

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 26:321 (February 2000), amended LR 36:320 (February 2010), LR 37:1153 (April 2011).

Wendy D. Parrish  
Executive Director

1104#017

**RULE**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

**Forensic Supervised Transitional Residential and  
Aftercare Facilities Minimum Licensing Standards  
(LAC 48:I.Chapter 72)**

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 48:I.Chapter 72 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 28:31. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part 1. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 72. Forensic Supervised Transitional  
Residential and Aftercare Facilities  
Licensing Standards**

**Subchapter A. General Provisions**

**§7201. Introduction**

A. These rules and regulations contain the minimum licensure standards for Forensic Supervised Transitional Residential and Aftercare (FSTRA) facilities, pursuant to R.S. 28:31-28:37. These licensing regulations contain core requirements as well as module specific requirements, depending upon the services provided by the Forensic Supervised Transitional Residential and Aftercare facility provider. The modules to be licensed under an FSTRA license are:

1. Secure Community Supervised Transitional/Residential Facility; and
2. Secure Forensic Facility.

B. A Forensic Supervised Transitional Residential and Aftercare facility serves clients referred by state forensic hospitals or state forensic inpatient psychiatric units operated by the Department of Health and Hospitals, including persons who are court ordered and persons who are on court ordered conditional release status. An FSTRA facility shall operate seven days per week, 24 hours a day.

C. The care and services to be provided through arrangement or by the FSTRA facility shall include, but are not limited to the following:

1. behavioral health services;
2. nutritional services;
3. medication management;
4. assistance with independent living skills;
5. recreational services; and
6. transportation services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1154 (April 2011).

**§7203. Definitions**

*Administrator*—the person responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

*Behavior Management*—techniques, measures, interventions and procedures applied in a systematic fashion to promote positive behavioral or functional change which fosters the client's self-control, and to prevent or interrupt a client's behavior which threatens harm to the client or others.

*Department*—the Louisiana Department of Health and Hospitals.

*Forensic Clients*—persons transitioned from a forensic facility established pursuant to R.S. 28:25.1(A) or (B).

*Forensic Supervised Transitional Residential and Aftercare Facility*—a facility that provides supervised transitional residential and aftercare services to forensic clients, including persons who are court ordered or who are on court ordered conditional release status. A forensic supervised transitional residential and aftercare facility shall provide clients, referred by state operated forensic facilities/hospitals and under court order or court ordered forensic conditional release, with individualized services to develop daily living skills and to prepare for vocational adjustment and reentry into the community.

*Forensic Psychiatrist*—a physician, currently licensed to practice medicine in Louisiana, who:

1. signs the order admitting the individual to the FSTRA facility;
2. maintains overall responsibility for the client's medical management; and
3. is available for consultation and collaboration with the FSTRA facility staff.

*Licensee*—the person, partnership, company, corporation, association, organization, professional entity, or other entity to whom a license is granted by the licensing agency and upon whom rests the ultimate responsibility and authority for the conduct of and services provided by the FSTRA facility.

*Secure Community Supervised Transitional/Residential Facility*—a secure residential facility within the community that provides individualized services to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit. These services enable such persons to develop daily living skills and to prepare for vocational adjustment and reentry into the community.

*Secure Forensic Facility*—a secure residential facility located on the grounds of a state hospital that provides individualized services, including personal care services and medication administration, to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit. These services prepare such persons for transition to a less restrictive environment before transitioning to the community.

*Treatment Plan*—a comprehensive plan developed by the FSTRA facility for each client that includes the services each client needs. It shall include the provision of medical/psychiatric, nursing and psychosocial services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1154 (April 2011).

#### **§7205. Licensing Requirements**

A. Any person or entity applying for an FSTRA license shall meet all of the core licensing requirements contained in this Subchapter as well as module specific requirements, unless otherwise specifically noted herein.

B. All facilities providing forensic supervised transitional residential and aftercare services shall be licensed by the department. An FSTRA facility shall not be established, opened, operated, managed, maintained, or conducted in this state without a license issued by the Department of Health and Hospitals. Each facility shall be separately licensed.

C. The Department of Health and Hospitals is the only licensing authority for FSTRA facilities in the state of Louisiana. It shall be unlawful to operate an FSTRA facility without possessing a current, valid license issued by the department.

D. Each FSTRA license shall:

1. be issued only to the person or entity named in the license application;

2. be valid only for the facility to which it is issued and only for the specific geographic address of that facility;

3. be valid for one year from the date of issuance, unless revoked, suspended, or modified prior to that date, or unless a provisional license is issued;

4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the facility;

5. not be subject to sale, assignment, donation, or other transfer, whether voluntary or involuntary; and

6. be posted in a conspicuous place on the licensed premises at all times.

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

1. The facility shall provide 24-hour, seven days per week supervision consisting of:

a. at least three direct care staff persons during the day and two awake staff during the night;

b. at least two direct care staff persons in each building and/or unit at all times when clients are present; and

c. a functional security system on all points of ingress and egress with 24-hour, seven days per week monitoring by awake staff.

2. There shall be staff employed and available to be assigned to provide care and services to each client during all operational hours consistent with the behavioral health needs of each client.

3. The FSTRA facility shall have provided services to at least two clients in the preceding 12-month period in order to be eligible to renew its license.

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

G. A separately licensed FSTRA facility shall not use a name which is substantially the same as the name of another such facility licensed by the department, unless the facility is under common ownership with other FSTRA facilities.

H. No branches, satellite locations or offsite campuses will be authorized for an FSTRA facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1155 (April 2011).

#### **§7207. Initial Licensing Application Process**

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

1. a completed FSTRA facility licensure application and the non-refundable licensing fee as established by statute;

2. 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 facility's architectural plans;

3. a copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal;

4. a copy of the health inspection report with approval of occupancy from the Office of Public Health;

5. a copy of the statewide criminal background checks on the following persons:

a. all individual owners with a 5 percent or more ownership interest in the FSTRA facility entity;

b. facility administrators; and

c. members of the facility's board of directors, if applicable;

6. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000;

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

c. worker's compensation insurance.

7. if applicable, Clinical Laboratory Improvement Amendments (CLIA) certificate or CLIA certificate of waiver;

8. a letter-sized floor sketch or drawing of the premises to be licensed; and

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

B. If the initial licensing packet is incomplete when submitted, the applicant will be notified of the missing information and will have 90 days from receipt of the notification to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming an FSTRA facility must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

C. 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 the department that the FSTRA facility is ready and is requesting an initial licensing survey. If an applicant fails to notify the department 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 a licensed FSTRA facility must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

D. When issued, the initial Forensic Supervised Transitional Residential and Aftercare facility license shall specify the capacity of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1155 (April 2011).

### **§7209. Types of Licenses**

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

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

2. Provisional Initial License. The department shall issue a provisional initial license to the facility when the initial licensing survey finds that the facility is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, but the department determines that the noncompliance does not present a threat to the health, safety or welfare of the individuals receiving services. The provisional license shall be valid for a period not to exceed six months.

3. Full Renewal License. The department shall issue a full renewal license to an existing licensed FSTRA facility 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, or suspended.

B. The department, in its sole discretion, may issue a provisional license to an existing licensed FSTRA facility for a period not to exceed six months for the following reasons.

1. The existing facility has more than five deficient practices or deficiencies cited during any one survey.

2. The existing facility has more than three validated complaints in one licensed year period.

3. The existing facility has been issued a deficiency that involved placing a client at risk for serious harm or death.

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

5. The existing facility is not in substantial compliance with all applicable federal, state, departmental

and local statutes, laws, ordinances, rules regulations and fees at the time of renewal of the license.

C. When the department issues a provisional license to an existing licensed FSTRA facility, the department shall conduct an on-site follow-up survey at the facility prior to the expiration of the provisional license, and shall issue written notice of the results of the follow-up survey.

1. If the on-site follow-up survey determines that the facility has corrected the deficient practices and has maintained compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the facility license.

