least annually, either in response to an emergency or in a planned drill. All staff shall be trained and have knowledge of the emergency plan.

B. ICF/DDs must conduct a minimum of 12 fire drills annually with at least one every three months on each shift. In addition to drills for emergencies due to fire, the facility shall conduct at least one drill per year for emergencies due to a disaster other than fire, such as storm, flood, and other natural disaster.

1. All staff shall participate in at least one drill annually. Residents shall be encouraged to participate, but the provider may not infringe upon the right of the resident to refuse to participate.

2. The facility shall test at least one manual pull alarm each month of the year and maintain documentation of test dates, location of each manual pull alarm tested, persons testing the alarm, and its condition.

C. Fire extinguishers shall be conspicuously hung, kept easily accessible, shall be visually examined monthly and the examination shall be recorded on a tag which is attached to the fire extinguisher. Fire extinguishers shall also be inspected and maintained in accordance with manufacturers' and applicable NFPA requirements. Each fire extinguisher shall be labeled to show the date of such inspection and maintenance.

D. The facility's performance during the activation of the plan shall be evaluated annually by the facility and the findings shall be documented in the plan.

E. The plan shall be revised if indicated by the facility's performance during the emergency event or the planned drill.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3208 (December 2012).

#### **§8599. Notification of Evacuation, Relocation, or Temporary Cessation of Operations**

A. In the event that an ICF/DD evacuates, temporarily relocates or temporarily ceases operations at its licensed location as a result of an evacuation order issued by the state, local or parish OHSEP, the ICF/DD must immediately give notice to the Health Standards Section as well as the

Office for Citizens with Developmental Disabilities (OCDD) and OHSEP as directed by filing an electronic report with the ESF-8 portal or into the current LDH emergency preparedness webpage or electronic database for reporting:

1. the date and approximate time of the evacuation; and

2. the locations of where the residents have been placed and whether this location is an ICF/DD or other alternate host site for one or more of the ICF/DD residents.

B. In the event that an ICF/DD evacuates, temporarily relocates or temporarily ceases operations at its licensed location for any reason other than an evacuation order, the ICF/DD must immediately give notice to the Health Standards Section by facsimile or email of the following:

1. the date and approximate time of the evacuation; and

2. the locations of where the residents have been placed and whether this location is an ICF/DD or other alternate host site for one or more of the ICF/DD residents.

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

D. Procedures for emergencies shall specify persons to be notified, process of notification and verification of notification, locations of emergency equipment and alarm signals, evacuation routes, procedures for evacuating residents, procedures for reentry and recovery, frequency of fire drills, tasks and responsibilities assigned to all personnel, and shall specify medications and records to be taken from the facility upon evacuation and to be returned following the emergency.

E. An ICF/DD shall immediately notify the department and other appropriate agencies of any fire, disaster or other emergency that may present a danger to residents or require their evacuation from the facility.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3208 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:524 (March 2017).

#### **§8601. Authority to Re-open After an Evacuation, Temporary Relocation or Temporary Cessation of Operation**

A. In the event that an ICF/DD evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the state, local or parish OHSEP due to a declared disaster or other emergency and that facility sustains damages due to wind, flooding, precipitation, fire, power outages or other causes, the facility shall not be reopened to accept returning evacuated residents or new admissions until surveys have been conducted by the Office of the State Fire Marshal, the

Office of Public Health and the Department of Health and Hospitals, Health Standards Section and the facility has received a letter of approval from the department for reopening the facility. The purpose of these surveys is to assure that the facility is in compliance with the licensing standards including, but not limited to, the structural soundness of the building, the sanitation code, staffing requirements and the execution of emergency plans.

B. If an ICF/DD evacuates, temporarily relocates or temporarily ceases operation at its licensed location as a result of an evacuation order issued by the state or parish OHSEP due to a declared disaster or other emergency and the facility does not sustain damages due to wind, flooding, precipitation, fire, power outages or other causes, the facility may be reopened without the necessity of the required surveys. Prior to reopening, the facility shall notify the Health Standards Section in writing that the facility is reopening.

