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Department of Health and Hospitals
Bureau of Health Services Financing

Substantive Changes and Public Hearing Notification
Adult Residential Care Providers - Licensing Standards
(LAC 48:I.Chapters 68)

In accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Bureau of Health Services Financing published a Notice of Intent in the November 20, 2014 edition of the *Louisiana Register* (LR 40:2350-2384) to repeal and replace LAC 48:I.Chapter 68, and to repeal LAC 48:I.Chapter 88. This Notice of Intent proposed to repeal and replace the provisions governing the licensing standards for adult residential care providers and adult residential care homes in order to incorporate these provisions under a single comprehensive Rule in the *Louisiana Administrative Code*. Therefore, the provisions of LAC 48:I.Chapter 88 would be repealed in its entirety and all of the provisions governing the licensing standards for adult residential care providers will be repromulgated under LAC 48:I.Chapter 68.

The department conducted a public hearing on this Notice of Intent on December 30, 2014 to solicit comments and testimony on the proposed Rule. As a result of the comments received, the department proposes to revise the Notice of Intent to clarify these provisions, and to incorporate an effective date of August 15, 2015 for

implementation of these licensing standards. Prior to August 15, 2015, ARCP facilities shall adhere to the current licensing provisions currently in place.

Taken together, all of these proposed revisions will closely align the proposed Rule with the Department's original intent and the concerns brought forth during the comment period for the Notice of Intent as originally published. No fiscal or economic impact will result from the amendments proposed in this notice.

Title 48
PUBLIC HEALTH-MEDICAL ASSISTANCE
Part I. Administration
Subpart 3. Licensing

Chapter 68. Adult Residential Care Providers

Subchapter A. General Provisions

§6801. Introduction

A. These rules and regulations contain the minimum licensure standards for adult residential care providers (ARCPs), pursuant to R.S. 40:2166.1-2166.8, and shall become effective on August 15, 2015.

B. - G. ...

H. All currently licensed adult residential care facilities shall be required to apply for an ARCP license at the time of renewal of their current license.

1. Upon approval of the application for renewal of licensure, an existing adult residential care (ARC) provider shall receive a new ARCP license with its level of service, pursuant to

R.S. 40:2166.5 (Example: ARCP Level 1-personal care homes; ARCP Level 2-shelter care homes; ARCP Level 3-assisted living facilities; ARCP Level 4-adult residential care provider.)

2. An existing ARC provider shall be required to submit to the department a written attestation which certifies that the ARC provider is, and/or shall be in compliance with these provisions by August 15, 2015.

3. If an existing ARC provider is electing to begin providing medication administration after August 15, 2015, the ARC provider shall be required to submit to the department a written attestation which certifies that the licensing requirements to provide such services have been met.

4. Failure of an existing ARC provider to submit the required attestation(s) shall be grounds for either denial of license or revocation of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1 - 2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter C. Residency Criteria, Person-Centered Service Plans, and Residency Agreements

§6833. Pre-Residency and Continued Residency

A. - G.4. ...

5. The residency agreement shall provide a process for involuntary termination of the residency agreement that includes, at a minimum, the following:

a. written notice of any adverse action for violation(s) of the terms of the residency agreement that includes the following:

i. ...

ii. the notice shall allow a minimum of 10 calendar days for resident's corrective action. Repealed

G.6. ...

Repealed.

a. A request for appeal shall be made within 30 calendar days of receipt of the written notice and the hearing shall be conducted by the DAL in accordance with the Administrative Procedure Act.

H. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§6835. Person-Centered Service Plan

A. - D. ...

E. All plans, reviews and updates shall be signed by the resident or the resident's representative, if applicable, and the

ARCP staff. If the resident's PCSP includes staff administration of medication or intermittent nursing services, a registered nurse shall also sign the plans, reviews and updates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§6837. Termination of Residency Agreements

A. - B.1.d. ...

e. the resident or resident's representative has failed to pay or have paid after timely notice in accordance with the Residency Agreement for a resident's stay at the ARCP; or

f. ...