2. If the on-site follow-up survey determines that the facility has not corrected the deficient practices or has not maintained compliance during the period of the provisional license, the provisional license shall expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee, if no timely informal reconsideration or administrative appeal is filed pursuant to this Chapter.

a. At the sole discretion of the department, the provisional license may be extended for a period, not to exceed 90 days, in order for the FSTRA facility to correct the noncompliance or deficiencies.

D. When the department issues a provisional license as a result of the initial licensing survey, the facility shall submit a plan of correction to the department for approval, and 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 facility prior to the expiration of the provisional license and shall issue written notice to the provider of the results of the follow-up survey.

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

2. If all such noncompliance or deficiencies are not corrected on the follow-up survey, the provisional license shall expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

a. 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 FSTRA facility to correct the noncompliance or deficiencies.

E. The license for an FSTRA facility shall be valid for one year from the date of issuance, unless revoked, suspended, or modified prior to that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1156 (April 2011).

### **§7211. Licensing Surveys**

A. Prior to the initial license being issued to the FSTRA facility, an initial licensing survey shall be conducted on-site at the facility to assure compliance with licensing standards. The facility shall not provide services until the initial licensing survey has been performed and the facility found in compliance with the licensing standards. The initial licensing survey shall be an announced survey.

B. In the event that the initial licensing survey finds that the FSTRA facility is compliant with all licensing laws, regulations and other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the provider.

C. In the event that the initial licensing survey finds that the FSTRA facility is noncompliant with any licensing laws or regulations, or any other required statutes, laws, ordinances, rules or regulations, that present a potential threat to the health, safety, or welfare of clients, the department shall deny the initial license.

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

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

1. An acceptable plan of correction may be required from an FSTRA facility for any survey where deficiencies have been cited.

2. 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.

F. DHH surveyors and staff shall be:

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

2. allowed to interview any provider staff, or client as necessary to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1156 (April 2011).

### **§7213. Changes in Licensee Information or Personnel**

A. An FSTRA facility 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 change regarding the FSTRA 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 occurrence. Any change regarding the facility name or "doing business as" name requires a change to the facility license and requires a \$25 fee for the reissuance of an amended license.

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

1. Key administrative personnel include the administrator, physician/psychiatrist and the registered nurse supervisor.

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

- a. name;
- b. facility address;
- c. hire date; and

d. qualifications.

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

1. The license of an FSTRA facility is not transferable or assignable. The license of an FSTRA facility cannot be sold.

2. 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.

3. An FSTRA facility that is under license suspension, revocation, or denial of renewal may not undergo a CHOW.

E. Any request for a duplicate license shall be accompanied by a \$25 fee.

F. An FSTRA facility that intends to change the physical address of its geographic location is required to have plan review approval, Office of State Fire Marshall approval, Office of Public Health approval, compliance with other applicable licensing requirements, and an on-site licensing survey prior to the relocation the facility.

1. Written notice of intent to relocate shall be submitted to the licensing section of the department when plan review request is submitted to the department for approval.

2. The relocation of the facility's physical address results in a new anniversary date and the full licensing fee shall be paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1157 (April 2011).

### **§7215. Renewal of License**

A. License Renewal Application. The FSTRA facility shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license. 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. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000;

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

c. worker's compensation insurance;

5. the license renewal fee; and

6. any other documentation required by the department.

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

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license will result in the voluntary non-renewal of the

Forensic Supervised Transitional Client and Aftercare license.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1157 (April 2011).

#### **§7217. Denial of License, Revocation of License, Denial of License Renewal**

A. In accordance with the provisions of the Administrative Procedure Act, the department may:

1. deny an application for a license;
2. deny a license renewal; or
3. revoke a license.

##### **B. Denial of an Initial License**

1. The department shall deny an initial license when the initial licensing survey finds that the FSTRA facility is noncompliant with any licensing laws or regulations or with any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety, or welfare of the clients who will be served by the facility.

2. The department may deny an initial license for any of the reasons in this Chapter that a license may be revoked or non-renewed.

##### **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 a provider fails to timely renew its license, the facility shall immediately cease and desist providing services, unless the provider is actively treating clients, in which case the provider shall comply with the following:

- a. immediately provide written notice to the department of the number of clients receiving treatment at the FSTRA facility;
- b. immediately provide written notice to the prescribing physician and to the client or legal representative of the following:
  - i. notice of voluntary non-renewal;
  - ii. notice of closure; and
  - iii. plans for orderly transition of the client(s);
- c. discharge and transition of each client within 15 days of voluntary non-renewal; and
- d. notify the department of the location where records will be stored and the contact person for the records.

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

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

1. failure to be in substantial compliance with the FSTRA facility 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 clients' rights whereby deficient practices result in harm, injury, or death of a client;

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

- a. mental or physical abuse, neglect, exploitation, or extortion;
- b. any action posing a threat to a client's health and safety;
- c. coercion;
- d. threat or intimidation;
- e. harassment; or
- f. criminal activity;

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

- a. mental or physical abuse, neglect, exploitation, or extortion;
- b. any action posing a threat to a client'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 facility 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 department employees or to law enforcement agencies;

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

9. fraudulent operation of an FSTRA 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 client care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court. For purposes of these provisions, conviction of a felony includes a felony relating to any of the following:

- a. violence, abuse, or negligence of a person;
- b. misappropriation of property belonging to another person;
- c. cruelty, exploitation, or sexual battery of a person with disabilities;
- d. a drug offense;
- e. crimes of sexual nature;
- f. a firearm or deadly weapon;

g. fraud or misappropriation of federal or state funds, including Medicare or Medicaid funds;

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

12. failure to allow or refusal to allow the department to conduct an investigation or survey, or to interview provider staff or clients;

13. failure to allow or refusal to allow access to facility or client records by authorized departmental personnel; or

14. cessation of business or non-operational status.

E. If an existing FSTRA facility has been issued a notice of license revocation or suspension and the provider's license is due for annual renewal, the department shall deny the license renewal. The denial of the license renewal does not affect in any manner the license revocation.

F. If an FSTRA facility 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 FSTRA facility may be prohibited from opening, managing, directing, operating, or owning another FSTRA 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. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1158 (April 2011).

#### **§7219. Notice and Appeal of License Denial, License Revocation and License Non-Renewal and Appeal of Provisional License**

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

B. An FSTRA facility has a 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 FSTRA facility shall request the informal reconsideration within 10 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.

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 facility will receive written notification of the date of the informal reconsideration.

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

5. Correction of a violation or 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 facility will be notified in writing of the results of the informal reconsideration.

C. An FSTRA facility 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 the provider.

1. The FSTRA facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the results of the informal reconsideration of the license denial, license revocation, or license non-renewal. The facility may forego its rights to an informal reconsideration, and if so, the facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the license denial, license revocation, or license non-renewal. The request for administrative appeal shall be in writing and shall be submitted to the DHH Bureau of Appeals.

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 Bureau of Appeals, the administrative appeal of the license revocation or license non-renewal shall be suspensive, and the facility shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

a. 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 client, the imposition of the license revocation or license non-renewal may be immediate and may be enforced during the pendency of the administrative appeal. The facility shall be notified of this determination in writing.

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 a timely administrative appeal has been filed by the facility on a license denial, license non-renewal, or license revocation, the Bureau of Appeals 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 Bureau of Appeals if good cause is shown.

1. If the final agency decision is to reverse the license denial, the license non-renewal or the license revocation, the facility'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 decision is to affirm the license non-renewal or the license revocation, the facility shall discharge any and all clients receiving services. Within 10 days of the final agency decision, the facility shall notify the department's licensing section in writing of the secure and confidential location of where its records will be stored.

E. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional license to a new FSTRA facility. 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 FSTRA facility is not considered to be a denial of license, a denial of license renewal, or a license revocation.

F. 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 regarding the deficiencies cited at the follow-up survey.

1. The facility has five calendar days from the receipt of the department's notice of the results of the follow-up survey to submit a written request for informal reconsideration of the follow-up survey findings.

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

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

4. The facility has five calendar days from the receipt of the department's notice of the result of the informal reconsideration to submit a written request for an administrative appeal. If the facility chooses not to request an informal reconsideration, the facility may submit a written request for an administrative appeal within five calendar days of receipt of the notice of the results of the follow-up survey.