C. The facility shall submit a written initial summary report upon request to the department's Health Standards Section. This report shall be submitted within 14 days from the date of evacuation which led to the facility having to evacuate, temporarily relocate or temporarily cease operations. The report shall indicate how the facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

1. pertinent plan provisions and how the plan was followed and executed;
2. plan provisions that were not followed;
3. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
4. contingency arrangements made for those plan provisions not followed; and
5. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of the injuries and deaths.

D. If a facility shelters in place at its licensed location during a declared disaster or other emergency, the facility shall submit a written initial summary report upon request to the department's Health Standards Section. The report shall indicate how the facility's emergency preparedness plan was followed and executed. This report shall be submitted within 14 days from the date of the event which caused the facility to shelter in place. The initial summary shall contain, at a minimum:

1. pertinent plan provisions and how the plan was followed and executed;
2. plan provisions that were not followed;
3. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;
4. contingency arrangements made for those plan provisions not followed; and

5. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths.

E. Upon request by the department's Health Standards Section, a report that is more specific and detailed regarding the facility's execution of their emergency plan shall be submitted to the department.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3209 (December 2012).

### **§8603. General Emergency Preparedness Training**

A. All employees shall be trained in procedures to be followed in the event of any emergency situations. All employees shall be instructed in the use of fire-fighting equipment and resident evacuation as part of their initial orientation and at least annually thereafter. The ICF/DD shall instruct all employees on the emergency evacuation procedures. The ICF/DD shall review the procedures with existing staff at least once in each 12 month period.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3209 (December 2012).

### **§8605. Inactivation of License Due to Declared Disaster or Emergency**

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

1. the licensed ICF/DD 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 ICF/DD has experienced an interruption in the provision 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 licensed ICF/DD intends to resume operation as an ICF/DD in the same service area;

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

d. includes an attestation that all clients have been properly transferred to another provider; and

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

2. the licensed ICF/DD resumes operating as an ICF/DD in the same service area within one year of issuance

of the executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

3. the licensed ICF/DD continues to pay all fees and costs due and owed to the department, including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and

4. the licensed ICF/DD continues to submit required documentation and information to the department, including, but not limited to cost reports.

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

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

1. the ICF/DD must submit a written license reinstatement request to the licensing agency of the department within one year of the executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

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

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

D. Upon receiving a completed written request to reinstate an ICF/DD license, the department shall conduct a licensing survey. If the ICF/DD meets the requirements for licensure and the requirements under this subsection, the department shall issue a notice of reinstatement of the ICF/DD license. The licensed bed capacity of the reinstated license shall not exceed the licensed bed capacity of the ICF/DD at the time of the request to inactivate the license.

E. No change of ownership in the ICF/DD shall occur until such ICF/DD has completed repairs, renovations, rebuilding or replacement construction and has resumed operation as an ICF/DD.

F. The provisions of the subsection shall not apply to an ICF/DD which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this subsection shall be deemed a voluntary surrender of the ICF/DD license.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3209 (December 2012).

## Subchapter H. Physical Environment

### §8609. Physical Plant

A. Accessibility. An ICF/DD's building, parking lots and facilities shall be accessible to and functional for individuals, staff members and the public, as required by applicable federal and state laws and regulations to include individuals with limited mobility and assistive devices.

B. New Construction or Renovation of Existing Facilities

1. Before beginning renovations or new construction, Health Standards Section must be notified. Plans and specifications must be prepared by a licensed architect or engineer and must be submitted for approval to the Office of State Fire Marshal and any other office/entity designated by the department to review and approve the facility's architectural plans, if the facility must go through plan review, and the Office of Public Health.

2. Health Standards Section, the Office of Public Health, and the Office of State Fire Marshal, shall have the authority to inspect the project at any stage to insure that the approved plans and specifications are being followed. Final approval of the building must be obtained from these agencies after renovation or construction is completed and before it is occupied. A license shall be issued by Health Standards Section only after these final approvals have been obtained.