2. Involuntary Termination Process

a. ...

b. The notice shall be written in a language and in a manner that the resident and the resident's representative, if applicable, understand.

c. ...

d. The written notice shall contain:

i. ...

ii. the right to formally appeal the involuntary termination of the residency agreement to the DAL; and

iii. contact information for the state and local long-term care ombudsman and for the DAL.

3. The resident and/or the resident's representative, if applicable, shall have the right to dispute any involuntary termination of the residency agreement in accordance with §6833.G.5-6.

4. The involuntary termination of the residency agreement shall be suspended until a final determination is made by the DAL.

Repealed.

5. ...

C. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter D. Adult Residential Care Provider Services

§6843. Medication Administration

A. - C.3.e.vii. ...

viii. All medication regimes and administration charting shall be reviewed by a licensed RN at least monthly to:

(a). - F.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter E. Resident Protection

§6855. Resident Rights

A. - A.22. ...

23. be informed of how to lodge a complaint with the Health Standards Section, the Office of Civil Rights, the Americans with Disabilities Act, the Office of the State Ombudsman, and the Advocacy Center. Contact information including telephone numbers and addresses for these entities shall be posted in a prominent location which is easily accessible to residents; and

24. have the right to privacy in his/her apartment or room(s), including the right to have:

- a. a closed apartment or room door(s); and
- b. the ARCP personnel knock before entering the apartment or room(s) and not enter without the resident's consent, except in case of an emergency or unless medically contraindicated.

25. Repealed.

a. - b. Repealed.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter F. Requirements Related to Staff, Record-Keeping and Incident Reports

§6865. Staffing Requirements

A. - A.1. ...

a. During periods of temporary absence of the director, there shall be a responsible staff person designated to be in charge 24 hours per day, seven days per week that has the knowledge and responsibility to handle any situation that may occur.

b. The director shall be at least 21 years of age and have the responsibility and authority to carry out the policies of the provider.

c. Director Qualifications

i. For Levels 1 and 2, the director shall meet one of the following criteria upon date of hire:

(a). have at least an Associate's Degree from an accredited college plus one year of experience in the fields of health, social services, geriatrics, management or administration; or

(b). in lieu of an Associate's Degree from an accredited college three years of experience in health, social services, geriatrics, management, administration; or

(c). a Bachelor's degree in geriatrics, social services, nursing, health care administration or related field.

ii. For Levels 3 and 4, the director shall meet one of the following criteria upon date of hire:

(a). a Bachelor's degree plus two years of administrative experience in the fields of health, social services, or geriatrics;

(b). in lieu of a Bachelor's degree, six years of administrative experience in health, social services, or geriatrics;

(c). a Master's degree in geriatrics, health care administration, or in a human service related field; or

(d). be a licensed nursing facility administrator.

iii. Additionally, for Level 4 ARCPs the director shall have successfully completed an adult residential care/assisted living director certification/training program consisting of, at a minimum, 12 hours of training that has been approved by any one of the following organizations:

(a). Louisiana Board of Examiners of Nursing Facility Administrators;

(b). Louisiana Assisted Living Association (LALA);

(c). LeadingAge Gulf States;

(d). Louisiana Nursing Home Association (LNHA); or

(e). any of the national assisted living associations, including the:

(i). National Center for Assisted Living (NCAL);

(ii). Assisted Living Federation of America (ALFA); or

(iii). LeadingAge.

iv. Training shall begin within six months and completed within 12 months of being appointed director.

v. Two years of experience as an assisted living director may be substituted in lieu of the certification requirements.

vi. Documentation of the director's qualifications shall be maintained on file at the ARCP.

d. - d.vi. Repealed.

A.2. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter H. Physical Environment

§6885. General Requirements and Authority

A. - B. ...

C. Design Criteria. The project shall be designed in accordance with the following criteria:

1. ...
2. Part XIV (Plumbing) of the Sanitary Code (LAC 51), State of Louisiana; and
3. the current department licensing regulations for adult residential care providers.
4. Repealed.

D. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2166.1-2166.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding these substantive amendments to the proposed Rule. A public hearing on these substantive changes to the proposed Rule is scheduled for Wednesday, April 29, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following

the public hearing.

Kathy H. Kliebert

Secretary