G. A facility with a provisional license that expires under the provisions of this Chapter shall cease providing services and discharge clients unless the Bureau of Appeals issues a stay of the expiration.

1. A stay may be granted by the Bureau of Appeals upon application by the provider at the time the administrative appeal is filed and only:

a. after a contradictory hearing; and

b. upon a showing that there is no potential harm to the clients being served by the facility.

H. If a timely administrative appeal has been filed by a facility with a provisional license that has expired under the provisions of this Chapter, the Bureau of Appeals 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 Bureau of Appeals if good cause is shown.

1. If the final agency decision is to remove all deficiencies, the facility'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.

2. If the final agency decision is to uphold the deficiencies and affirm the expiration of the provisional license, the facility shall discharge all clients receiving services. Within 10 days of the final agency decision, the facility shall notify the department's licensing section in writing of the secure and confidential location of where records will be stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1159 (April 2011).

#### **§7221. Complaint Surveys**

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

B. Complaint surveys shall be unannounced surveys.

C. An acceptable plan of correction may be required by the department for any complaint survey where deficiencies have been cited.

D. A follow-up survey may be conducted for any complaint survey where deficiencies have been cited to ensure correction of the deficient practices. If the department determines that other action, such as license revocation, is appropriate, a follow-up survey may not be required. The facility will be notified of any action.

E. The department may issue appropriate sanctions, including but not limited to, civil monetary penalties, directed plans of correction, and license revocations, for deficiencies and non-compliance with any complaint survey.

F. 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, client, or participant, as necessary or required to conduct the survey.

G. An FSTRA facility which has been cited with violations or deficiencies on a complaint survey has the right to request an informal reconsideration of the validity of the violations or deficiencies. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department must receive the written request within 10 calendar days of the facility's receipt of the notice of the violations or deficiencies.

H. A complainant shall have the right to request an informal reconsideration of the findings of the complaint survey or investigation. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department must receive the written request within 30 calendar days of the complainant's receipt of the results of the complaint survey or investigation.

I. An informal reconsideration for a complaint survey or investigation shall be conducted by the department as an administrative review. The facility or complainant shall submit all documentation or information for review for the informal reconsideration, and the department shall consider all documentation or information submitted. There is no right to appear in person at the informal reconsideration of a complaint survey or investigation. Correction of the violation or deficiency shall not be the basis for the reconsideration. The facility and/or the complainant shall be notified in writing of the results of the informal reconsideration.

J. Except as provided in Paragraph K, the informal reconsideration shall constitute final action by the department regarding the complaint survey or investigation, and there shall be no right to an administrative appeal.

K. In those complaints in which the department's Health Standards Section determines that the complaint involves issues that have resulted in, or are likely to result in, serious harm or death to the client, the complainant or the provider may appeal the informal reconsideration findings to the Bureau of Appeals.

1. The written request for administrative appeal shall be submitted to the Bureau of Appeals and must be received within 30 calendar days of the receipt of the results of the informal reconsideration.

2. The hearing before the Bureau of Appeals is limited to the evidence presented at the informal reconsideration, unless the complainant or the facility has obtained additional evidence vital to the issues which he could not have with due diligence obtained before or during the informal reconsideration.

3. The administrative law judge shall only make a determination on the administrative appeal, based on the evidence presented, as to whether or not the complaint investigation or survey was conducted properly or improperly. The administrative law judge shall not have the authority to overturn or delete deficiencies or violations, and shall not have the authority to add deficiencies or violations.

4. If the administrative law judge determines that the complaint investigation or survey was not conducted properly, he shall designate in writing and with specificity the methods by which a re-investigation shall be conducted.

5. No appeal shall lie from a re-investigation upon a prima facie showing that the re-investigation was conducted in accordance with the designations of the administrative law judge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1160 (April 2011).

#### **§7223. Statement of Deficiencies**

A. The following statements of deficiencies issued by the department to an FSTRA facility 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 an FSTRA facility 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 Chapter, a facility 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 practice, of the violation, or of the noncompliance 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 for in these provisions.

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

4. Except as provided for complaint surveys pursuant to R.S. 40:2009.11 et seq., and as provided in this Chapter for license denials, revocations, and 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.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1161 (April 2011).

#### **§7225. Cessation of Business**

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

1. give 30 days advance written notice to the:

a. department;

b. forensic physician; and

c. ordering court of any conditional release client(s);

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

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1161 (April 2011).

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

##### **§7231. Governing Body**

A. Each provider shall have an identifiable governing body with responsibility for, and authority over, the policies and activities of the program/facility.

B. A provider shall have documents identifying the following information regarding the governing body:

1. names and addresses of all members;

2. terms of membership;

3. officers of the governing body; and

4. terms of office of any officers.

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

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

E. Responsibilities of a Governing Body. The governing body of a provider shall:

1. ensure the provider's compliance and conformity with the provider's charter or other organizational documents;

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

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

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

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

6. formulate and annually review, in consultation with the administrator, written policies concerning the provider's

philosophy, goals, current services, personnel practices, job descriptions and fiscal management;

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

8. have the authority to dismiss the administrator (if a sole owner is not acting as administrator);

9. meet with designated representatives of the department whenever required to do so;

10. inform designated representatives of the department prior to initiating any substantial changes in the services provided by the provider; and

11. notify the Health Standards Section in writing at least 30 days prior to any change in ownership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1161 (April 2011).

### **§7233. Policy and Procedures**

A. An FSTRA provider shall establish procedures to assure written communication among staff to provide continuity of services to all clients.

B. Direct care employees shall have access to information concerning clients that is necessary for effective performance of the employee's assigned tasks.

C. Confidentiality and Security of Files. A provider shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records and to whom records may be released.

D. A provider shall allow designated representatives of the department, in the performance of their mandated duties, to inspect all aspects of a provider's functioning which impact on clients and to interview any staff member or client.

1. A provider shall make any information or records that the provider is required to have and any information reasonably related to assessment of compliance with these requirements available to the department.

2. The client's rights shall not be considered abridged by this requirement.

E. Procedures shall address the following.

#### **1. Confidentiality of Records**

a. A provider shall maintain the confidentiality of all clients' records. Employees of the facility shall not disclose or knowingly permit the disclosure of any information concerning the client or his/her family, directly, or indirectly, to any unauthorized person.

b. A provider may use material from records for teaching and research purposes, if names are deleted and other identifying information is disguised or deleted.

#### **2. Release of Information**

a. A provider shall obtain the client's or legal representative's written, informed permission prior to releasing any information from which the client or his/her family might be identified, except to the department.

b. Identifying information may be given to appropriate authorities in cases of an emergency.

c. The provider shall have a procedure by which representatives or family of clients is given an opportunity to receive information about the individual client in care of the facility.

### **3. Publicity**

a. A provider shall have written policies and procedures regarding the photographing and audio or audiovisual recordings of clients.

b. No client shall be photographed or recorded without the client's prior informed, written consent. Such consent cannot be made a condition for admission into, remaining in, or participating fully in the activities of the facility.

i. Consent agreements must clearly notify the client of his/her rights under this regulation, must specify precisely what use is to be made of the photograph or recordings, and are valid for a maximum of one year from the date of execution.

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

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

F. Personnel Policies. A provider shall have written personnel policies that include:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision, and performance evaluation of staff members;

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

3. policies which provide for staff, upon offer of employment, to have a health assessment as defined in the provider's policy and procedures.

a. These policies shall, at a minimum, require that the individual has no evidence of active tuberculosis and that staff shall be retested on a time schedule as mandated by the Office of Public Health. Test results dated within one year prior to the offer of employment are acceptable for initial employment;

4. an employee grievance procedure;

5. 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 client, or any other person; and

6. a written policy to prevent discrimination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1162 (April 2011).

### **Subchapter C. Admissions, Transfers and Discharges**

#### **§7235. Admissions**

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

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

2. types of clients suitable to the FSTRA facility;

3. services offered and allowed in the facility; and

4. the facility's house rules.

#### **B. Intake Evaluation**

1. An intake evaluation shall take place on the first day of admission and shall include the client's:

a. demographic data;

b. family information; and

c. psychiatric and social background.