3. It shall be the responsibility of the ICF/DD to obtain any approvals from local authorities (such as zoning, building, fire, etc), that may be needed in the particular city or parish.

4. All ICF/DDs must be in conformity with the American National Standards Institute (ANSI) standards.

C. Facility Building Codes

1. These requirements shall not apply to facility construction documents approved for new construction, modification, renovation, alteration or repair of structures when:

a. approval of the construction document was acquired prior to promulgation of this rule; and

b. the actual start of construction commenced within 180 days of the construction document's approval and permitting date. The approval and permitting date shall be the date identified as the latest approval date either by the local/parish authorities or the Louisiana State Facility Planning and Control and the Office of State Fire Marshal.

2. All construction of new ICF/DD facilities, including new replacement facilities, and all construction of additions, alterations, reestablishments, refurbishments, and renovations to existing ICF/DD facilities shall comply with the following codes and standards:

a. the minimum standards as described in the Guidelines for Design and Construction of Health Care

Facilities, Current Edition, published by the Facility Guidelines Institute (FGI) or any successor publication;

b. the latest editions of the Louisiana State Uniform Construction Codes currently adopted by the Louisiana Department of Public Safety, Louisiana State Uniform Construction Code Council (LSUCCC), LAC 55, Part VI, §301 as follows:

- i. International Building Code (IBC);
- ii. International Existing Building Code (IEBC);
- iii. International Residential Code (IRC);
- iv. International Mechanical Code (IMC);
- v. The Louisiana Plumbing Code [Part XIV (Plumbing) of the State Sanitary Code];
- vi. International Fuel Gas Code (IFGC);
- vii. National Electrical Code (NEC);
- viii. for all state owned licensed buildings the Louisiana Building Codes in RS 40:1722;
- ix. The Advisory Base Flood Elevation (ABFE), published by FEMA; and
- x. The National Fire Protection Association (NFPA) Life Safety Code NFPA 101 promulgated by the Louisiana Department of Public Safety and Corrections, Office of the State Fire Marshal.

3. As additional guidance for all construction of new ICF/DD facilities, including new replacement facilities, and all construction of additions, alterations, reestablishments, refurbishments, and renovations to existing ICF/DD facilities, the following design publications may be used, as necessary, to achieve the final product:

- a. the Design and Construction Guidance for Community Shelters, published by FEMA, number 361;
- b. the Design Guide for Improving Critical Facility Safety from Flooding and High Winds, published by FEMA, number 543;
- c. the ICC 500-2008: ICC/NSSA Standard for the Design and Construction of Storm Shelters, published by the International Code Council and National Storm shelter Association, 2008 Edition; and
- d. the American Society for Testing and Materials (ASTM), E84.

4. All existing licensed facilities which have sustained damage from an act of God shall be evaluated for re-occupancy and shall have its condition evaluated by a Louisiana registered architect or civil engineer.

a. The owner shall provide a written evaluation report to the department on the condition of the structure, signed and sealed by a licensed Louisiana architect or civil engineer, prior to any reestablishment of occupancy. The evaluation shall be in accordance with the Louisiana State Uniform Construction Codes and acceptable engineering practices and standards. A plan of action to correct any

problem shall also be submitted. The report and the plan of action shall be reviewed and accepted by the department prior to proceeding with any proposed modifications. Acceptance by the department will be on a case by case basis.

## 5. Waivers

a. The secretary of the department may, within his sole discretion, grant waivers to building and construction guidelines. The facility must submit a waiver request in writing to the Office of the State Fire Marshall and any other office/entity designated by the department to review and approve the facility's architectural plans. The facility must demonstrate how patient safety and the quality of care offered are not compromised by the waiver. The facility must demonstrate their ability to completely fulfill all other requirements of the service. The department shall make a written determination of the request. Waivers are not transferable in an ownership change and are subject to review or revocation upon any change in circumstances related to the waiver.

b. The secretary, in exercising his discretion, shall at a minimum, require the applicant to comply with the edition of the building and construction guidelines which immediately preceded the most current edition of the Guidelines for Design and Construction of Health Care Facilities.