2. All of the facility's rules and regulations shall be reviewed with the client. A complete clothing inventory shall be completed and the client shall be assigned to a room.

C. Nursing Assessment

1. The nurse shall complete a nursing assessment and review the client's medication(s). The client's medication administration records shall contain a detailed description of the client's:

- a. medication;
- b. dosage(s) of medication;
- c. frequency medications should be taken; and
- d. ability to self-administer medications.

D. Diagnostic Evaluation

1. The diagnostic evaluation shall include examination of the medical, psychosocial, social, behavioral and developmental aspects of the client's situation and reflect the need for services from an FSTRA facility.

2. Each medical evaluation shall include:

- a. diagnoses;
- b. summary of medical findings;
- c. medical history;
- d. mental and physical functional capacity;
- e. prognosis; and
- f. physician's recommendations.

E. An individualized plan of care for each client shall be developed upon admission and shall be revised to include recommended changes in the therapeutic plan. The plan to be followed in the event of emergency situations shall be specified in the plan of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1162 (April 2011).

**§7237. Mandatory Transfers and Discharges**

A. The administrator/director shall, in coordination with the client, forensic aftercare provider, Community Forensic Service, and state level forensic coordinator (as appropriate), assist in planning and implementing the mandatory transfer or discharge of the client when:

- 1. the treatment plan goals and objectives are substantially met and a crisis relapse/prevention plan is developed and support systems are in place that allow the client to reside safely in a less restrictive environment;
- 2. the client's physician certifies that the client's physical condition necessitates transfer to a medical facility or psychiatric condition necessitates transfer to a higher level of care; or
  - a. in this situation, plans for transfer must be made as soon as possible;
- 3. the client's condition is such that he or she is:
  - a. a danger to self or others; or
  - b. is consistently disruptive to the peace and order of the facility, staff services, or other clients.

B. Emergency Discharge. The provider shall immediately report to the Community Forensic Service, probation officer, state level forensic coordinator, and provider(s) of behavioral health services any program violations (i.e. illegal drugs, suspected or confirmed weapon possession or access, gross deterioration of behavior, or non-compliance with medication). The provider in collaboration with the probation officer and community forensic staff, as

appropriate, will be responsible for the relocation of the client to an appropriate secure placement.

C. The facility shall initiate outpatient services for the client upon discharge and provide consultation to the client concerning where to obtain necessary medications, resources and follow-up outpatient behavioral health services.

D. Discharge Records

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

- a. date of discharge;
- b. destination; and
- c. reason(s) for leaving.

2. Discharge records shall be retained for at least three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1163 (April 2011).

**Subchapter D. Participation Requirements**

**§7241. Assessment, Service Coordination, and Monitoring**

A. Once the client is admitted, the FSTRA facility shall conduct an assessment to determine the needs of the client. The assessment shall be kept in the client's record and shall at a minimum, include:

- 1. the client's interests, likes and dislikes;
- 2. review of physical health, psycho-social status, and cognitive status and the determination of services necessary to meet those needs;
- 3. a summary of the client's health needs, if any, including medication, treatment and special diet orders obtained from professionals with responsibility for the client's physical or emotional health;
- 4. a written description of the activities of daily living and instrumental activities of daily living for which the client requires assistance, if any, obtained from the client or the client's physician;
- 5. recreational and social activities which are suitable;
- 6. a plan for handling special emergency evacuation needs, if any; and
- 7. additional information or documents pertinent to the client's treatment planning, such as guardianship papers, power of attorney, living wills, do not-resuscitate orders, or other relevant medical documents.

B. Within 30 days after admission, the facility, with input from the client, shall develop a service plan using information from the assessment.

C. The service plan shall be responsive to the client's needs and preferences. The service plan shall include:

- 1. the client's needs;
- 2. the scope, frequency, and duration of services and monitoring that will be provided to meet the client's needs; and
- 3. staff/providers responsible for providing the services.

D. The client's service plan shall be revised when a client's condition changes. The revised service plan shall be signed by the client and the designated facility staff.

E. The service plan shall be monitored on an ongoing basis to determine its continued appropriateness and to identify when a client's condition or preferences have changed. A documented review of the service plan shall be

made at least every quarter. However, changes to the plan may be made at any time, as necessary.

F. All service plans and reviews shall be signed by the client and facility staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1163 (April 2011).

### **§7243. Personal and Supportive Services**

A. The facility shall provide adequate services and oversight/supervision, including adequate security measures, around the clock as needed for any client.

#### **B. Medications**

1. The provider shall have clear written policies and procedures on medication assistance.

2. The provider shall assist clients in the self-administration of prescription and non-prescription medication as agreed to in their contract or service plan and as allowed by state statute/regulations.

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

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

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

c. The dosage may be checked according to the container label.

d. The staff may open the medicine container (i.e. bottle, mediset, blister pak, etc.) if the client lacks the ability to open the container.

e. The client may be physically assisted in pouring or otherwise taking medications, so long as the client is cognitive of what the medication is, what it is for and the need for the medication.

4. An employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for medication assistance including the limitations of this assistance. Documentation shall include the signature of the employee. This training shall be repeated at least annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1164 (April 2011).

### **§7245. Nutrition**

A. The facility shall provide three varied, appetizing meals a day, seven days a week. Meals shall take into account clients' preferences and needs.

B. Menus shall be planned and written at least one week in advance and dated as served. The current week's menu shall be posted in one or more conspicuous places in the facility.

C. The facility shall provide medically prescribed diets as ordered by the client's physician. These menus shall be planned or approved by a registered dietician.

D. The provider shall purchase and provide to the clients only food and drink of safe quality. The storage, preparation and serving techniques shall ensure that nutrients are

retained and spoilage is prevented. Milk and milk products shall be Grade A and pasteurized.

E. Staff shall be available in the dining area to provide supervision as needed.

F. Written reports of inspections by the Department of Health and Hospitals, Office of Public Health, Sanitarian Services shall be kept on file in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1164 (April 2011).

### **§7247. Transportation Requirements**

A. The provider shall have the capacity to provide or to arrange transportation for the following:

1. transportation to behavioral health services (i.e., community mental health center or addictive disorder clinic); and

2. all other related medical appointments.

#### **B. The FSTRA facility must:**

1. have liability insurance coverage and have proof of such coverage; and

2. conform to all state laws and regulations pertaining to drivers, vehicles and insurance.

C. The number of occupants allowed in a car, bus, station wagon, van, or any other type of transportation shall not exceed the number for which the vehicle is designed.

D. Provisions shall be made to accommodate clients who use assistive devices for ambulation.

E. Each vehicle shall be maintained in good repair.

F. If the center contracts with a commercial proprietor for transportation, it shall select one with a good reputation and reliable drivers. All rules established for transportation furnished by the center shall be observed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1164 (April 2011).

### **Subchapter E. Client Protection**

#### **§7251. Client Rights**

A. A provider shall have a written policy on clients' civil rights and the practices of the provider shall assure that no client of a facility shall be deprived of civil or legal rights, benefits or privileges guaranteed by law or the Constitution of the United States solely by reason of status as a client of a facility. A copy of these rights shall be posted conspicuously in the facility.

B. In addition to the basic rights enjoyed by other adults, the provider's written policy on rights shall assure that clients shall be afforded the rights enumerated in R.S. 28:171.

C. The client shall receive, upon admission and during his/her stay, a written statement of the services provided by the facility and the charges for these services.

D. The client shall be free from mental, emotional, and physical abuse and neglect and assured that no chemical restraints will be used.

E. The facility shall ensure that records and other information about the client are kept confidential and

released only with a client's expressed written consent or in accordance with Louisiana law.

F. The facility shall ensure that the client:

1. receives a timely response to a request from the administrator/director and/or staff;
2. has access to private telephone communication;
3. is able to send and receive mail promptly and unopened;
4. is notified in writing by the provider when the facility's license status is suspended, revoked or limited, and to be informed of the basis of the licensing agency's action;
5. is allowed to select a health care provider and arrange for the services, at his/her own expense, which are not available through the facility as long as the client remains in compliance with the conditions of his/her admission to the facility;
6. is encouraged and assisted to exercise rights as a citizen;
7. is allowed to voice grievances and suggest changes in policies and services to either staff or outside representatives without fear of restraint, interference, coercion, discrimination, or reprisal;
8. is fully informed of all client rights and all rules governing client conduct and responsibilities; and
9. is allowed to consult freely with counsel of their choice.

G. Each client shall be fully informed of these rights and of all rules and regulations governing client conduct and responsibilities, as evidenced by written acknowledgment, prior to or at the time of admission and when changes occur.

1. Each client's file shall contain a copy of the written acknowledgment which shall be signed and dated by the director or his/her designee, the client and/or representative.

H. A provider shall establish and have written grievance procedures that include, but are not limited to:

1. a formal process to present grievances; and
2. a process to respond to grievances in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1164 (April 2011).

### **Subchapter F. Facility Responsibilities**

#### **§7255. General Provisions**

A. Providers shall comply and show proof of compliance with all relevant standards, regulations and requirements established by state, local, and municipal regulatory bodies. It is the provider's responsibility to secure the approvals from the following entities:

1. DHH, Health Standards Section;
2. Office of Public Health;
3. Office of State Fire Marshal;
4. city fire department, if applicable; and,
5. the applicable local governing authority (e.g., zoning, building department or permit office).

B. The administrator/director or person authorized to act on behalf of the administrator/director shall be accessible to facility staff or designated representatives of DHH at all times.

C. A provider shall have an administrative file that includes:

1. the Articles of Incorporation or certified copies thereof, if incorporated, or partnership documents, if applicable;
2. a current copy of the approved constitution and/or bylaws of the governing body;
3. a current roster of the governing body membership which includes the members' addresses;
4. written policies and procedures approved by the owner/governing body that address the following:
  - a. confidentiality and security of files;
  - b. publicity;
  - c. personnel;
  - d. client's rights;
  - e. grievance procedure;
  - f. safekeeping of personal possessions, if applicable;
  - g. clients' funds, if applicable;
  - h. emergency and evacuation procedures;
  - i. abuse and neglect;
  - j. critical incidents;
  - k. admissions and discharge procedures; and
  - l. medication;
5. the minutes of formal governing body meetings;
6. an organizational chart of the provider;
7. all leases, contracts and purchase-of-service agreements to which the provider is a party, which includes all appropriate credentials;
8. insurance policies:

a. every provider shall maintain in force at all times a comprehensive general business insurance policy or policies in an amount adequate to cover all foreseeable occurrences. The insurance shall include coverage for any:

- i. personal or professional negligence, malpractice or misconduct by facility owners or employees;
- ii. injuries received by any client while being transported by facility staff or third-party contractors; and
- iii. injuries sustained by any client while in the facility; and

b. the policies shall be without limitations or exclusions of any kind; and

9. copies of Incident/Accident Reports.

D. An FSTRA facility shall maintain a personnel record for each employee. At a minimum, this file shall contain the following:

1. the application for employment and/or résumé of education, training, and experience;
  2. evidence of a criminal history check prior to an offer of employment, in accordance with state law;
  3. evidence of applicable professional credentials or certifications according to state law;
  4. documentation of Tuberculosis test results and any other provider required medical examinations;
  5. documentation of three reference checks;
  6. annual performance evaluation;
  7. the employee's hire and termination dates;
  8. documentation of orientation and annual training;
- and

9. documentation of a valid driver's license if driving or transporting clients.

E. A provider shall not release an employee's personnel record without the employee's written permission, except as required by state law.

F. A provider shall have a personnel record for each employee to be kept on the premises or at the corporate office. These records shall be made available and accessible to the survey staff within one hour of request by department surveyors.

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

2. A provider shall have sufficient space, facilities and supplies for providing effective record keeping services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1165 (April 2011).

### **§7257. Core Staffing Requirements**

A. Each FSTRA facility shall be staffed to properly safeguard the health, safety and welfare of the clients, as required by these regulations. At a minimum, the following staff positions are required; however, one person may occupy more than one position.

#### **B. Administrator/Director**

1. Each facility shall have a qualified administrator/director who is an on-site employee and is responsible for the day-to-day management, supervision and operation of the facility.

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

3. There shall be a responsible staff person designated to be in charge on the premises of the FSTRA facility 24 hours per day.

4. The administrator/director shall be at least 21 years of age and have the responsibility and authority to carry out the policies of the facility.

5. The administrator/director shall meet one of the following criteria upon date of hire:

a. possess a bachelor's degree plus one year of administrative experience in the fields of health care, behavioral health services, or forensics;

b. possess an associate's degree plus two years of administrative experience in the fields of health care, behavioral health services, or forensics; or

c. in lieu of a degree, possess six years of administrative experience in health care, behavioral health services, or forensics.

6. Documentation of the administrator/director's qualifications shall be maintained on file at the facility.

#### **C. Nursing Services**

1. The facility shall provide a sufficient number of nursing service personnel consisting of registered nurses, licensed practical nurses and other staff to provide nursing care to all clients in accordance with the client's treatment plan.

2. Registered Nurse (RN). An FSTRA facility shall employ or contract with at least one RN who is responsible for the overall delivery and supervision of nursing services.

a. The RN must be currently licensed by, and in good standing with, the state of Louisiana and must comply with all requirements, including continuing education requirements, as established by law or regulation. No individual who is unlicensed may be employed as an RN.

b. The RN shall:

i. be on-site or available by telephone during the day time hours of the facility;

ii. develop policies and procedures related to the delivery of nursing services; and

iii. provide medication management through administration, supervision, education and training.

3. Licensed Practical Nurse (LPN). An FSTRA facility shall employ or contract with LPNs to meet the nursing needs of the clients.

a. The LPN must be currently licensed by, and in good standing with, the state of Louisiana and must comply with all requirements, including continuing education requirements, as established by law or regulation. No individual who is unlicensed may be employed as a LPN.

b. LPNs may administer medication and deliver nursing services as provided by Louisiana law or applicable regulations.

#### **D. Direct Care Staff**

1. An FSTRA facility must ensure that an adequate number of trained direct care staff is available to meet the needs of the clients in accordance with the client's scheduled and unscheduled needs.

2. Direct care staff may include care assistants, activities personnel, or other staff who clearly provide direct care services to clients on a regular basis.

3. Direct care staff shall have the following qualifications:

a. a minimum of a high school diploma and six months of experience working with adults with a serious and persistent behavioral health diagnosis; or

b. two years of experience working with adults with a serious and persistent behavioral health diagnosis.

4. An FSTRA facility shall have at least two direct care staff on duty when there is at least one client at the facility.

5. An FSTRA facility shall demonstrate that sufficient staff are scheduled and available (working) to meet the 24-hour scheduled and unscheduled needs of the clients. The provider shall have at a minimum, one direct care staff person to every 15 clients.

6. An FSTRA facility shall not share direct care staff with another licensed facility. (Staff cannot fill two staff positions on the same shift at different licensed facilities.)

E. An FSTRA facility shall maintain a current work schedule for all employees, including relief workers, showing adequate coverage for each day and night.

F. FSTRA facility professional staff shall be licensed and/or certified by, and in good standing with, the state of Louisiana. The license shall be unrestricted. Professional staff must comply with all requirements, including continuing education requirements, as established by law or regulation.

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

H. An FSTRA facility must provide, as needed, consultation(s) with a registered dietician.

I. Staff Orientation and Training

1. During the first week of hire and prior to providing services to clients, the provider shall provide a 20-hour documented orientation including, but not limited to the following:

- a. the policies and procedures of the facility, including program components;
- b. emergency and evacuation procedures;
- c. training in proper fire and emergency safety procedures including:
  - i. CPR;
  - ii. the Heimlich Maneuver;
  - iii. first aid;
  - iv. crisis management; and
  - v. risk reduction;
- d. effective communication skills for forensic, behavioral health clients;
- e. confidentiality and HIPPA requirements;
- f. trainings and intervention programs as deemed appropriate and mutually agreed upon by Community Forensic Services and the state level forensic coordinator;
- g. client's rights; and
- h. procedures and requirements regarding the reporting of abuse, neglect and critical incidents.