6. Any proposed new ICF/DD facility or any existing structure with 50 percent or greater substantial structural damage seeking to be licensed by DHH shall not be constructed or renovated in areas identified to be within the 140 mph or greater wind speed zones as established by the latest Louisiana Department of Public Works, Louisiana State Uniform Construction Code Council, Wind Speed by Parish Data. Links for wind speed data can be found on websites of the LSUCCC or the Office of the State Fire Marshall (OSFM) and any other office/entity designated by the department to review and approve the facility's architectural plans.

7. No new facility or any existing structure with substantial structural damage shall be constructed or renovated in any coastal high hazard area (CHHA) that is subject to high velocity wave action from storms or seismic sources.

8. Any new construction or any replacement structure seeking to be licensed shall comply fully with this rule.

9. No structure shall be converted to ICF/DD use unless it complies with the standards and codes set forth herein including the building systems necessary for full compliance.

10. Separate buildings acquired or constructed for essential use by the facility and included under the ICF/DD facility license, whether on the premises or off, shall comply with the applicable portions of this rule. This requirement includes modular and prefabricated buildings.

11. Any temporary use of an existing building or structure for short term emergency purposes shall be reviewed and approved on a case by case basis for an approved limited time. The temporary use of these facilities shall be approved by the Louisiana Office of Public Health; Department of Public Safety, Office of the State Fire Marshal; and this department.

12. Work must be completed within a compliance time period not to exceed three years from date of acceptance. The department may grant an extension of time to a facility to achieve compliance. A written application requesting an extension must be submitted to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3210 (December 2012).

### **§8611. Exterior Space**

A. An ICF/DD shall ensure that all structures on the grounds of the facility accessible to individuals are maintained in good repair and are free from excessive hazard to health or safety.

B. An ICF/DD shall maintain the grounds of the facility in an acceptable manner and shall ensure that the grounds are free from any hazard to health or safety.

C. Garbage and rubbish which is stored outside shall be stored securely in non-combustible, covered containers and shall be removed on a regular basis. Trash collection receptacles shall be separate from the recreational area and be located as to avoid being a nuisance to neighbors.

D. 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. All fences shall be in good repair.

E. An ICF/DD shall have at least 75 square feet of accessible exterior recreational space for each client. The recreational space shall be enclosed with secure fencing if necessary to protect clients. Recreational equipment, if used, shall be so located, installed and maintained as to ensure the safety of individuals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3211 (December 2012).

### **§8613. Interior Space**

A. Each living unit of an ICF/DD shall contain a space for the free and informal use of individuals. This space shall be constructed and equipped in a manner consonant with the programmatic goals of the ICF/DD. An appropriate variety of interior recreational spaces shall be provided. An ICF/DD shall ensure that there is evidence of routine maintenance and cleaning programs in all areas of the ICF/DD.

#### **B. Dining Areas**

1. An ICF/DD shall provide dining areas which permit individuals, staff and as appropriate, guests to eat together at a table, counter or in a manner which accommodates wheelchairs or other assisted devices. As a minimum, the dining area shall provide 15 square feet per person. If usage is by shifts the number of persons in each shift and the number of shifts shall be indicated in the functional program.

2. An ICF/DD shall provide dining areas which are clean, comfortable, home-like, well-lighted, ventilated and attractively furnished.

#### **C. Sleeping Accommodations**

1. An ICF/DD shall ensure that each single occupancy bedroom space has a floor area of at least 80-square feet and that each multiple occupancy bedroom space has a floor area of at least 60 square feet for each occupant.

2. An ICF/DD shall not use a room with a ceiling height of less than seven feet six inches as a bedroom space, unless, in a room with varying ceiling height, the portions of the room where the ceiling is at least seven feet six inches allow a usable space with floor areas as required above.