2. Orientation for direct care staff shall include an additional five days of supervised training. Training, at a minimum, shall include the following:

- a. training in client care services (ADL'S & IADL'S) provided by the facility;
- b. infection control to include blood borne pathogens;
- c. crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses; and
- d. any specialized training to meet clients' needs.

3. A new employee shall not be given sole responsibility for the implementation of a client's program plan until this orientation and training is completed.

a. The staff member shall sign a statement certifying that such training has occurred and this shall be maintained in the staff members personnel file.

4. Orientation and five days of supervised training shall meet the first year's annual training requirements.

5. All direct care staff shall receive certification in adult first aid within the first 30 days of employment.

J. Annual Training

1. A provider shall ensure that each direct care worker participates in in-service training each year. Normal supervision shall not be considered as meeting this requirement.

2. The provider shall document that direct care staff receives training on an annual basis in:

- a. the facility's policies and procedures;
- b. emergency and evacuation procedures;
- c. client's rights;
- d. the procedures and legal requirements concerning the reporting of abuse and critical incidents;
- e. client care services (ADL'S & IADL'S);
- f. infection control to include blood borne pathogens; and

g. any other areas that may require specialized training to meet clients' needs.

3. All direct care staff shall have documentation of current certification in first aid.

4. The administrator/director shall participate annually in at least 12 hours of continuing education in the field of behavioral health and specialized training in the population served and/or supervisory/management techniques.

5. Each employee shall sign a statement of understanding certifying that annual training has occurred.

K. An employee's annual performance evaluation shall include his/her interaction with clients, family, staff, and other providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1166 (April 2011).

**§7259. Client Records**

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

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

C. The facility shall have sufficient space, facilities, and supplies for providing effective record keeping services.

D. The facility shall have a storage area that ensures the safeguarding of all client records and prevents loss from, including but not limited, to fire or water.

E. Each record shall contain at least the following information:

1. the client's identifying and personal information including:
  - a. the client's name;
  - b. date of birth;
  - c. sex;
  - d. Social Security number;
  - e. previous home address; and
  - f. marital status, if applicable;
2. dates of admission and discharge;
3. names, addresses, and telephone numbers of responsible persons to be notified in case of accident, death or other emergency;
4. name, address, and telephone number of a physician and dentist to be called in an emergency;
5. ambulatory status;
6. the client's plan/authorization for routine and emergency medical care, as required;
7. the client's written authorization for a representative and their name, address and telephone number, if applicable;
8. the pre-admission assessment by a forensic physician and admission agreement;
9. findings of the assessment and any special problems or precautions identified;
10. the service plan, updates, and quarterly reviews;
11. continuing record of any illness, injury or medical or dental care when it impacts the client's ability to function or the services he/she needs;
12. a record of all personal property and funds which the client has entrusted to the facility;

13. reports of any client complaints or grievances and the conclusion or disposition of these reports;

14. incident reports; and

15. written acknowledgments that the client has received clear verbal explanations and:

a. copies of his/her rights and the house rules;

b. written procedures for safekeeping of valuable personal possessions of clients; and

c. a written statement explaining the client's rights regarding personal funds and the right to examine his/her record.

F. All information and records obtained from or regarding clients shall be stored and kept confidential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1167 (April 2011).

### **§7261. Abuse and Neglect**

A. The provider shall have comprehensive written procedures concerning client abuse and neglect to include provisions for:

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

2. ensuring that regulations stipulated in this rule for reporting critical incidents involving abuse and neglect are followed;

3. ensuring that the administrator/director completes an investigation report within 10 working days;

4. ensuring that the client is protected from potential harassment during the investigation;

5. disciplining staff members who abuse or neglect clients; and

6. protecting clients from abuse inflicted by other clients or third parties, including but not limited to, criminal prosecution of the offending person and his/her permanent removal from the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1168 (April 2011).

### **§7263. Critical Incidents**

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

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

2. Copies of all critical incident reports shall be kept as part of the client's record and a separate copy shall be kept in the administrative file of the provider.

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

1. the circumstances under which the incident occurred;

2. the date and time the incident occurred;

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

4. immediate treatment and follow-up care;

5. the names and addresses of witnesses;

6. the date and time the family or representative was notified;

7. any symptoms of pain and injury discussed with the physician; and

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

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

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

2. immediately notify the Department of Health and Hospitals, Health Standards Section, and other appropriate authorities in accordance with state law, with written notification to the above agencies to follow within 24 hours of the suspected incident;

3. immediately notify the family or the client's representative, with written notification to follow within 24 hours;

4. immediately notify the appropriate law enforcement authority in accordance with state law;

5. provide follow-up written reports to all of the persons and agencies identified in this §7261.C;

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

7. document its compliance with all of the above procedures for each incident and shall keep such documentation (including any written reports or notifications) in the client's file. A separate copy of all such documentation shall be kept in the provider's administrative file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1168 (April 2011).

### **§7265. Personal Possessions**

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

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

C. The facility shall give the client a receipt listing each item that it is holding in trust for the client. A copy of the receipt shall be placed in the client's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1168 (April 2011).

### **§7267. Client Funds**

A. The facility's admission agreement shall include the client's rights regarding personal funds and list the services offered and charges, if any.

B. The provider shall offer safekeeping and management of a client's funds. If a client chooses to entrust funds with the provider, the provider shall obtain written authorization from the client and/or his/her representative for the safekeeping and management of the funds.

C. The provider shall:

1. provide each client with an account statement on a quarterly basis with a receipt listing the amount of money the facility is holding in trust for the client;

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

3. provide a list or account statement regarding personal funds upon request of the client;

4. maintain a copy of each quarterly account statement in the client's record;

5. keep the funds received from the client in a separate interest-bearing account; and

6. not commingle the clients' funds with the facility's operating account.

D. The facility shall have and implement written policies and procedures to protect client funds.

E. Unless otherwise provided by state law, upon the death of a client, the provider shall provide the executor or administrator of the client's estate or the client's representative, as agreed upon in the admission agreement, with a complete account statement of the client's funds and personal property of the client being held by the provider.

F. A client with a personal fund account managed by an FSTRA facility may sign an account agreement acknowledging that any funds deposited into the personal account by, or on the client's behalf, are jointly owned by the client and his legal representative or next of kin. The account agreement must state that:

1. the funds in the account shall be jointly owned with the right of survivorship;

2. the funds in the account shall be used by, for or on behalf of the client;

3. the client or the joint owner may deposit funds into the account; and

4. the client or joint owner may endorse any check, draft or other monetary instrument to the order of any joint owner, for deposit into the account.

G. If a valid account agreement has been executed by the client, upon the client's death, the facility shall transfer the funds in the client's personal fund account to the joint owner within 30 days of the client's death. This provision only applies to personal fund accounts not in excess of \$2,000.

H. If a valid account agreement has not been executed, upon the client's death, the facility shall comply with the federal and state laws and regulations regarding the disbursement of funds in the account and the properties of the deceased. The facility shall abide by the procedures of the Louisiana Department of the Treasury and the Louisiana Uniform Unclaimed Property Act for the handling of funds of a deceased client that remain unclaimed.

I. The provisions of this Section shall have no effect on federal or state tax obligations or liabilities of the deceased client's estate. If there are other laws or regulations which conflict with these provisions, those laws or regulations will govern over and supersede the conflicting provisions.

J. A termination date of the account and the reason for termination shall be recorded on the client's participation file. A notation shall read, "to close account." The endorsed cancelled check with check number noted on the ledger sheet shall serve as sufficient receipt and documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1168 (April 2011).

#### **§7269. Contraband**

A. There shall be no contraband, illegal drugs, or controlled dangerous substances that are not prescribed to a client on the campus of the facility. Clients may be subjected to random periodic drug testing as a requirement for residency at the facility. A positive drug test will be reported to the attending psychiatrist and the applicable court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1169 (April 2011).