3. An ICF/DD shall not permit more than four individuals to occupy a designated bedroom space.

4. No individual over the age of 5 years shall occupy a bedroom with a member of the opposite sex, unless the persons occupying the bedroom are a married couple or properly documented medical reasons require it.

5. An ICF/DD shall not use any room which does not have an operable window as a bedroom space.

6. Each individual in the care of an ICF/DD shall have his/her own bed. A double bed may be provided for a married couple. An individual's bed shall be no shorter than the individual's height and no less than 30 inches wide and shall have a clean, comfortable, non-toxic, fire-retardant mattress. The bed shall be solidly constructed, include a mattress and box spring and be in good repair.

7. An ICF/DD shall ensure that sheets, pillow and blankets are provided for each individual.

8. Enuretic individuals shall have mattresses with moisture-resistant covers.

9. Sheets and pillow cases shall be changed at least weekly but shall be changed more frequently, if necessary.

10. Cots or other portable beds are not to be used.

11. An ICF/DD shall provide each individual in care with his/her own dresser or other adequate storage space for private use and a designated space for hanging clothing in proximity to the bedroom occupied by the individual.

12. Each individual in care of an ICF/DD shall have his/her own designated area for rest and sleep.

13. The decoration of sleeping areas for individuals shall allow for the personal tastes and expressions of the individuals.

#### D. Bathrooms

1. An ICF/DD shall have an adequate number of properly equipped bathroom facilities, accommodating individual care needs.

2. Bathrooms shall be so placed as to allow access without disturbing other individuals during sleeping hours.

3. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene.

4. Tubs and showers shall have slip-proof surfaces.

5. An ICF/DD shall provide toilets and baths or showers which allow for individual privacy.

6. An ICF/DD shall ensure that bathrooms have a safe and adequate supply of hot and cold running water. Hot water temperatures shall not exceed 110 degrees F. where individuals are not able to regulate temperature independently.

7. An ICF/DD shall ensure that bathrooms contain mirrors secured to the walls at convenient heights and other furnishings necessary to meet the individual's basic hygienic needs.

8. An ICF/DD shall ensure that bathrooms are equipped to facilitate maximum self-help by individuals. Bathrooms shall be large enough to permit staff assistance of individuals receiving services, as necessary.

9. Toilets, wash basins, and other plumbing or sanitary facilities in a facility shall, at all times, be maintained in good operating condition and shall be kept free of any materials that might clog or otherwise impair their operation.

#### E. Kitchens

1. Kitchens used for meal preparations shall be provided with the necessary equipment for the preparation, storage, serving and clean up of all meals for all of the individuals and staff regularly served by such kitchen. All equipment shall be maintained in working order.

2. An ICF/DD shall not use disposable dinnerware at meals on a regular basis unless the facility documents that such dinnerware is necessary to protect the health or safety of individuals in care.

3. An ICF/DD shall ensure that all dishes, cups and glasses used by individuals in care are free from chips, cracks or other defects.

4. All reusable eating and drinking utensils shall be sanitized after a thorough washing and rinsing.

5. Animals shall not be permitted in food storage, preparation, and dining areas.

#### F. Staff Quarters

1. An ICF/DD utilizing live-in staff shall provide adequate, separate living space with a private bathroom for these staff.

#### G. Administrative and Counseling Space

1. An ICF/DD shall provide a space which is distinct from individuals' living areas to serve as an administrative office for records, secretarial work and bookkeeping.

2. An ICF/DD shall have a designated space to allow private discussions and counseling sessions between individuals and staff.

#### H. Furnishings

1. An ICF/DD shall have comfortable customary furniture as appropriate for all living areas. Furniture for the use of individuals shall be appropriately designed to suit the size and capabilities of individuals.