### **Subchapter G. Safety and Emergency Preparedness**

#### **§7271. General Provisions**

A. An FSTRA facility shall have an emergency preparedness plan designed to manage the consequences of natural disasters or other emergencies that could disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the clients and/or the community it serves. The emergency preparedness plan shall be made available, upon request or if mandated to do so, to local, parish, regional and/or state emergency planning organizations, the department and the Office of the State Fire Marshal.

B. At a minimum, the emergency preparedness plan shall include:

1. identification of potential hazards that could necessitate an evacuation, including internal and external disasters such as a natural disaster, acts of bioterrorism, weapons of mass destruction, labor work stoppage or industrial or nuclear accidents;

2. emergency procedures for evacuation of the facility;

3. procedures in the case of interruption of utility services in a way that affects the health and safety of clients;

4. identification of the facility and an alternate facility to which evacuated clients would be relocated;

5. the estimated number of clients and staff that would require relocation in the event of an evacuation;

6. the system or procedure to ensure that medical charts accompany clients in the event of a client evacuation and that supplies, equipment, records and medications would be transported as part of an evacuation; and

7. the roles and responsibilities of staff members in implementing the disaster plan.

C. An FSTRA facility shall conduct and document fire drills once per month, one drill per shift every 90 days, at varying times of the day.

D. An FSTRA facility shall immediately notify the Health Standards Section and other appropriate agencies of any fire, disaster or other emergency that may present a danger to clients or require their evacuation from the facility.

E. The facility shall have access to 24-hour telephone service, and shall either post telephone numbers of emergency services, including the fire department, police department, medical services, poison control and ambulance services or show evidence of an alternate means of immediate access to these services.

F. General Safety Practices

1. The facility shall not maintain any firearm or chemical weapon in the living units of the facility.

2. The facility shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to the contents. Such materials shall be maintained only as necessary and shall be used in a manner that ensures the safety of clients, staff and visitors.

3. The facility shall ensure that an appropriately equipped first aid kit is available in the living units and in all vehicles used to transport clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1169 (April 2011).

**Subchapter H. Physical Environment**

**§7275. General Provisions**

A. Location

1. The area to be licensed as an FSTRA facility shall meet all of the licensing regulations established for FSTRA facilities.

2. An FSTRA facility that is located within any other facility shall be secure and have its own identifiable staff, space and storage. The FSTRA facility shall have a separate entrance, separate dining area and separate common areas.

B. General Appearance and Conditions

1. Heating, cooling and ventilation systems shall permit comfortable conditions.

2. Furniture in good repair shall be available to facilitate usage by the number of clients in the facility.

3. The facility shall have sufficient space and equipment to accommodate the full range of program activities and services.

4. The facility shall be flexible and adaptable for large and small groups and individual activities and services.

5. There shall be sufficient office space to permit staff to work effectively and without interruption.

6. There shall be adequate storage space for program and operating supplies.

C. Interior Space

1. Floors and steps shall have a non-slippery surface and be dry when in use by the clients.

2. Doorways and passageways shall be kept clear to allow free and unhindered passage.

3. The facility shall provide an appropriate controlled-egress system on all required exit doors and doors leading to other areas of the facility unless prior approval of an alternative method for prevention of client elopement from the facility has been obtained from the authority (Office of the State Fire Marshal) having jurisdiction over such matters.

4. All staff shall have a key to locked exit doors.

5. All operable windows shall be equipped with a mechanism to limit exterior openings to prevent elopement.

6. Windows used for ventilation to the outside and exterior doors used for ventilation shall be screened and in good repair.

7. The facility shall be constructed, equipped, and maintained in good repair and kept free of hazards.

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

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

10. The facility shall have an effective pest control program. Pest control services may be provided by maintenance personnel of the facility or by contract with a pest control company. If pest control chemicals are stored in the facility, they shall be kept in a locked location.

11. The facility shall have an area for the safe and secure maintenance and storage of medical records and other facility files, records and manuals.

D. Bedrooms

1. Single rooms must contain at least 100 square feet and multi-bed rooms shall contain at least 80 square feet per bed, exclusive of fixed cabinets, fixtures, and equipment. An existing state hospital that converts a building, unit or wing to an FSTRA facility shall contain a minimum of 65 square feet per bed in a multi-bed room.

2. Any client room shall not contain more than four beds.

a. Beds shall be of solid construction, appropriate to the size and age of the client and have a clean, comfortable, non-toxic fire-retardant mattress that fits the bed.

b. Cots or other portable beds are to be used in emergencies only.

3. Rooms shall have at least a 7 1/2 foot ceiling height over the required area.

a. In a room with varying ceiling heights, only portions of the room with a ceiling height of at least 7 1/2 feet are allowed in determining usable space.

4. There shall be at least three feet between beds.

5. There shall be sufficient and satisfactory separate storage space for clothing, toilet articles and other personal belongings of clients.

6. Doors to individual bedrooms shall not be equipped with locks or any other device that would prohibit the door from being opened from either side.

7. The provider shall not use any room that does not have a window as a bedroom space.

8. The facility shall provide sheets, pillows, bedspreads and blankets that are in good repair for each client. Linens not in good repair shall not be used.

9. Each client shall have his/her own dresser or other adequate storage space for private use and designated space for hanging clothing in proximity to the bedroom occupied by the client.

10. The facility shall not have male and female clients at the same location.

E. Bathrooms

1. The number of toilets and hand-washing facilities shall be not less than one for each 13 clients.

2. A facility shall have wash basins with hot and cold water, flush toilets, and bath or shower facilities with hot and cold water according to client care needs.

3. Bathrooms shall be so placed as to allow access without disturbing other clients during sleeping hours.

4. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene, unless clients are individually given such items.

a. Clients shall be provided individual items such as hair brushes and toothbrushes.

5. Tubs and showers shall have slip proof surfaces.

6. An FSTRA facility shall have toilets and baths or showers that allow for individual privacy, unless the clients in care require assistance.

7. Toilets, wash basins and other plumbing or sanitary facilities in an FSTRA 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.

8. The facility shall have separate toilet facilities for staff.

#### F. Furnishings

1. The facility shall be furnished so as to meet the needs of the clients. All furnishings and equipment shall be kept clean and in good repair.

2. Adequate furniture shall be available and shall be appropriate for use by the clients in terms of comfort and safety.

3. Furnishings must include tables and chairs sufficient in number to serve all clients.

#### G. Kitchen

1. An FSTRA facility that has a kitchen area shall meet all health and sanitation requirements and must be of sufficient size to accommodate meal preparation for the proposed number of clients.

2. Kitchens used for meal preparations shall have the equipment necessary for the preparation, serving and storage and clean up of all meals regularly served to all of the clients and staff. All equipment shall be maintained in proper working order.

3. An FSTRA facility's refrigerator(s) shall be maintained at a temperature of 45 degrees Fahrenheit or below. Freezers shall be maintained at a temperature of 0 degrees Fahrenheit or below. Thermometers shall be provided for all refrigerators and freezers. The facility shall maintain logs of temperatures of the refrigerator and freezers. Abnormal temperatures shall be reported to management and arrangements made for repair/service.

4. The facility shall ensure that all dishes, cups and glasses used by clients are free from chips, cracks or other defects and are in sufficient number to accommodate all clients.

5. If food is prepared in a central kitchen and delivered to the facility, provisions shall be made and approved by the Department of Health and Hospitals, Office of Public Health, Sanitarian Services for proper maintenance of food temperatures and a sanitary mode of transportation.

#### H. Medication Storage and Monitoring

1. The facility shall have policies and procedures for the storage, administration and disposal of both prescription and over-the-counter medications.

2. There shall be a designated secure area for the storage and preparation of medications.

3. Medications that require refrigeration shall be stored in a separate refrigerator (not with food, beverages, etc.).

4. The FSTRA shall have a process for monitoring the inventory and reconciliation of controlled substances. The process shall include the reporting of lost or missing medications in accordance with the Louisiana State Board of Pharmacy.

5. Medications may be administered from a central area of the facility.

#### I. Laundry

1. An FSTRA facility shall provide for laundry services, either on-site or at an off-site location that is adequate to handle the needs of the clients.

2. If on-site, laundry facilities shall be located in a specifically designated area and there shall be adequate rooms and spaces for sorting, processing, and storage of soiled material.

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

4. Domestic washers and dryers that are for the exclusive use of clients may be located in client areas, provided they are installed in such a manner that they do not cause a sanitation problem.

#### J. Water Supply

1. An adequate supply of water, under pressure, shall be provided at all times.

2. Clean sanitary drinking water shall be available and accessible in adequate amounts at all times. Disposable cups, if used, shall be stored in such a way as to prevent contamination.

3. When a public water system is available, a connection shall be made thereto. If water from a source other than a public water supply is used, the supply shall meet the requirements set forth under the rules and regulations of the Office of Public Health (OPH).

4. The facility shall have a plan and policy for an alternative water supply in the event of interruption of water supply and for the prolonged loss of water.

K. All sewage shall be disposed of by means of either:

1. a public system where one is accessible within 300 feet; or

2. an approved sewage disposal system that is constructed and operated in conformance with the standards established for such systems by OPH.

#### L. Facility Exterior

1. The provider shall maintain all areas of the facility that are accessible to the clients in good repair and free from any reasonably foreseeable hazard to health or safety.

2. All structures on the grounds of the facility shall be maintained in good repair.

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

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

5. Areas determined unsafe, including steep grades, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced or have natural barriers to protect clients.

6. Clients shall have access to safe, suitable outdoor recreational space.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1170 (April 2011).

### **Subchapter I. Secure Community Supervised Transitional/Residential Facility Module**

#### **§7279. General Provisions**

A. Providers applying for the Secure Community Supervised Transitional/Residential (SCSTR) Facility module under the FSTRA facility license shall meet the core licensing requirement as well as the following module specific requirements.

B. A secure community supervised transitional/residential facility is a secure residential facility within the community that provides individualized services to develop daily living skills and to prepare for vocational adjustment and reentry into the community, to persons who are under a court-ordered forensic conditional release and who are referred by a state forensic hospitals or state forensic psychiatric unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1172 (April 2011).

#### **§7281. Operational Requirements**

##### **A. Staff Requirements**

1. The FSTRA–SCSTR facility shall provide 24-hour, seven day per week “supervision” consisting of at least three direct care staff persons during the day, one of which must be a licensed nurse and at least two awake staff during the night.

2. The FSTRA-SCSTR facility shall have a licensed nurse on call when there are no licensed nurses on duty at the facility.

##### **B. Admissions. The SCSTR facility shall:**

1. only accept clients referred by DHH state forensic facilities or those who are under a court-ordered forensic conditional release;

2. admit only those clients who have the ability to self administer medications and provide for their own personal care needs;

3. not admit more clients into care than the number specified on the FSTRA facility’s license; and

4. provide contact information, including the telephone number and mailing address, for the appropriate state protection and advocacy organization.

##### **C. Medication Administration**

1. The facility shall have clear written policies and procedures on medication self-administration.

2. The facility shall assist clients in the self-administration of prescriptions and non-prescription medication according to the client’s service plan and as allowed by state laws and regulations.

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

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

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

c. the dosage may be checked according to the container label;

d. staff may open the medicine container (i.e. bottle, mediset, blister pack, etc.) if the client lacks the ability to open the container; and

e. the client may be physically assisted in pouring or otherwise taking medications, so long as the client is cognitive of what the medication is, what it is for, and the need for the medication.

4. An employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for medication assistance including the limitations of this assistance. Documentation shall include the signature of the employee. This training shall be repeated at least annually.

5. Medications shall be stored in a secure central location and not stored in the client’s own room.

6. The facility may require the clients to come to a “medication” area to take their medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1172 (April 2011).

### **Subchapter J. Secure Forensic Facility Module**

#### **§7285. General Provisions**

A. Providers applying for the Secure Forensic (SF) Facility module under the FSTRA facility license shall meet the core licensing requirement as well as the following module specific requirements.

B. A secure forensic facility is a secure residential facility located on the grounds of a state hospital that provides individualized services, including personal care services and medication administration, to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit, in order to prepare such persons for transition to a less restrictive environment before transitioning to the community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1172 (April 2011).

#### **§7287. Operational Requirements**

A. The SF facility shall provide 24-hour, seven day per week “supervision” consisting of at least three direct care staff persons during the day and two awake staff during the night. There shall be at least two direct care staff persons in each building and/or unit at all times when clients are present.

1. The SF facility shall have an RN on duty during the day shift to oversee the nursing services of the facility.

2. The SF facility shall have at least one licensed nurse on duty for each shift.

3. The SF Facility shall provide for, either directly or through contract, a medical doctor on call.

B. Admission

1. The SF facility shall:

- a. admit clients who are under a court order or court ordered forensic conditional release and who are referred by a DHH state forensic facility;
- b. not admit more clients into care than the number specified on the FSTRA facility's license; and
- c. provide contact information, including the phone number and mailing address, for the appropriate state protection and advocacy organization.

C. Client Services

- 1. The facility shall provide or coordinate, to the extent needed or desired by clients, the following services:
  - a. assistance with activities of daily living and all instrumental activities of daily living;
  - b. medication administration;
  - c. opportunities for individual and group socialization;
  - d. services for clients who have behavior problems requiring ongoing staff support, intervention, and supervision to ensure no danger or infringement of the rights of other clients or individuals;
  - e. household services essential for the health and comfort of clients (e.g. floor cleaning, dusting, bed making, etc.);
  - g. basic personal laundry services; and
  - h. a program of recreational activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1172 (April 2011).

Bruce D. Greenstein  
Secretary

1104#045

**RULE**

**Department of Health and Hospitals  
Bureau of Health Services Financing**

Mental Health Rehabilitation Program  
Provider Participation Requirements  
(LAC 50:XV.703)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XV.703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

**Subpart 1. Mental Health Rehabilitation**

**Chapter 7. Provider Participation Requirements**

**Subchapter A. Certification and Enrollment**

**§703. Application**

A. - B. ...

C. An applicant shall submit the following documents for certification:

- 1. MHR initial certification application;

2. proof of a request for accreditation and a copy of the completed application with a national accrediting body approved by the bureau and proof of payment to the accrediting body. Proof of full accreditation is required within nine months of issuance of a Medicaid provider enrollment number;

3. an affidavit that identifies the applicant's licensed mental health professional and psychiatrist, including verification of current licensure. The LMHP identified must be an employee of the applicant;

4. proof of the establishment and maintenance of a line of credit from a federally insured, licensed lending institution in an amount equal to three months of current operating expenses as proof of adequate finances. A budget showing actual or projected monthly expenses shall be attached. It is the MHR provider's responsibility to notify the bureau in the event that the financial institution cancels or reduces the upper credit limit;

a. nonprofit agencies that have operated for five years or more and have an unqualified audit report for the most recent fiscal year prepared by a licensed certified public accountant, which reflects financial soundness of the nonprofit provider, are not required to meet this standard;

b. governmental entities or organizations are exempt from this requirement;

5. a statement identifying the population to be served:

a. adults with serious mental illness; or

b. children with an emotional/behavior disorder;

6. proof of the establishment and maintenance of a general liability and a professional liability insurance policy with at least \$1,000,000 coverage under each policy. The certificates of insurance for these policies shall be in the name of the MHR provider and certificate holder shall be the Department of Health and Hospitals. The provider shall notify the bureau when coverage is terminated for any reason. Coverage shall be maintained continuously throughout the time services are provided and thereafter for a period of one year;

a. governmental entities or organizations are exempt from this requirement;

7. identification of all the MHR provider's office locations and off-site service delivery locations;

8. proof that all owner and staff have attended mandatory training as required by the bureau;

9. proof that all equipment and technology requirements have been met as established by the bureau;

10. corporations must provide current proof of business registration with the Secretary of State;

11. proof of clinical competence as defined and required by the bureau;

12. a notarized report of any and all settled convictions and/or pending charges of malpractice and felonies for the business itself (in this or any other name), the owners, principals, partners and/or governing bodies, Board of Directors and the executive/managing director;

13. proof of current inspection and approval by the Office of State Fire Marshal;

14. proof of current inspection and approval by the Office of Public Health; and

15. a comprehensive administrative policy and procedure manual that describes an administrative structure