2. An ICF/DD shall replace or repair broken, run-down or defective furnishings and equipment promptly.

#### I. Doors and Windows

1. An ICF/DD shall ensure that any designated bedroom shall have functional windows that can be opened.

2. An ICF/DD shall provide insect screens for all opened windows. This screening shall be readily removable in emergencies and shall be in good repair.

3. An ICF/DD shall ensure that all closets, bedrooms and bathrooms which have doors are provided with doors that can be readily opened from both sides.

4. Outside doors, windows and other features of the structure necessary for the safety and comfort of individuals shall be secured for safety within 24 hours of being found to be in a state of disrepair. Total repair shall be completed as soon as possible.

#### J. Storage

1. An ICF/DD shall ensure that there are sufficient and appropriate storage facilities.

2. An ICF/DD shall securely lock storage spaces containing all potentially harmful materials. Keys to such storage spaces shall only be available to authorized individuals.

#### K. Electrical Systems

1. An ICF/DD shall ensure that all electrical equipment, wiring, switches, sockets and outlets are maintained in good order and safe condition.

2. An ICF/DD shall ensure that any room, corridor or stairway within an ICF/DD shall be sufficiently illuminated.

3. An ICF/DD shall provide adequate lighting of exterior areas to ensure the safety of individuals and staff during the night.

#### L. Temperature

1. An ICF/DD shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of individuals.

2. An ICF/DD shall maintain the spaces used by individuals at a temperature range of 71-81 degrees F.



3. An ICF/DD shall not use open flame heating equipment.

4. Water. Hot water temperatures shall not exceed 110 degrees F. where individuals are not able to regulate temperature independently.

**M. Finishes and Surfaces**

1. An ICF/DD shall not utilize any excessively rough surface or finish where this surface or finish may present a safety hazard to individuals.

2. An ICF/DD shall not have walls or ceilings surfaced with materials containing asbestos.

3. An ICF/DD shall not use lead paint for any purpose within the ICF/DD or on the exterior or grounds of the ICF/DD, nor shall the ICF/DD purchase any equipment, furnishings or decoration with lead paint. If an existing facility is to be converted to an ICF/DD, the facility shall be tested and certified to be free of asbestos or lead paint materials.

4. An ICF/DD which accepts individuals for placement who are under six years of age, mentally retarded or severely emotionally disturbed shall have evidence that the ICF/DD has been found to be free of lead paint hazards.

**N. Laundry Space.** An ICF/DD shall have a laundry space complete with washer(s) and dryer(s).

**O.** An ICF/DD shall have a minimum of 60 square feet of interior floor area for each client that is accessible to clients excluding hallways, closets, bathrooms, bedrooms, offices, staff quarters, laundry areas, storage areas and any other areas not accessible to or usable by clients for normal social and recreational activities.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3212 (December 2012).

**§8615. General Facility Safety Practices**

**A.** An ICF/DD shall not maintain any firearm or chemical weapon in the living units of the facility.

**B.** An ICF/DD shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to contents. Such materials shall be maintained only as necessary and shall be used in such a manner as to ensure the safety of individuals, staff and visitors.

**C.** An ICF/DD shall ensure that an appropriately equipped first-aid kit is available in the ICF/DD's buildings and in all vehicles used to transport individuals.

**D.** An ICF/DD shall ensure that porches, elevated walkways and elevated recreational areas within the facility meet ANSI standards.

**E.** Every required exit in an ICF/DD's buildings shall be continuously maintained free of all obstructions or

impediments to immediate use in the case of fire or other emergency.

**F.** An ICF/DD shall prohibit the use of candles in sleeping areas of the individuals.

**G.** Power driven equipment used by an ICF/DD shall be kept in safe and good repair. Such equipment shall be used by individuals only under the direct supervision of a staff member and according to state law.

**H.** An ICF/DD shall have procedures to prevent insect and rodent infestation.

**I.** An ICF/DD shall allow individuals to swim only in areas determined to be safe and only under the supervision of a person with a current water safety instructor certificate or senior lifesaving certificate from the Red Cross or its equivalent.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3213 (December 2012).